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Mr Gary Templeton  
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Our ref: LDP-300-1

28 April 2015

Dear Gary

**PROPOSED MORAY LOCAL DEVELOPMENT PLAN  
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING)  
(SCOTLAND) REGULATIONS 2008  
SUBMISSION OF THE REPORT OF THE EXAMINATION**

We refer to our appointment by the Scottish Ministers to conduct the examination of the above plan. Having satisfied ourselves that the council's consultation and engagement exercises conformed with their participation statement, our examination of the plan commenced on 14 November 2014. We have completed the examination, and now submit our report, enclosing one bound and one unbound copy.

In our examination we considered all 39 issues arising from 714 unresolved representations which were identified by the council. In each case we have taken account of the summaries of the representations and the responses, as prepared by the council, and the original representations, and we have set out our conclusions and recommendations in relation to each issue in our report.

The examination process also included a comprehensive series of unaccompanied site inspections and, for some issues we requested additional information from the council and other parties. One hearing session was held in Elgin on the 17<sup>th</sup> March to consider matters arising from representations on Issue 8a: Renewable Energy Proposals.

Subject to the limited exceptions as set out in Section 19 of the Town and Country Planning (Scotland) Act 1997 and in the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009, the council is now required to make the modifications to the plan as set out in our recommendations.

The council should also make any consequential modifications to the text or maps which arise from these modifications. Separately, the council will require to make



any necessary adjustments to the final environmental report and to the report on the appropriate assessment of the plan.

A letter will be issued to all those who submitted representations to inform them that the examination has been completed and that the report has been submitted to the council. It will advise them that the report is now available to view at the DPEA website at:

<http://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=114972>

and at the council's offices at High Street, Elgin, Moray, IV30 1BX and that it will also be posted on the council's website at:

[http://www.moray.gov.uk/moray\\_standard/page\\_91732.html](http://www.moray.gov.uk/moray_standard/page_91732.html)

The documents relating to the examination should be retained on the council's website for a period of six weeks following the adoption of the plan by the council.

**It would also be helpful to know when the plan has been adopted and we would appreciate being sent confirmation of this in due course.**

*Allison Coard*

REPORTER

*Richard Bowden*

REPORTER

*Douglas Hope*

REPORTER

## **REPORT TO MORAY COUNCIL**

### **PROPOSED MORAY LOCAL DEVELOPMENT PLAN EXAMINATION**

Reporters: Ms Allison Coard MA MPhil MRTPI  
Mr Richard Bowden BSc(Hons) M.Phil MRTPI  
Mr Douglas Hope BSc(Hons) DipTP FRGS MRTPI

Date of Report: 28 April 2015



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## Moray Local Development Plan

### Examination of conformity with the participation statement

#### Introduction

1. Section 19(4) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the persons appointed by Scottish Ministers to examine the plan: “firstly to examine...the extent to which the planning authority’s actings with regard to consultation and the involvement of the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 18(1)a.”

#### Considerations

2. The current participation statement is contained within the Moray Council’s Development Plan Scheme dated January 2014 (Core Document 20). This details the consultation that has already taken place at and prior to the main issues stage as well as detailing the council’s intentions regarding participation at the proposed plan stage. The council’s intentions and its subsequent actions are set out in Table 1 below. The second column details the actions that the council carried out as summarised from its Statement of Conformity with its Participation Statement; July 2014.

Table 1: Comparison of the authority’s current Participation Statement with its Statement of Conformity.

<b>Summary of Current Participation Statement</b>	<b>Summary of Council’s Statement of Conformity with the Participation Statement; July 2014.</b>
<b>Prior to the Main Issues Stage-</b> Press articles, key agencies meeting, community groups engagement, Landowner/Developer engagement	Press articles were published, key agencies were contacted and a well-attended meeting held. Groups were written to seeking their input on what they considered were the Main Issues in Moray and what they would want to see reflected within the Local Development Plan. A call for sites was issues to landowners/developers.
<b>Main Issues Stage-</b> Community Leaders Event, statutory advertisement in all local papers, documents on deposit in local libraries, formal consultation with key agencies, community groups, developers agents and landowners. Hold drop in exhibitions and promotional displays. Press/news coverage, use of social media.	Event held facilitated by Planning Aid Scotland. Notices were placed in all local papers and copies of documents were made available in all libraries and access points. Formal consultation was carried out. Documents and response forms were made available. Drop in exhibitions engaged with 331 people. Promotional displays were set up in key locations. Numerous press releases and adverts in local papers regarding the exhibitions. A facebook page was created.

<b>Proposed Plan</b>	
Statutory advertisements, documents on deposit in all libraries and access points,	Statutory notices were placed in the Northern Scot, Forres Gazette, Banffshire Herald and Banffshire Advertiser. Copies of documents and response forms were available at Council access points and libraries.
Formal written consultation with key agencies, community groups, developers landowners, all those who responded at main issues stage.	Letters were sent out to all those on the database
Documents available online, with online response forms	Electronic copies of both the documentation and response forms were made available on the Council's website
A series of drop in exhibitions in Aberlour, Buckie, Dufftown, Elgin, Fochabers, Forres, Keith and Lossiemouth	8 drop in sessions were held enabling engagement with 700 people.
Regular press releases/news coverage	Numerous press releases issued throughout consultation period and focused around the drop in exhibitions. During the 8 week consultation period the LDP featured on the front page of the Council's website. Updates were posted on facebook.
8 week formal consultation period	The formal consultation period for the plan ran from 7 March 2014 to 2 May. The deadline was extended until the 23 May for Community Councils
Statutory neighbour notification	Council notified those within 20 metres of sites which were allocated for development and which if implemented would have a significant effect on the use and amenity of that site and neighbouring land. Approximately 3,741 letters were sent out.

3. From the council's submissions as summarised above we are content that the council carried through its intentions as expressed in its most recent participation statement.

### **Reporters' Conclusion**

4. Consequently, as conformity with the current participation statement is demonstrated we can proceed to examine the issues raised in representations to the proposed plan.

Issue 1	Spatial Strategy and Vision for Moray	
Development plan reference:	Spatial Strategy, page 5 Vision for Moray, page 3-4	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Spatial Strategy</u></b> Mr E Rattray (0701) Fred Olsen Renewables Ltd (1047) Jacqueline Barrere (0884)</p> <p><b><u>Vision</u></b> Elgin Community Council (0122) Elgin South Area Forum (0194) NHS Grampian (0300) Scotia Homes Ltd (0480) Scottish Environment Protection Agency (0569) Franz Rolinck (0709) Network Rail Infrastructure Limited (1041) Dorenell Ltd (1044)</p>		
Provision of the development plan to which the issue relates:	These sections of the Plan set out the overall strategic vision and proposed spatial strategy for the distribution of development across Moray.	
Planning authority's summary of the representation(s):		
<p><b><u>Spatial Strategy</u></b> Mr E Rattray (0701) Supports Urquhart being identified as third tier settlement and note that they will be expected to grow in proportion to their current size. Support for statement (paragraph 3.6) that "The formation of a new town as an option for accommodating growth was not supported, and concentration and expansion of existing settlements was preferred."</p> <p><b><u>Fred Olsen Renewables Ltd (1047)</u></b> Considers it is unclear how renewables are incorporated in to the overall spatial strategy for the region. This should be clarified in section 3.</p> <p><b><u>Jacqueline Barrere (0884)</u></b> Spatial Strategy should reflect the role of Forres in tourism.</p> <p><b><u>Vision</u></b> <b><u>Elgin Community Council and Elgin South Area Forum (0122 and 0194)</u></b> Considers the vision statement at 2.3 bullet point 6 should be amended to refer to promotion of rail enhancements. "Good efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journeys by car and truck."</p>		

**NHS Grampian (0300)**

Considers that the Plan should highlight that healthcare provision is a fundamental requirement and should be recognised as such, forming part of the vision for Moray. Such provision should be adequate to meet the needs of the community, of a high quality, whilst being available and accessible to all. The close proximity of healthcare facilities to residential areas is a key component in the formation of attractive, sustainable environments where people wish to live and work, as incorporated by the Vision for Moray and hence should be included in that Vision.

**Scotia Homes Ltd (0480)**

Support continuation of Elgin as a Primary Centre. Directing the majority of growth to the town will support a sustainable future and its continued role as the primary centre within the LDP area.

**Scottish Environment Protection Agency (0569 )**

Considers that the Vision does not adequately address the importance of the environment when considering sustainable economic development. Would like the Plan to emphasise the need to protect and enhance the water environment.

**Franz Rolinck (0709)**

Thinks the Council needs to give serious consideration to the Moray Tourism Strategy and its potential for Forres, Findhorn and Kinloss.

**Network Rail Infrastructure Ltd (1041)**

Support the references to maintaining good, efficient transport links to the rest of the country (p3); as these provide strategic support for the continuing development of railway services. Keen to promote safeguarding and improving the existing railway network in tandem with new development, and that appropriate contributions are taken towards this. A key plank of the LDP strategy is to safeguard existing and promote new railway routes.

**Dorenell Ltd (1044)**

Concerned that section 2 does not include reference to the importance of tackling and adapting to climate change. Considers that the statement in paragraph 2.3 is too narrowly worded and does not provide clear support for standalone renewable energy developments. Statement is orientated towards the deployment of microgeneration technologies within other developments, but does not recognise the role of large scale standalone renewable energy developments in tackling climate change. Support statement in para 2.1.

**Modifications sought by those submitting representations:**

**Spatial Strategy**

**Mr E Rattray (0701)**

Support noted.

**Fred Olsen Renewables Ltd (1047)**

Clarify in section 3 how renewables are incorporated in to the overall spatial strategy for the region.

**Jacqueline Barrere (0884)**

Infers that Forres should be identified on the spatial strategy map as a tourism gateway.

## **Vision**

### Elgin Community Council and Elgin South Area Forum (0122 and 0194)

Amend the vision statement 2.3 bullet point 6 to say, "Good efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journeys by car and truck."

### NHS Grampian (0300)

It should be highlighted that healthcare provision is a fundamental requirement and should be recognised as such, forming part of the vision for Moray.

### Scotia Homes Ltd (0480)

Support noted.

### Scottish Environment Protection Agency (0569)

Revise point 2.3 of the Vision to "Attractive, sustainable environments where people will wish to live and work, which incorporate high quality design; of the land and water environments green and blue corridors and open spaces."

### Franz Rolinck (0709)

The spatial strategy for Forres, Kinloss and Findhorn should respect the role these areas have in attracting tourists.

### Network Rail Infrastructure Ltd (1041)

Support noted.

### Dorenell Ltd (1044)

Recommend section 2 is modified to acknowledge the importance of tackling and adapting to climate change. Should refer to the binding greenhouse gas emission reduction targets within the Climate Change (Scotland) Act 2009.

Bullet points should be modified to provide enhanced support for the principle of the deployment of renewable energy developments of all types and scales. Last bullet point could be modified to "A policy context which supports the deployment of renewable energy technologies of all types and scales in order to reduce carbon emissions."

Statement in para 2.1 that the "economic and employment benefits of business and industrial growth should be a material consideration in any development proposal" should be retained.

## **Summary of responses (including reasons) by planning authority:**

### **Spatial Strategy**

#### Mr E Rattray (0701)

Support for the spatial strategy is noted.

No modification is proposed.

#### Fred Olsen Renewables Ltd (1047)

Paragraph 3.1 of the Proposed Plan states that the proposed strategy for the distribution of development across Moray is a continuation of that taken by the Moray Local Plan 2008. This element of the Spatial Strategy relates to housing and employment land development. Proposals for renewables will be considered against the criteria set out in Policy ER1 and

the specific spatial strategy for wind farms set out in the Plan and the Supplementary Guidance.

No modification is proposed.

Jacqueline Barrere (0884 )

The Council fully recognises the role of tourism for Forres and if the Reporter is so minded the Council would not object to additional “tourism gateway” icons being added to the Spatial Strategy map on page 4 of the Plan.

**Vision**

Elgin Community Council and Elgin South Area Forum (0122 and 0194)

If the Reporter is so minded the Council would not object to the amended wording proposed by the Community Council and Area Forum being inserted in bullet point 6 paragraph 2.3 to state, “Good efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journeys by car and truck.”

NHS Grampian (0300)

The Vision is very much a land use based vision reflecting the Moray Economic Strategy. It is intended to provide a strategic vision for the land use policies and designations which follow. It is not considered appropriate to include the level of detail proposed by the respondent within the Vision, or for equality this would have to be expanded to cover other sectors such as education, policing, lands and parks.

No modification is proposed.

Scotia Homes Ltd (0480)

Support for Elgin’s role is noted.

No modification is proposed.

Scottish Environment Protection Agency (0569)

The Council has discussed this representation further with Scottish Environment Protection Agency and reached an agreed position. If the Reporter is so minded, the Council and Scottish Environment Protection Agency would support rewording point 2.3 of the Vision to state; “Attractive, sustainable environments where people will wish to live and work, which incorporate high quality design, green and blue corridors and open spaces”.

Franz Rolinck (0709)

The Council fully supports the Tourism Strategy and is fully engaged in a number of projects to implement the Strategy. The comment may be more about the Spatial Strategy map appearing on page 4 of the Proposed Plan. If the Reporter is so minded, the Council would not object to two further “I” icons being added to the Spatial Strategy Map to identify the A940 and A96 (west) as important tourist gateways into Moray.

No modification is proposed.

Network Rail Infrastructure Limited (1041)

Support is noted.

No modification is proposed.

**Dorenell Ltd (1044)**

The Vision within the Plan is based upon the Vision set out in the Moray Economic Strategy. The Vision is intended to be of a strategic nature and the representations made by Dorenell Ltd are considered to be covered in sufficient detail with other parts of the Plan, notably Policy ER1. The Council does not support the revised wording put forward by the respondent and considers it to be inappropriate and unbalanced on the single issue of large scale wind farms. The Council supports appropriate scale of renewable energy proposals in the right location and this is set out in Policy ER1.

No modification is proposed.

**Reporter's conclusions:****Spatial Strategy**

1. One of the representations expresses concerns about the perceived lack of clarity regarding how the contribution of renewable energy technologies is incorporated in the overall spatial strategy for the plan area. In response, the council explains that the Spatial Strategy of the proposed plan, in Section 3. relates specifically to housing and employment land development. Whilst in principle I have no concerns about that, I find that this could be made explicit in the opening section of paragraph 3.1 through a simple phrase being inserted to aid clarity. Having set that context, I am satisfied that concerns expressed about renewable energy matters are dealt with elsewhere in this report under Issue 8a. Appropriate reference is made there to Policy ER1 of the plan, together with the associated spatial strategy and guidance for wind energy proposals, as well as relevant Supplementary Guidance.

2. With regard to the role of tourism in Forres, Findhorn and Kinloss, the council has indicated its support for the Tourism Strategy and has acknowledged the merit of adding "tourism gateway" icons on the Spatial Strategy Map on page 4 of the proposed plan. These would identify the A940 and A96 west roads as additional important gateways into Moray. I see the merit in this map being consistent in identifying each of the main tourist gateways into Moray, so conclude that this would be an appropriate amendment to the plan.

**Vision**

3. I am persuaded that there is merit in the suggestion of an elaboration of one of the points made in the "Vision" section of the proposed plan, in order to make explicit the benefits of encouraging active travel and the enhancement of rail as alternatives to the use of roads. I note that the council would not oppose this being addressed through additional wording being incorporated in the 6<sup>th</sup> bullet point of paragraph 2.3 of the plan. I conclude that this would be a beneficial amendment to the plan - and would be consistent with Scottish Planning Policy (SPP) - which devotes a section to promoting sustainable transport and active travel. Furthermore this would reinforce the points raised by Network Rail, in seeking to promote safeguarding and expanding of the routes and services of the rail network in tandem with new developments in the plan area.

4. Whilst noting the comments about the proposed plan's "Vision" lodged by NHS Scotland, I am concerned that the suggestions for augmenting that vision to provide detailed considerations on healthcare provision cannot be justified for a number of reasons. The council has stressed that the intention of this section of the new plan is to

reflect the Moray Economic Strategy and to set out a strategic vision for the land use policies that follow in later sections of the plan. I am not persuaded that the scope and level of detail of the suggested insertions sought by this respondent would be consistent with this approach. Indeed I am concerned that this would create an imbalance unless several other sectoral references were similarly expanded. I conclude that this would lead to a more cumbersome and less clear statement of the overall vision and strategic principles of the plan, which would not be appropriate in my view when development plans are being encouraged to be succinct.

5. I note that the Scottish Environment Protection Agency (SEPA) has discussed its concerns about the “Vision” statement with the council and an agreed position has emerged. In summary it is now jointly suggested that the 4<sup>th</sup> bullet point of paragraph 2.3 of the proposed plan to state: “Attractive, sustainable environments where people will wish to live and work, which incorporate high quality design, green and blue corridors and open spaces.” I find that this form of wording would be consistent with the policy principles set out in the Sustainability section of the Scottish Planning Policy (SPP), in particular those listed in paragraph 29 of the SPP. Accordingly, I conclude that it would be appropriate to amend the text of the plan to reflect this.

6. One representation contends that the “Vision” of the plan should make specific reference to the importance of tackling and adapting to climate change – and that paragraph 2.3 should provide clear support for “stand-alone” renewable energy developments. As stated earlier, concerns about renewable energy matters are appropriately dealt with elsewhere in this report under Issue 8a, in relation to Policy ER1 of the plan. The council has made clear that the “Vision” of the plan reflects the Moray Economic Strategy and is intended to be strategic rather than detailed in its statements. I endorse that approach and am not persuaded that the suggested expansion of the text wording would be consistent with this. Indeed, I am concerned that such an insertion would create an imbalance unless several other sectoral references were similarly elaborated – which I regard as being as being neither necessary nor appropriate.

#### **Reporter’s recommendations:**

Modify the proposed plan in the following terms:

1. Amend the wording of paragraph 3.1 to read as follows:

3.1 The proposed strategy for the distribution of housing and employment land development across Moray is a continuation of that taken by the 2008 Local Plan ie a Settlement Hierarchy of:

[the table that follows that wording would remain unaltered from that shown in the proposed plan].

2. Amend the plan by including additional tourism gateway icons to the Spatial Strategy map on page 4 of the plan – specifically to now also include the A940 and A96 (west) routes leading into Forres as tourism gateways.

3. Amend the wording of 6<sup>th</sup> bullet point of paragraph 2.3 to now read:

“Good efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journeys by car and truck.”

4. Amend the wording of 4<sup>th</sup> bullet point of paragraph 2.3 to now read:

“Attractive, sustainable environments where people will wish to live and work, which incorporate high quality design, green and blue corridors and open spaces.”

Issue 2	Primary Policy PP3 Placemaking	
Development plan reference:	Policies, page 7-86 <ul style="list-style-type: none"><li>PP3 Placemaking, page 9</li></ul>	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b>PP3 Placemaking</b> Forestry Commission (0307) Scotia Homes Ltd (0480) Scottish Government (0490) The Ellis Group (0878) CJ &amp; CRH Dunbar (Pitgaveny) (0908) Fred Olsen Renewables Ltd (1047)</p>		
Provision of the development plan to which the issue relates:	Provides overarching policy context on placemaking and design which reflects Scottish Government objectives.	
Planning authority's summary of the representation(s):		
<p><b>PP3 Placemaking</b> <u>Forestry Commission (0307)</u> Supports criterion requiring developments to be integrated into natural landscape and maintaining and creating green corridors. However, seeks clarity of term 'integrate' in bullet point 7 as it is ambiguous in this context and integration should not be at the detriment of the existing landscape, e.g. woodland used to screen development should not be replaced by development but increased to provide desired screening effect. Diagram provided by respondent.</p> <p><u>Scotia Homes Ltd (0480)</u> Support for policy and justification.</p> <p><u>Scottish Government (0490)</u> Support. Consider PP3 embeds national policy very well into the local context.</p> <p><u>The Ellis Group (0878)</u> Consider that not all developments over 10 houses will be able to deliver on all of the aspirations and policy should set out appropriate degree of flexibility for individual sites.</p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u> Consider that developers will seek to apply principles differently. Object to bullet point 6 as this is too prescriptive and there may be instances where buildings have multi-facades therefore discretion should be allowed for. Seek clarification on requirement for design statements for all developments over 10 units in terms of whether this applies to residential developments over 10 units or for residential units of 10 or more, a Design Statement or Design and Access Statement applies to commercial development over 500m2, and what criteria will be used to determine which applications should be supported by Design Statements or Design and Access Statements.</p>		

<p><u>Fred Olsen Renewables Ltd (1047)</u> Consider wording of policy is overly restrictive. Criteria are not applicable to ‘all’ development and this wider view of development should be reflected in the policy. Seeks amendment to text.</p>
<p><b>Modifications sought by those submitting representations:</b></p>
<p><b><u>PP3 Placemaking</u></b>  <u>Forestry Commission (0307)</u> Suggests clarity is provided within policy on the term ‘integrate’ in bullet point 7.</p> <p><u>Scotia Homes (0480)</u> Support noted.</p> <p><u>Scottish Government (0490)</u> Support noted.</p> <p><u>The Ellis Group (0878)</u> Infers policy justification amended to afford flexibility in requirement for design statements for 10 houses or more.</p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u> Amend bullet point 6 to “aspire to create buildings that front onto streets with public fronts and private backs and have clearly defined public and private spaces”. Clarify in policy justification whether the need for a Design Statement applies to residential developments of over 10 units (i.e. 11 units) or for residential units of 10 or more, and whether the potential need for a Design Statement or Design and Access Statement applies to commercial developments in excess of 500m2. Add text to policy justification that “developments should aspire to ensure that all open space is overlooked as far as possible”.</p> <p><u>Fred Olsen Renewables Ltd (1047)</u> Amend text in first paragraph to “Where applicable, developments should incorporate the key principles of ...”. Amend text in second paragraph to “Where applicable, developments should;”.</p>
<p><b>Summary of responses (including reasons) by planning authority:</b></p>
<p><b><u>PP3 Placemaking</u></b>  <b><u>Integration of Natural Landscape Features</u></b>  The integration of development within the natural landscape may take various forms depending on the individual features of the site. A flexible policy approach is necessary to adapt to a variety of landscape forms and development proposals. Nevertheless, the policy evidently attributes significant importance to the integration of development with natural landscape features rather than their removal. Therefore, ‘integrate’ in this context infers integration into the existing landscape which under the terms of policy ER3 Development in Woodlands and Scottish Government Policy on Control of Woodland Removal (CD35) means there is a presumption to retain existing woodland.</p> <p>Policy ER3 Development in Woodlands sets out that opportunities to create new woodland and plant native species trees in new development will be sought. This policy protects woodlands from development where there is an unacceptable adverse effect on their value</p>

and seeks compensatory planting in those proposals where it is deemed appropriate to remove trees.

No modification is proposed.

### **Building Orientation/Natural Surveillance**

Successful places are largely dependent on active street frontages and natural surveillance. Whilst it is accepted that there may be circumstances where buildings are multi-faceted, the majority of developments will contain buildings with one principal elevation. To ensure the objectives of Designing Places (CD38) and Designing Streets (CD30) are met PP3 Placemaking requires buildings to have public fronts and private backs. This is considered a need rather than aspiration. Discretion will be applied where other building compositions meet the objectives of the aforesaid Scottish Government policies (CD30 & CD38), PP3 Placemaking and the Council's Supplementary Guidance Urban Design (CD03). Other building compositions and orientations may also provide natural surveillance of open space.

No modification is proposed.

### **Design & Access Statements**

Design Statements will be required for developments of both 10 residential units or more and individual buildings comprising 10 residential units or more, and commercial developments of 500 square metres or more. Within the context of Moray, this scale of development may have a significant impact on the built and natural environment. Therefore, it is pertinent that design statements are sought that reflect local circumstances rather than nationally set major development thresholds to ensure a high standard of design is realised within a rural context. This policy approach is consistent with PP2 Climate Change.

The Design Statement should include an explanation of what way the criteria of policy PP3 Placemaking and Supplementary Guidance Urban Design (CD03) have and have not been met. This will allow the applicant to justify the individual circumstances where a departure is necessary and permit flexibility in policy application.

Whilst it is evident from the policy wording and justification text that the policy will only be applied to relevant development proposals, to provide further clarity the Council is amenable to changing the policy wording from "All developments ..." to "All residential, commercial, business/industrial and retail developments ...", should the Reporter be so minded.

If the Reporter is so minded, the Council would have no objection to the modification as outlined above.

### **Reporter's conclusions:**

#### **Integration of Natural Landscape Features**

1. The Forestry Commission expresses support for the penultimate criterion in policy PP3 that requires developments to integrate with the natural landscape and to maintain and create green corridors. Indeed its sole concern is that the term 'integrate' is ambiguous and should be clarified. In response, the council states that its intention here is to seek integration of developments into the existing landscape. I note that under the terms of

policy ER3 this means a presumption in favour of retaining existing woodland.

2. Under the heading ‘Valuing the Natural Environment’ the Scottish Planning Policy (SPP) sets out a number of policy principles for the planning system. These include, amongst other matters: facilitating positive change whilst maintaining and enhancing the distinctive landscape character of the area; conserving and enhancing protected sites and species; protecting and improving the water environment; promoting the benefits of biodiversity; as well as protecting and enhancing native or long established woodlands. I consider that these principles would be best addressed if the penultimate bullet point of policy PP3 was re-worded as follows: *“maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity.”* I conclude that this would be consistent with the summary form of wording used generally in policy PP3 – and it would also have the merit of removing any ambiguity associated with use of the term ‘integrate’.

#### Building Orientation/Natural Surveillance

3. There is a suggestion that bullet point 6 of policy PP3 is too prescriptive – particularly when some buildings have more than one main façade. I acknowledge that some buildings can be multi-faceted by design. Nevertheless I am persuaded by the argument put forward by the council that the majority of developments comprise buildings with one main elevation. In this context I consider that it is important to specify a general requirement for buildings to have public front elevations – as this reinforces the principle of promoting active street frontages where natural surveillance can help ensure community safety and well-being. This also accords with the principles of taking a design-led approach to place-making set out in the Scottish Planning Policy (SPP) and elaborated in the Creating Places document - the Government’s policy statement on architecture and place in Scotland.

4. I am satisfied that this would still provide an opportunity for discretion to be applied through the development management process. In particular this would not necessarily preclude the possibility of other design solutions – including multi-faceted building designs – being deemed acceptable, on a case-by-case basis. This would require applicants to demonstrate how their design solution would meet the broad aims of this and related development plan policies as well as national planning policy and guidance on these matters, including with regard to providing natural surveillance. Based on all of these considerations, I conclude that there is insufficient justification to modify the proposed plan to address the concerns raised in this representation.

#### Design & Access Statements

5. Some have expressed concerns that the policy is overly restrictive and does not afford sufficient flexibility on the basis that not all developments would be able to deliver on every aspect of the policy. Clarification is also sought concerning the criteria that would be applicable in respect of cases where there is a requirement to provide a Design and Access Statement.

6. The council has clarified that the policy is intended to require Design Statements for developments of 10 residential units or more, as well as for individual buildings providing 10 residential units or more – along with commercial developments of 500 square metres or more. I consider that this is reasonable given that in Moray developments of those threshold scales and larger could have a significant impact on the built and natural

environment. In that context the Design Statement provided by intending developers lodging a planning application would be expected to include reference to how the terms of policy PP3 have been met – and if not a justification provided as to why the particular circumstances merit a departure from or relaxation of a specific criterion. This would all be assessed at the development management stage when a planning application is being determined. I conclude that this is a robust and appropriate approach to the framing of the policy on ‘place-making’ that accords with national policy principles and guidance on these matters, including the Scottish Planning Policy.

7. Nevertheless, in order to provide further clarity regarding the types of development intended to be covered by the detailed terms of this policy, I agree that the suggested amendment to the opening phrase of the policy statement would be beneficial and is merited. I consider, however, that the exact wording should be altered to provide further clarity. Accordingly, I conclude that the opening of the policy PP3 text should no longer read “All developments must ...” but instead should read: “All residential and commercial (business, industrial and retail) developments must ...” and then continue as shown in the proposed plan text of policy PP3.

#### **Reporter’s recommendations:**

Modify the proposed plan in the following terms:

1. Amend the opening words of policy PP3 by deleting the words “All developments must...” and replacing them with the following:  
*“All residential and commercial (business, industrial and retail) developments must ...”*  
 and then the policy would continue as shown in the proposed plan text of policy PP3.

2. Amend the 7<sup>th</sup> (penultimate) bullet point of policy PP3 to read:  
*“maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity.”*

<b>Issue 3</b>	<b>Primary Policy PP1 Sustainable Economic Growth &amp; Economic Development &amp; Employment Land Policies</b>	
<b>Development plan reference:</b>	<p><b>Policies page 7-86: Section on Primary Policies</b></p> <ul style="list-style-type: none"> <li>• PP1 Sustainable Economic Growth, page 7</li> </ul> <p><b>Section on Economic Development and Employment Land Policies, pages 10-18</b></p> <ul style="list-style-type: none"> <li>• ED1 New Employment Land, page 12</li> <li>• ED2 Business Uses on Industrial Estates, page 13</li> <li>• ED6 Digital Communications, page 15</li> <li>• ED7 Rural Business Proposals, page 16</li> <li>• ED8 Tourism Facilities &amp; Accommodation, page 17</li> </ul>	<b>Reporter:</b> Richard Bowden
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>PP1 Sustainable Economic Growth</u></b>  Mrs Jean Oliver (0996)  Cabrach Community Council (0674)  Dufftown &amp; District Community Council (0522)  Dorenell Ltd (1044)  CJ &amp; CRH Dunbar (Pitgaveny) (0908)  NHS Grampian (0300)  Scotia Homes Ltd (0480)</p> <p><b><u>ED1 New Employment Land</u></b>  Forestry Commission (0307)  Scottish Environment Protection Agency (0569)  CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>ED2 Business Uses on Industrial Estates</u></b>  CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>ED6 Digital Communications</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)  Mono Consultants Ltd (0306)  Scottish Government (0490)  Cabrach Community Association (0674)  Mrs Jean Oliver (0996)</p> <p><b><u>ED7 Rural Business Proposals</u></b>  CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>ED8 Tourism Facilities &amp; Accommodation</u></b>  Highland Council (0093)  CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Provides an overarching policy context on sustainable economic growth which reflects Scottish Government objectives.	

Planning authority's summary of the representation(s):
<p><b><u>PP1 Sustainable Economic Growth</u></b>  <u>Mrs Jean Oliver (0996), Cabrach Community Association (0674), Dufftown &amp; District Community Council (0522)</u>            Considers broadband connectivity to be vital to remote rural areas to provide local employment, business opportunities and support the tourism industry.</p> <p><u>Dorenell Ltd (1044)</u>            Support sustainable economic growth and transition to low carbon economy. Seeks expanded justification to explain importance of transitioning to low carbon economy.</p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u>            Support allocation of employment land across LDP area however, object to settlement maps not showing a specific employment land allocation.</p> <p><u>NHS Grampian (0300)</u>            Support for inclusion of life sciences sector in Action Plan and allocation of area around Dr Gray's hospital for Community Facilities to accommodate further development of hospital. Welcome acceptance of masterplan expansion of Dr Gray's Hospital which will be finalised in due course. Welcome Business Park opportunity at Riverview for office and research space to complement Life Sciences Centre, Dr Gray's and Moray College.</p> <p><u>Scotia Homes (0480)</u>            Support. Considers that further housing and mixed use will be required to complement sustainable economic growth.</p> <p><b><u>ED1 Development of New Employment Land</u></b>  <u>Forestry Commission (0307)</u>            Seeks bolder statement on Natural Environment by referencing other relevant policies, e.g. ER3.</p> <p><u>Scottish Environment Protection Agency (0569)</u>            Support for requirement for provision to be made for collection, separation and management of waste materials. Policy measures will help influence behaviour of users of developments which is in accord with Zero Waste Plan Annex B, specifically paragraph 5.5.</p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u>            Seek further enhancement of design aspect of policy to ensure building relationships, relationship to context, landscape setting and green networks and crime prevention. Seek amendment to text to overcome issues where foul drainage cannot connect to public sewer. Seek clarification on what mechanism will ensure visual appearance of new employment land does not have negative impact on wider area, e.g. landscape assessment.</p> <p><b><u>ED2 Business Uses on Industrial Estates</u></b>  <u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u>            Seek amendment to policy to allow flexibility to determine circumstances ancillary use is appropriate without reference to finite floorspace area or percentage of floorspace as ancillary uses may not be of an identical scale. Seek amendment to policy to allow class 2, 11 and sui generis uses on industrial estates to provide supporting services and</p>

attraction for businesses.

### **ED6 Digital Communications**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Consider piecemeal approach of policy inadequate. High demand, competition and technological nature warrants more planned approach. Planning should not be reactive. Justification text should include fibre connection/broadband. Considers reference should be made to traffic considerations when roads are partially closed to allow installation or define corridors for services to be laid.

Mono Consultants Ltd (0306)

Concern about negative wording of policy, specifically last sentence, which would restrict future rollout of telecommunications. Consider need to be a balance between minor impact on natural and built environment and access to high quality electronic communications. Sharing of telecommunication facilities normally requires installation of additional equipment which often results in some visual impact. Requirement to have no 'increased adverse visual assessment' is unreasonable and contrary to SPP and PAN62 and amendment to wording sought.

Scottish Government (0490)

Support clear statement about non-planning matter.

Mrs Jean Oliver (0996), Cabrach Community Association (0674)

Consider landowners should not be able to veto siting of masts for digital communications.

### **ED7 Rural Business Proposals**

CJ & CRH Dunbar (Pitgaveny) (0908)

Seek clarity and replacement wording to criteria a). Seek inclusion of text that supports diversification of storage or manufacturing premises outside farm productive season to enhance employment creation in rural areas and allow locally grown and produced food and drink.

### **ED8 Tourism Facilities & Accommodation**

Highland Council (0093)

Policy consistent with Highland Council's approach.

CJ & CRH Dunbar (Pitgaveny) (0908)

Considers policy needs to demonstrate how a tourism product for Moray that contributes toward economic strength can be delivered. Elgin as the primary centre for Moray should be encouraged to promote further tourism by building on existing assets and acting as a tourism hub, a transport interchange and an orientation centre to other tourist locations in Moray. Considers tourism proposals within R11/R8 to enable the promotion of Elgin, and create an identity for a new neighbourhood should be encouraged.

### **Modifications sought by those submitting representations:**

### **PP1 Sustainable Economic Growth**

Mrs Jean Oliver (0996), Cabrach Community Council (0522), Dufftown & District Community Council (0522)

Comments noted.

Dornell Ltd (1044)

Expand justification text to explain the importance of transitioning to a low carbon economy. Reference to 'energy' in paragraph 2 should be changed to 'renewable energy'.

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend policy wording to include specific definition of term employment land which includes all those elements listed on the Proposals Maps which come under the definition of employment.

NHS Grampian (0300)

Support noted.

Scotia Homes (0480)

Support noted.

**ED1 New Employment Land**

Forestry Commission (0307)

Infers amendment to policy wording to include bolder statement on Natural Environment by referencing other policies.

Scottish Environment Protection Agency (0569)

Support noted.

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend policy wording in paragraph 3 from 'all foul drainage must connect to the public sewer' to 'all foul drainage should connect to the public sewer wherever possible'.

Amend policy wording in paragraph 4 to provide clarity as to what mechanism will ensure that the visual appearance of any new employment land to be developed does not have a negative impact on the wider area. If a Landscape Assessment or Landscape and Visual Impact Assessment are likely to be required then this should be stated in the text.

Request additional wording that detail regarding the urban design principles for the development of employment land should be included for assessment by the Council and, larger sites should be subject to a masterplan demonstrating best fit within the site context.

**ED2 Business Uses on Industrial Estates**

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend policy wording at paragraph 2 to read 'shops and outright retail activities will not be allowed; the only retailing use permissible will be that which is considered to be ancillary to some other principal uses (e.g. manufacture, wholesale). For the purpose of this policy 'ancillary' use will only be accepted if it can show that it is subservient in scale to the principal use which will primarily be a use defined by Classes 4 (Business), 5 (General Industrial), and 6 (Storage & Distribution) of the Town & Country Planning (Use Classes) (Scotland) Order 1997, and that traffic and pedestrian movements will not cause conflict with the primary use of the site. Class 2 (Financial, Professional Services), Class 11 (Assembly & Leisure), and activities which do not fall within a specific use class (sui generis), will be considered in relation to their ability to service and support the industrial estate concerned, as well as in relation to their scale in terms of ensuring that such industrial estates continue to provide land primarily for Classes 4 (Business), 5 (General Industrial) and 6 (Storage & Distribution) of the Town & Country Planning (Use Classes) (Scotland) Order 1997'.

### **ED6 Digital Communications**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Infer amendment to policy wording to ensure planned approach to development and suggest inclusion of 'fibre connection/broadband' with policy justification. Suggest reference should be made to traffic considerations in policy text.

Mono Consultants Ltd (0306)

Replace last sentence of policy with 'Telecommunications developments, including the sharing of existing facilities, should seek to minimise the impact on the visual amenity, character and appearance of the surrounding area'.

Scottish Government (0490)

Support noted.

Mrs Jean Oliver (0966), Cabrach Community Council (0674)

Infers reference within policy to influence of landowners on development.

### **ED7 Rural Business Proposals**

CJ & CRH Dunbar (Pitgaveny) (0908)

Replace criteria a) from 'There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement' to 'a) There is a locational justification for the site concerned, b) If there is serviced industrial land available in a nearby settlement, the reasons for not locating the proposed business on this land must be clearly justified'. Add the following text to the policy 'Where there are opportunities to support local businesses that may be of a seasonal nature and require a countryside location, support will be given to the co-location of other complimentary economic activities that can take place on such premises throughout the year'.

### **ED8 Tourism Facilities & Accommodation**

Highland Council (0093)

Comments noted.

CJ & CRH Dunbar (Pitgaveny) (0908)

Within the policy, include support for tourism proposals which improve the quality and quantity of the tourism offer in Moray.

## **Summary of responses (including reasons) by planning authority:**

### **PP1 Sustainable Economic Growth**

#### **Broadband Connectivity**

The Proposed Plan supports improvements in broadband connectivity to grow and diversify the economy. The Proposed Plan Action Programme includes the Moray Economic Strategy (CD28) enabling action/project to improve regional accessibility (including broadband enhancement).

The policy is for control purposes as it is difficult to provide further detail on potential broadband connectivity networks or service corridors given they are often not known and subject to change.

No modification is proposed.

**Low Carbon Economy**

It is not considered necessary to provide further justification on the importance of transitioning to a low carbon economy as this is explicitly stated within the policy. The importance of a low carbon economy is more appropriately explained in further detail within the National Planning Framework 3 (CD02), Scottish Planning Policy (CD01) and Proposed Plan policy PP2 on Climate Change (CD03) which are material considerations in planning proposals.

No modification is proposed.

**Employment Land Allocation**

In accord with Scottish Planning Policy (CD01) a range of sites for employment use have been identified within the Proposed Plan. These have been aligned with the Moray Economic Strategy (CD28) and Proposed Plan Spatial Strategy Settlement Hierarchy to focus growth and investment in areas that best meet the needs and opportunities of indigenous firms and inward investors. The allocation of employment land across all settlements in Moray may undermine the aforesaid strategies and is not appropriate where proposals are speculative and unlikely to be serviced within 5 years of the date of adoption of the Plan. In rural areas, employment opportunities will be supported where they accord with Policy ED7 Rural Business Proposals rendering the identification of sites unnecessary.

No modification is proposed.

**ED1 Development of New Employment Land****Natural Environment**

It is proposed to insert a section at the beginning of the Local Development Plan on 'How to Use this Plan' to set out that the Plan is to be read as a whole. Therefore, cross-referencing policies within the Plan is unnecessary. Should cross-referencing be applied to the Natural Environment then this will be necessary for all elements of the policy to ensure consistency.

No modification is proposed.

**Design**

Further enhancement of the design aspect of this policy is considered unnecessary given that significant weight will be attributed to the design through the Plan's primary policy PP3 Placemaking and Supplementary Guidance Urban Design (CD03). The mechanisms for ensuring that the visual impact does not have a negative appearance on the wider area will be dependent on site characteristics and determined at the planning application stage. In some cases a Landscape and Visual Impact Assessment will be required (e.g. major developments in rural areas). The need for this assessment will be determined under policy IMP2 Development Impact Assessments.

No modification is proposed.

**Drainage**

The policy sets out the intention that foul drainage will connect to the public sewer. This intention is replicated in Policy EP10 Foul Drainage which sets out that temporary provision of private sewage systems may only be allowed where the public sewer lacks capacity and Scottish Water confirms investment to address the constraint.

No modification is proposed.

**ED2 Business Uses on Industrial Estates****Ancillary Uses**

Policy ED2 recognises that some ancillary uses may be permissible on industrial estates. Class 2, 11 and sui generis uses will be acceptable subject to their suitability to the industrial estate concerned and supply of serviced employment land. Limiting class use and floorspace is necessary to ensure the supply of serviced employment land and primary function of industrial estates is not undermined.

No modification is proposed.

**ED6 Digital Communications****Planned Approach to Infrastructure Provision**

Policy ED6 advocates a planned approach to communications equipment and infrastructure given it requires applicants to address the potential to share facilities. Where this cannot be achieved, adequate justification must be provided. A specific reference to broadband is included within the policy.

No modification is proposed.

**Visual Assessment**

It is accepted that facility sharing may result in additional equipment with some further visual impact. This must be assessed against the alternative cumulative impact of commensurate infrastructure to provide similar/upgraded digital communications. Therefore the wording is not necessarily restrictive but sets out the strength of the policy intention that visual impact must be kept to a minimum.

No modification is proposed.

**Transport/Service Corridors**

Given the evolving nature of digital communications it is not pragmatic to define service corridors as this may inhibit development in areas where installation may never take place. The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (BD/3/01) also permits utilities to install equipment in, on, over or under land subject to certain clauses without obtaining planning consent. Where an application is required, the proposal will be considered on its own merits.

No modification is proposed.

**Landownership**

Permission to install masts on private land is a matter for the landowner and digital communications company.

No modification is proposed.

**ED7 Rural Business Proposals****Diversification of Storage/Manufacturing Premises**

It is not appropriate to divorce locational justification from the proximity of serviced industrial land as this is likely to lead to unplanned development across the countryside. This is particularly relevant where proposals within the countryside are in close proximity to larger settlements. The policy criteria set out the parameters within which business proposals (temporary or permanent) in the countryside will be acceptable and makes provision for extensions to existing industrial/economic activities. Therefore, the

additional text proposed is unnecessary.

No modification is proposed.

### **ED8 Tourism Facilities & Accommodation**

#### **Strength of Tourism Product**

The policy is supportive of appropriate tourist development. This statement clearly infers support for the improvement of the quality and quantity of tourism offer in Moray. Therefore, there is no requirement to include additional text in this respect.

No modification is proposed.

### **Reporter's conclusions:**

#### **Broadband Connectivity**

1. A number of representations stress the importance of broadband connectivity for rural areas in order to support local employment and business opportunities and tourism development. I note that this is endorsed by the Scottish Planning Policy (SPP) in paragraph 292. There reference is made to the National Planning Framework 3 (NPF3) highlighting “the importance of our digital infrastructure, across towns and cities, and in particular our remote rural and island areas .... Planning has an important part to play in strengthening digital communications capacity and coverage across Scotland.”

2. The SPP continues by setting out a number of policy principles whereby the planning system should support improvements in this important sector. It then specifies in some detail how local development plans should provide a consistent basis for decision-making by setting out criteria that will be applied when determining planning applications for communications equipment.

3. In this context, I am satisfied that the proposed plan, in conjunction with the Moray Economic Strategy, already supports and promotes broadband connectivity in order to grow and diversify the economy, including in rural areas of Moray. Whilst policy PP1 sets the broad priorities for achieving this, more details are set out elsewhere in the plan – notably in policy ED6 Digital Communications and in the Proposed Plan Action Plan, which cross-refers to the Moray Economic Strategy. There “improvements in regional accessibility” is stated as a key enabling action. The council confirms that this includes broadband enhancement.

#### **Low Carbon Economy**

4. One representation seeks an amendment to policy PP1 to stress the importance of moving towards a low carbon economy. I am satisfied, however, that the wording of policy PP1 is already sufficiently clear in its statements in support of the transition of Moray towards a low carbon economy. These matters are also elaborated elsewhere in the plan – notably as part of policy PP2 Climate Change. In summary, I conclude that the proposed plan makes appropriate references to the low carbon economy, in line with the National Planning Framework 3 and that it accords broadly with the policy principles for “a low carbon place” set out in paragraph 154 of Scottish Planning Policy.

Employment Land Allocations

5. Whilst supporting the allocation of employment land across the plan area, one representation contends that this should be reflected by a definition of employment land and the depicting of employment land allocations on the settlement maps within the new plan. As the council points out, the proposed plan identifies a range of sites for employment use, in line with the Moray Economic Strategy and reflecting the spatial strategy's settlement hierarchy. I am satisfied that the approach adopted in the plan is in broad accordance with Scottish Planning Policy. I am persuaded by the council's explanation as to why employment land allocations have not been systematically shown for each of the settlements concerned – including with reference to matters of uncertainty regarding their delivery within the first 5 years of the overall plan period. I am also satisfied that a more general approach is applicable in rural areas where new employment proposals will be supported where they meet the terms of policy ED7.

Policy ED1 Development of New Employment Land

6. The Forestry Commission contends that policy ED1 should be bolder in its statements on the natural environment, including making reference to other relevant plan policies, including policy ER3. I consider that it would be inappropriate to enlarge the bulk of the plan by including multiple cross-references to other relevant policies within the plan, to cover all subject areas consistently. To do so would be very laborious and in my view unnecessary.

7. Instead I am satisfied that the concerns expressed here - and with regard to other similar points raised elsewhere concerning different policies of the proposed plan – can most appropriately be addressed by a single statement at the outset of the plan document. This would make explicit that the plan is to be read as a whole. The council has indicated its intention to insert such a new section at the start of the plan document on “How to use this plan”. I conclude that in principle this would address this particular issue - as once it is made clear early on in the document that the plan is to be read as a whole, this makes it unnecessary to provide cross-referencing of policies thereafter.

8. Another representation seeks further enhancement of the design aspects of policy ED1 to cover a number of matters listed. For similar reasons to those outlined above, I consider this unnecessary given that the matters of concern are already - and in my view more appropriately - covered elsewhere in the plan, notably in policy PP3 and in associated Supplementary Guidance on Urban Design. Furthermore, I agree with the council that at the detailed level, considerations of visual impact are most appropriately assessed on a case-by-case basis through the development management process when a specific proposal is put forward as a planning application for determination. At that stage consideration would be given to the terms of policy IMP2 Development Impact Assessments, as well as to the policy principles set out in Scottish Planning Policy (SPP), for example those outlined under the heading of ‘Placemaking’.

9. Based on similar considerations and to avoid unnecessary duplication or recurrent cross-referencing in the new plan, I am not persuaded by the arguments put forward by the Scottish Environment Protection Agency (SEPA) - which imply a wish for the drainage section of policy ED1 to be expanded or cross-referenced to other policies of the plan. I am satisfied that the drainage matters raised are already covered adequately in the plan as a whole, for example when policy ED1 is considered alongside the terms of policy EP10 Foul Drainage. Through the development management process all of the relevant

policies of the plan would be material considerations along with the relevant policies of the SPP - notably in this case the section headed 'Managing Flood Risk and Drainage'.

#### Policy ED2 Business Uses on Industrial Estates – Ancillary Uses

10. The only matter raised in respect of policy ED2 is concerned solely with the use of the term “ancillary” - and the perceived need for policy ED2 to make more explicit the particular uses that would or would not be acceptable in certain situations. In response, the council accepts the importance of ensuring clarity for readers regarding its intentions for this particular policy. In particular, it acknowledges that some ancillary uses may be acceptable on industrial estates. It goes on to state that Class 2, Class 11 and sui generis uses could potentially be acceptable if deemed suitable with regard to a particular industrial estate – but this would also depend on the available supply of serviced land. I find that clarification helpful.

11. More generally I support the position of the council that the principle of placing limits on classes of use and on floor-space is necessary and appropriate in order to safeguard the supply of serviced land to meet the primary function of the industrial estate provision. In summary, whilst I acknowledge the concerns expressed I am not persuaded that the suggested changes to the policy wording put forward in representations would be appropriate or necessary. Indeed I conclude that the specific categorisations that have been suggested are too prescriptive and would not allow for the appropriate degree of flexibility to be applied to reflect different local characteristics and circumstances of the various industrial estates located across the plan area.

#### Policy ED6 Digital Communications

##### Planned approach to infrastructure provision

12. One representation regards this policy as inadequate and lacking a co-ordinated approach with regard to service provision - and is also concerned about corridor issues including the traffic implications during construction. Another representation contends that the negative wording of the policy could restrict the “roll-out” of communications – and seeks a better balance between providing adequate safeguards for the environment and ensuring access to high quality electronic communications. It also contends that sharing of such facilities often requires installation of additional equipment and involves additional visual impact. On this basis it is contended that the requirement set out in the policy is unreasonable – and would be contrary to the SPP and PAN 62. The other representations express concern about landowners being able to veto the siting of communications masts or argue for transport and service corridors to be defined.

13. Dealing with the last of these points first, the council has provided logical and persuasive arguments as to why it would be impractical to define service corridors - and I have no reason or basis to question their reasoning in this regard. The council has also helpfully drawn attention to the basis on which some utility service providers can install certain categories of equipment and related infrastructure such as cables without first obtaining planning permission. I therefore focus my attention on the policy wording that should be applied to situations where planning permission is required.

14. Whilst the policy wording in the draft plan provides a list of criteria intended to guide developers proposing new communications equipment installations, I share some of the concerns set out in the representations. In summary, I consider that the policy wording could and should be more clearly expressed. This should reflect the importance of digital

infrastructure not only in towns and cities but also in more remote rural areas, as stated in the National Planning Framework 3 document. These principles are endorsed and elaborated in the Scottish Planning Policy (SPP). There the dependence of the economy and social networks on high quality digital infrastructure is noted. Furthermore, the SPP highlights the role of planning in strengthening digital communications capacity and coverage across Scotland whilst keeping environmental impacts to a minimum.

15. In this context I find that policy ED6 should demonstrate consistency with the requirements stipulated in the section of the Scottish Planning Policy dealing specifically with Digital Connectivity. It should also be broadly consistent with other national guidance and advice on these matters including Planning Advice Note PAN 62 Radio Telecommunications.

16. Accordingly, based on all of these considerations, in particular the latest policy statements on these matters set in the SPP starting at paragraph 295, I conclude that the two paragraphs of policy ED6 should be re-worded as follows:

*Proposals for communications equipment and infrastructure (including masts, antennas, relay stations, cabling etc) related to mobile phone or broadband provision must demonstrate that the following options have been considered in the lead up to their site selection and designing of base stations:*

- *mast or site sharing;*
- *installation on buildings or other existing structures;*
- *installing the smallest suitable equipment, commensurate with technological requirements;*
- *concealing or disguising masts, antennas, equipment housing and cable runs using design and camouflage techniques where appropriate; and*
- *installation of ground-based masts.*

*Planning applications for specific developments must also include:*

- *a description of the siting options and design options that have been considered which would satisfy operational requirements - and the reasons for the chosen solution;*
- *details of the design, including height, materials and all components of the proposal;*
- *a demonstration of how the proposal is sited and designed to keep environmental impacts to a minimum;*
- *details of any proposed landscaping and screen planting, where appropriate;*
- *an explanation of how the proposed equipment fits into the wider communications network;*
- *an assessment of any visual impact and the cumulative effects of the proposed development in combination with existing equipment in the area (and other committed developments yet to be installed);*
- *a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radiofrequency radiation.*

#### Policy ED7 Rural Business Proposals

17. A representation seeks an amendment to the policy ED7 wording in order to provide support for diversification of storage and manufacturing premises to accommodate on a seasonal basis locally produced food and drink products. This is with a view to stimulating the rural economy, including local jobs.

18. I am concerned that the flexibility of policy interpretation being sought or implied in the representation would risk facilitating or at least not preventing unplanned developments in rural areas of Moray. This would go against the ethos of a plan-led system and so in my view would be contrary to the principles of both national planning policy and the development plan. I am satisfied that the policy wording in the proposed plan already sets appropriate criteria against which proposals for temporary or permanent developments in countryside locations would be deemed acceptable.

#### Policy ED8 Tourism Facilities and Accommodation

19. Whilst the representations are generally supportive of policy ED8, one seeks additional wording to include support and encouragement for tourism developments in Moray – in quantitative and qualitative terms.

20. I am satisfied that the existing policy wording set out in the proposed plan states at the outset a general support for proposals that contribute towards Moray's role as a tourist area. I conclude that it is unnecessary to provide further elaboration as the policy wording makes evident that the policy encompasses both qualitative as well as quantitative aspects of tourism-related provision of facilities and infrastructure.

#### **Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. Insert at the beginning of the plan a statement entitled "How to Use the Plan" – where it should be stated at the outset that: *This plan document is to be read as a whole*
2. Replace the two paragraphs of policy ED6 with the following:

*Proposals for communications equipment and infrastructure (including masts, antennas, relay stations, cabling etc) related to mobile phone or broadband provision must demonstrate that the following options have been considered in the lead up to their site selection and designing of base stations:*

- *mast or site sharing;*
- *installation on buildings or other existing structures;*
- *installing the smallest suitable equipment, commensurate with technological requirements;*
- *concealing or disguising masts, antennas, equipment housing and cable runs using design and camouflage techniques where appropriate; and*
- *installation of ground-based masts.*

*Planning applications for specific developments must also include:*

- *a description of the siting options and design options that have been considered which would satisfy operational requirements - and the reasons for the chosen solution;*
- *details of the design, including height, materials and all components of the proposal;*
- *a demonstration of how the proposal is sited and designed to keep environmental impacts to a minimum;*
- *details of any proposed landscaping and screen planting, where appropriate;*
- *an explanation of how the proposed equipment fits into the wider communications network;*
- *an assessment of any visual impact and the cumulative effects of the proposed development in combination with existing equipment in the area (and other committed*

*developments yet to be installed);*

- a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radiofrequency radiation.*

[For the avoidance of doubt, the Justification section associated with policy ED6 would remain unaltered]

Issue 4a	Housing Land Supply	
Development plan reference:	<b>Housing Policies H1, H2 and H11, page 19-24 and 30-31</b> <ul style="list-style-type: none"><li>• H1 Housing Land, page 21</li><li>• H2 Long Term Housing Designations (LONG), page 23</li><li>• H11 Gypsy/Traveller Sites, page 31</li></ul>	<b>Reporter:</b> Allison Coard
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<b><u>H1 Housing Land</u></b> Scotia Homes Ltd (0480) Scottish Government (0490) The Ellis Group (0878) <b><u>H2 Long Term Housing Designations (LONG)</u></b> Scotia Homes Ltd (0480) <b><u>H11 Gypsy/Traveller Sites</u></b> Scottish Government (0490) Elgin Community Council (0122) Elgin South Area Forum (0194)		
<b>Provision of the development plan to which the issue relates:</b>	Policies H1 and H2 set out the Council's approach to identifying sites to meet housing land requirements and how LONG term sites will be released if agreed "triggers" are met. Policy H11 identifies criteria for assessing proposals for Gypsy/Traveller sites.	
<b>Planning authority's summary of the representation(s):</b>		
<b><u>H1 Housing Land</u></b> Scotia Homes Ltd (0480) This Policy is supported and comments on Table 1 also apply. Whilst the additional housing allocations appear to comply with Scottish Planning Policy (SPP) requirements, Scotia Homes would support a more generous supply for Elgin and the Elgin Local Housing Market Area (LHMA). The concerns raised in previous submissions on the Main Issues Report on the method for the calculation of the requirement continue to apply to the Proposed Local Development Plan (LDP) and Table 1. Grateful if these previous comments are therefore taken into consideration in relation to the Proposed LDP.  Having regard to the concerns expressed at the Main Issue Report (MIR) stage, the method employed fails to address the fact that the Housing Land Audit (HLA) 2013 identifies that there is already a deficit of 190 units for the Elgin LHMA to meet SPP requirements for an effective 5-year housing land supply. This deficit should be added to the Elgin LHMA before the total housing land requirement is divided over all the LHMA on a percentage population basis, to allow the Elgin LHMA to catch up with the other LHMA's. It is considered that the subtraction of the surplus effective supply, from the other LHMA's, should be done before redistributing the HLR.  The increase in the HLA in the Elgin LHMA is supported, together with the additional increase of 140 houses in Elgin. Extra housing from the flexibility allowance appears only to provide for around 250 new houses over the effective supply requirement. This appears insufficient to reinforce the primary role of Elgin. Proposed LDP proposes to release 350 units at Findrassie. There is limited information in the Plan on this site or within background papers. Only site specific reference appears to be on page 155 of the Plan. Confirmation is		

sought on the effectiveness of this site and members agreement for inclusion of this within 5 year land supply.

The Scottish Government (0490)

Housing table is greatly improved with the inclusion of land supply information and now appears to indicate that a generous supply of land has been made available for housing. Moray has a large constrained supply (2,956). From the settlement schedules it is difficult to tell how many of the allocated sites are constrained and whether this may have an impact on deliverability over the plan period.

The Ellis Group (0878)

The extent of supporting studies requested by the Council should be reasonable and proportionate in each individual case.

**H2 Long Term Housing Designations (LONG)**

Scotia Homes Ltd (0480)

The triggers for release of LONG sites should be included within the policy to provide clarity on the circumstances for their release. This should be clarified and included within policy or included in supplementary guidance.

**H11 Gypsy/Traveller Sites**

The Scottish Government (0490)

Welcome the comprehensive policy on gypsy and traveller sites. There is no reference to whether there are adequate facilities at present or if there is an identified need for sites.

Elgin Community Council (0122) and Elgin South Area Forum (0194)

A link between the Policy H11 Gypsy/Travellers and Policy H7 New Housing in the Open Countryside should be made to ensure aesthetic integration of halting sites. The willingness of the Community to accommodate gypsy/traveller sites is directly proportional to Gypsy/Travellers willingness to comply with reasonable aesthetic standards, registration requirements and payment of services. Enforcement is a key to ensure success in this matter and the availability of planning guidance.

**Modifications sought by those submitting representations:**

**H1 Housing Land**

Scotia Homes Ltd (0480)

Support 50% flexibility element for Elgin. However, this should be more ambitious and increased.

The Scottish Government (0490)

Would be helpful to see reference to the HNDA requirement for 6,456 houses to 2023, with extrapolation to 2025, to emphasise there is a generous supply of land. Helpful if the plan indicated the deliverability of sites due to the level of constrained land in Moray.

The Ellis Group (0878)

The extent of supporting studies requested by the Council should be reasonable and proportionate in each individual case.

**H2 Residential Development - Long Term Housing Designations**

Scotia Homes Ltd (0480)

The criteria for the release of the long term housing designations should be included within

the Policy.

### **H11 Residential Development - Gypsy/Traveller Sites**

Scottish Government (0490)

The plan should indicate if there is a need for gypsy/traveller sites.

Elgin Community Council (0122) and Elgin South Area Forum (0194)

Implies that a link between Policies H11 and H7 should be made to ensure aesthetic integration of halting sites.

### **Summary of responses (including reasons) by planning authority:**

#### **H1 Housing Land**

##### **Spatial strategy/release of LONG sites**

The Council's approach to calculating the Housing Land Requirement is set out in the Housing Land Background Paper (CD21). This is based upon the Council's Housing Need and Demand Assessment (CD12) and reflects the spatial strategy and settlement hierarchy set out in the Proposed Plan. The Council recognises that the settlement hierarchy is changing, with Elgin and Forres being the main areas of growth. The Council introduced LONG term housing sites in the Moray Local Plan 2008 and the release of these sites is controlled through Policy H2 and a series of "triggers" agreed by the Council which are included within the annual Housing Land Audit. LONG sites add additional flexibility to the housing land supply and this approach has helped the Council to proactively manage the effective housing land supply.

The annual report on the Housing Land Audit includes an assessment of whether any LONG term sites should be released to ensure the Council meets the Scottish Planning Policy requirement for a five year effective land supply to be available. To date, there have been two early releases, one at Barhill Road, Buckie and one at Findrassie, Elgin which was for 350 units released through a decision of the Planning and Regulatory Services Committee on 6<sup>th</sup> June 2013 (CD06). The shortfall in effective land identified through the Moray Local Plan 2008 has therefore been addressed. A report on the Housing Land Audit 2014 to the Council's Planning and Regulatory Services Committee on 17<sup>th</sup> June 2014 (CD22) referred to the specific area to accommodate the 350 units being identified through the masterplan for Findrassie which will be considered in late 2014 by the Council. The Council are currently working collaboratively with the agents for Findrassie masterplan which is subject of an Architecture and Design Scotland Design Forum review. The site is considered to be effective within the period of the new Local Development Plan (2015-2020).

Updated Housing Land Requirements were agreed by the Council's Planning and Regulatory Services Committee on 6<sup>th</sup> June 2013 (CD06), which rolled forward projections from 2023 to 2025 in response to a comment from the Scottish Government to the Main Issues Report. The overall housing land requirement has been calculated for a 12 year period, assuming a 2 year period for preparation of the Plan and allowing for 10 years beyond adoption. The identification of LONG term sites provides an indication of the location of housing land up to year 20.

The Housing Land Requirement in Elgin was identified as 996 units. 50% flexibility was added to the housing land requirement for Elgin Local Housing Market area to reinforce the role of Elgin in the hierarchy and this increased the requirement to 1494, with a requirement in Elgin City for an additional 1290 new houses. New sites have been included

to meet this requirement and 2 new LONG term sites have been included at Elgin North East and South to provide a longer term supply which can be brought forward through the agreed triggers. For clarity, these new LONG term sites are over and above the housing land requirements.

The flexibility added is considered to be generous and the primary reason for adding this was to reinforce the role and status of Elgin within the settlement hierarchy. Scottish Planning Policy (CD01) para 116 states that;

“Within the overall housing supply target, plans should indicate the number of new homes to be built over the plan period. This figure should be increased by a margin of 10 to 20% to establish the housing land requirement, in order to ensure that a generous supply of land for housing is provided.” The flexibility added of 498 units in the Elgin Local Housing Market Area and 81 units in Speyside Local Housing Market Area, have added 28% flexibility to the total Moray figure. As LONG designations are over and above the housing land requirement, it is clearly evident that Moray has a significant housing land supply when the new Local Development Plan is approved.

No modification is proposed to this policy in terms of the effective housing land supply or the housing land requirement calculations.

### **Information requirements**

The comment from the Ellis Group is noted and any studies requested by the Council and consultees would be considered as reasonable and proportionate. In terms of the implementation of the Plan, the Council proposes to engage with landowners and developers as early as possible and in advance of pre-application discussions to clearly identify information requirements, design and other relevant matters to address issues as early as possible in the design process.

No modification is proposed.

### **Constrained supply and release of LONG sites**

The majority of the Constrained supply (2530 units) identified in Table 1 is constrained under the terms of Policy H2 as they are LONG term sites controlled through a series of triggers. This provides a longer term supply of housing up to year 20 to meet the requirements of Scottish Planning Policy. These sites can be released if the terms of Policy H2 and a series of triggers set out in the annual Housing Land Audit and any specific triggers in the designation text are met.

The Housing Land Background Paper and annual Housing Land Audit demonstrate the effective housing land supply. If the Reporter is so minded the Council would not object to inserting the triggers for early release within the Plan in the Justification to Policy H2.

### **H2 Long Term Housing Designations**

In terms of the triggers for the early release of LONG term sites, although these are set out in the annual Housing Land Audit, if the Reporter is so minded the Council would not object to including the triggers within the Justification section of Policy H2.

### **H11 Gypsy/Traveller Sites**

The Council's Housing Need and Demand Assessment identifies the needs for Gypsy/Travellers and to address the representation from the Scottish Government, if the Reporter is so minded the Council would not object to these being summarised in the Justification text which supports Policy H11.

The Council does not consider it necessary to link policies H11 and H7. Policy H11 includes criteria requiring proposals for Gypsy/Traveller sites to ensure they do not detract from the character and appearance of the area, and are capable of being satisfactorily integrated into the landscape. The policy also includes the requirement that in countryside locations, on site tree planting and appropriate boundary treatment is provided, as would be the case for conventional houses. Specifically the policy states;

“Gypsy/ Traveller site proposals in the countryside will be regarded as a form of “housing in the countryside” and will also be subject to the relevant aspects of policy H7.”

No modification is proposed in this regard.

### **Reporter's conclusions:**

#### Background

1. Scotia Homes question the council's approach to the housing land calculation and the addition of generosity, particularly for Elgin. These matters are set out in detail through reference to earlier submissions to the main issues report (s00480/2/020). However, I note that Scotia Homes (through Further Information Request 1) clarify that they are generally supportive of Policy H1.
2. The council's calculation forms the basis of any consideration of the sufficiency of the land supply and any justification for including additional sites. It is also relevant in responding to representations which question the need for so much housing land.
3. Representations from Robertson Homes are summarised under Issue 13a but the matters raised, although specific to Elgin, are also relevant to this issue. These are mirrored in the response of the Scottish Government where it questions the extent of constrained land and deliverability over the plan period.
4. My assessment of the housing land requirement and the availability of a generous effective land supply is also relevant to my consideration of the proposed “LONG” sites. These are sites which are not relied on currently to meet the housing land requirement but held in reserve to meet requirements in the longer term. Scotia Homes request that the criteria for the release of the long term housing designations, which are currently included in the housing land audit, should be brought into the plan. Robertson Homes (Issue 13a) request a LONG site in the Elgin Housing Market Area should be allocated now. Concern is expressed about the extent of the LONG allocation in Alves in the absence of appropriate infrastructure (Issue 14c).
5. The proposals maps for Buckie, Elgin, Forres, Keith and some of the communities in Speyside illustrate the considerable extent of these land areas. In total the proposed plan identifies 408 hectares of land to meet housing requirements in the longer term. These areas are identified in order to enable a master-planned approach to guide housing growth beyond the timeframe of this plan. This is an established approach in Moray and a number of the sites now allocated in this proposed plan are identified as “LONG” in the current Moray Local Plan 2008.

#### Calculation of the Housing Land Requirement

6. Scottish Planning Policy sets out the basis on which a planning authority should

address its calculation of the housing land requirement. This should enable the objective of securing a continuous 5 year effective housing land supply.

7. For areas such as Moray, which is outwith a city region, Diagram 1 on page 30 of Scottish Planning Policy requires the proposed plan to set out a target for the number of new homes to be built. An additional margin of flexibility is added to the target, normally between 10-20%. This margin is included to provide for a range and choice of sites and to address inherent uncertainties in the housing market.

8. For Moray the additional housing land allocation is set out in table 1 of the proposed plan. I have also referred to the housing land background paper (CD 21) which provides additional information in this respect. The council's response of 12 February 2015, to my further information, request clarifies the following calculation:

Housing Land supply target 2013-2025= 6456\*

Subtract effective supply = 2479

Effective supply 5 year plus\*\* =1929

Baseline housing land requirement 2013-2025= 2048

\* The council explain this is derived from the housing needs and demand assessment (HNDA) which identified an annual need for 538 units.

\*\* Sites the council considers capable of becoming effective beyond the 5 year period.

9. Having calculated the above requirement for new land the council divide this up by housing market area as shown in table 1 below:

Table 1: New land requirement and housing allocation by housing market area.

Local Housing Market Area	New Requirement	New Allocation (Proposed Plan)	New Allocation (Revised March 2015)
Buckie	334	345	365
Elgin	996	1495	1775
Forres	366	365	365
Keith	174	190	210
Speyside	161	245	291
Total	2048	2640	3006

10. The new land allocation as shown in the third column above reflects the figures set out in table 1 on page 22 of the proposed plan. The resultant total of 2640 gives a margin of 592 units above the new requirement which is equivalent to 29%. This also shows a 50% margin is added to the Elgin and Speyside Housing Market areas whilst none is applied in Buckie, Forres or Keith. However, paragraphs 115-117 of Scottish Planning Policy state that the 10-20% margin should be added to the overall target (the total amount of housing required which can be met by sites in the established effective supply and new sites). The main difference in approach, is that the council only add flexibility to its supply

of new sites.

11. By way of example a margin of 10-20% would have added between 645 and 1290 to the headline housing land target figure of 6456. Following the approach as set out in Scottish Planning Policy provides a margin of only 9% above the target.

12. Revised figures (as shown in column 4 of Table 1 above) were submitted by the council (Further Information Request 1- Table 4: New/amended sites identified for housing land). These revisions, which I understand to represent the actual capacity of identified sites, bring the total margin of flexibility to 958 (almost 15%) of the total target. This falls within the range advised in Scottish Planning Policy. These revised figures are not disputed by any of the parties who made representations.

13. For the Elgin Housing Market Area, the 50% margin referred to by the council in this housing market area applies only to the new land supply. It does not apply to the established supply of effective land. Consequently, I estimate the margin, following the approach set out in Scottish Planning Policy, to be in the range of 17-24% depending on whether the calculation is based on the figures set out in Table 1 of the proposed plan or the higher revised figures from March 2015 which reflect the figures in the council's response to Issue 13a.

14. If the Scottish Planning Policy approach is followed then the overall margin for the land supply as a whole and for Elgin in particular is significantly less than as stated by the council. The figures presented in the proposed plan through Table 1 show a margin of only 9% overall. However, despite the differences in approach I find the revised March 2015 figures demonstrate a sufficient margin above the overall target. This conclusion also applies to the Elgin Housing Market Area.

15. Scottish Planning Policy explains the role of the local development plan in setting out the housing land target up to year 10 from the date of adoption and how this is to be met. For the purposes of clarity and as a basis for future monitoring I consider this should be clearly set out in this proposed plan. To reflect this my recommendation includes a statement on the housing supply target as part of the justification for Policy H1.

#### Effective Land Supply

16. Reaching a conclusion on the sufficiency of the council's land supply also requires consideration of the council's assumptions regarding the timing and programming of sites assumed to be effective. If there is uncertainty or anticipated delay in the programming of sites this may cast doubt over the deliverability of the target within the plan period.

17. The council states that its approach is supported by:

- The emphasis placed on Elgin which has a range of services and employment and historically higher completion rates.
- The extent of the land supply in Buckie and Keith which has historically low completion rates. Priority is given to brownfield sites and sites on the edge of these settlements.
- The desire to encourage a longer term master-planned approach to the identified long term growth areas.
- An expected contribution of over 100 units per annum from windfall sites.

18. The council's most up to date land supply position is set out in core document 22. It states that the final audit, as at January 2014, identifies that there is an 18 year established housing land supply including 7 years effective supply (2630 units) and 11 years constrained (4152 units). However this is based on the annual housing land requirement identified in the Moray Structure Plan 2007 of 380 units. Completions in 2013 were 315, compared with 342 in 2012, 418 in 2011 and 431 in 2010. The majority of completions in 2010-2013 were for affordable housing projects in Elgin, Forres and Buckie.
19. The proposed plan establishes a new target of 531 units per annum. An enhanced rate of completions and output from the new land supply, as identified through this proposed plan, will be required if the housing land target is to be met and a five year effective land supply maintained. There is no audit information on programming of the new land supply or assessment of the 5 year effective land supply relative to the new target.
20. Some general concerns regarding flooding as well as education and health care capacity are addressed through other schedule 4's. The timing of the council's education strategy has not dovetailed with this proposed plan. This will undoubtedly leave some uncertainty about how these matters are to be addressed particularly for Elgin. It also leaves a lack of clarity regarding the financial expectations likely to be placed on developers. As explained elsewhere in this report the council has a policy on developer contributions to address such matters. It also intends to prepare supplementary guidance to provide further clarity once the education review is finalised.
21. A number of flood alleviation schemes are underway but flooding remains a major issue. The developable area of many sites will not be determined until further detailed assessment is complete.
22. Over and above these more general constraints the council accepts that the delivery of some sites in Elgin are dependent on the delivery of a new high school and the proposed Western Link Road. Sites R1, R3, R4, R6 and R12 rely on the Western Link Road and R13 on access to the proposed new High School.
23. On commencement of this examination the council was progressing an application for the Western Link Road 4/00551/APP (CD31). However, this was refused by its committee on 13 November 2014. I requested further information from the council given that a number of housing sites rely on delivery of this infrastructure. The council's further submissions and a letter from its Chief Executive, confirm its continued commitment to the scheme and its importance in enabling development on sites on the southern edge of Elgin.
24. The council informs me that negotiations for acquiring land are at various stages with 3 houses already in council ownership. It is also promoting a Compulsory Purchase Order, for the houses and ground it requires, which is currently with the Scottish Government. Developer contributions have been received to alleviate traffic problems and mitigate the impact arising from the developments in Elgin and £625,000 has been assigned to the link road. Consequently, officers are confident that the reasons for refusal of the recent planning application can be addressed. Work is progressing with the aim of submitting a revised application during summer 2015. If determined before the end of the year, construction works could commence in Spring 2016. There is an estimated 18 month construction programme with a view to completion before the end of 2017.
25. The council state that a significant element of the Western Link Road is likely to be

delivered earlier through the construction of the new Elgin High School. I understand from the council's submissions that planning permission has now been granted for this proposal.

26. I find nothing from the examination to dispute these assertions or the council's remaining commitment to this proposal. I understand there has been local objection to the details of the planning application. However these are detailed matters to be addressed through the planning application process. This is a long established proposal carried forward from the current local plan. I find no compelling evidence to demonstrate that it is no longer a viable option. The council accept that a number of sites are dependent on this infrastructure and that programmed output will be restricted to the latter stages of the plan period. Consequently, the council's further submissions label these sites as "effective 5 year plus".

27. I note that R11 Findrassie is identified as "Long" in the current local plan. At the council's Planning and Regulatory Services Committee on 6 June 2013 it was agreed to release 350 units from the designated Elgin LONG site in the Moray Local Plan 2008. This site was assessed to be effective and capable of meeting a shortfall in the 5 year supply as identified through the 2013 housing land audit. The council refer to a shortfall in the effective housing land supply having been met through this release. However, this was assessed on the basis of the previous strategic requirement and the current Moray Local Plan 2008. The total site area is now brought forward as R11 Findrassie/Myreside with an indicative capacity of 1500 houses.

28. Detailed submissions (BD4a/01) assess the site against the criteria for effectiveness set out in PAN 2/2010: Affordable Housing and Housing Land Audits. This shows no notable constraints or abnormal site requirements. The submission includes a programme for the master-planning exercise to conclude in June of this year with early release of the first phase of 350 units. The council refer to the site as effective and effective 5 year plus. Whilst I have no reason to doubt a contribution from this site the master-plan is not concluded and lead in times may prove longer than anticipated. I note the council's further submission refers to completion of 70 units in 2018/19. If a similar completion rate is assumed for the following year this would contribute 140 units to the current 5 year effective land supply.

29. For Elgin, the council anticipate programmed output from R10:Linkwood Steading, R3:Bilbohill South and R9: Driving Range within the current 5 year supply. These sites are included in the council's Strategic Housing Investment Plan. Private sector programming for R9 and R10 is also anticipated over this timeframe along with some output from R7: Birnie Road and R8: Glassgreen. From the council's submissions there is capacity for 503 completions in the established land supply for the settlement of Elgin. Of the remaining new supply, 100 are identified as effective. For the remainder the council accept that programming is likely to run into the later period beyond 2020. This is shown by the labelling effective and effective/effective 5 year+ in the council's further submissions through Table 4 on page 5.

30. All of the new sites identified in Buckie are considered by the council to be effective as are the sites, with the exception of those identified as LONG, in the Speyside and Forres Housing Market areas.

#### Conclusions on the sufficiency of the housing land supply.

31. In paragraph 14 above my conclusion is that the council's revised figures from March 2015 show that there is a generous overall supply of housing land. The margins of

flexibility whilst lower than stated by the council and derived from a different calculation reflect those advised in Scottish Planning Policy. However, there is a lack of published information on anticipated annual programming of new sites (these are not included in the 2014 housing land audit). In addition, there are considerable uncertainties and identified constraints on the land supply in Elgin which is the primary focus for the council's housing land strategy. The identified constraints could push delivery of much of this new land supply into the later stages of the plan period and there is potential for further slippage. This would have implications for maintenance of a continuous 5 year land supply which relies on an annual rate of output capable of achieving the overall target.

32. Taken together, this points to the release of suitable additional effective land if this would enable an enhanced annual output in the early years of the plan period. This would be justified in order to address uncertainties in the timing and programming of delivery, particularly for Elgin, and to enable maintenance of a continuous 5 year effective land supply. However, such consideration through this examination is restricted to the very few options which are presented in representation to the proposed plan. Where additional sites have been suggested these have been assessed in light of my conclusions above.

### LONG sites

33. Much of the land around settlements, particularly in Elgin, is reserved for the longer term. The council accepts that a least a portion of this land may prove effective in the shorter term and relies on this in providing a mechanism to make up any shortfall. The proposed plan refers to triggers to assess any further such release and these are currently set out in the housing land audit 2014 (CD18).

34. In its response to my Further Information Request 1 the council states:

"In the event that there is a shortfall in effective supply then this would be highlighted through the annual Housing Land Audit and the triggers under Policy H2 would be applied. Two of the LONG term sites would be suitable to consider bringing forward early in such a scenario, Elgin North East (Lesmurdie Fields) and Elgin South. Early design discussions have been held between the council and Robertson Homes on the Lesmurdie Fields part of Elgin LONG North East and early discussion have also taken place with Springfield Properties on Elgin South."

35. My detailed response on the potential to bring forward Lesmurdie Fields as an allocation is included in Issue 13d. My recommendation to bring forward this site is supported by my conclusions above. The council accept that this site is not currently constrained and has potential to be brought forward early. This will provide an additional margin of flexibility to the effective land supply. However, I accept this addition is countered to some extent by my recommendation to delete a small site for 10 houses (R13 Fairway Avenue). Elsewhere in the plan area, in Findhorn, our recommendations reduce the capacity of R1 to the west of East Beach Road by 5 units.

36. Inclusion of the wording which is set out in its housing land audit would enable appropriate sites in the LONG supply to come forward early. However, I consider that any policy wording should avoid uncertainty regarding the status of this land and the requirement for it to be released. In addition, I am concerned to avoid a piecemeal approach to such release. I consider this would run contrary to the longer term planning objectives which form the justification for these allocations. The conditions for such release and bringing forward sites raise important issues in relation to developer

contributions and a master-planned approach. Much of the detailed feasibility work for the larger site areas will not be addressed until after the master-plans are progressed.

37. To address the link between maintenance of the 5 year effective housing land supply and the early release of LONG sites my recommendation includes some corresponding changes to H1. I consider that the plan can appropriately establish the principle of earlier release through Policy H2. However, I find the detailed approach to this requires further consideration and consultation. This could be addressed through supplementary or other guidance to enable greater clarity for communities and others about the conditions which would apply to early release and the provision of the necessary infrastructure. This would inform the master-plan and avoid a piecemeal approach. My recommendation reflects this.

#### Information requirements

38. The text refers to information regarding the layout and development of the whole site to allow consideration of all servicing, infrastructure and landscaping provision from the outset. I do not consider this to be overly onerous as this allows the upfront consideration of all the relevant issues which are required to address a planned approach to housing delivery.

#### H11 Gypsy/Traveller Sites

39. I agree that a clear link to the housing needs and demand assessment should be included as this provides an evidenced justification of need on which to base the policy approach. My recommendation reflects this. Policy H11 requires that proposals should not detract from the character and appearance of the area and states that assessment will be subject to the relevant policies. Consequently, I do not consider any change is required to further emphasise the link between these policies.

#### **Reporters recommendations:**

Modify the proposed plan as follows:

##### Policy H1

1. In the justification section of Policy H1 delete the first sentence and replace with:

The council through its housing needs and demand assessment has identified a housing land target of 6456 units. This is based on an average need of 538 units per annum over the period 2013-2025. Table 1 on page 22 shows how this is to be met through sites already in the land supply and through new sites as identified in the relevant settlement statements.

2. After the first sentence insert the following:

A five year effective supply of housing land to meet this requirement will be maintained at all times. This will be monitored and updated annually through the housing land audit. If the audit identifies a shortfall in the five year effective housing land supply, the council will consider earlier release of “LONG” sites in accordance with Policy H2.

Policy H2

3. Delete the existing text and replace with:

Long term designations are identified to set out the direction of growth and to assist in the forward planning of infrastructure and landscape enhancement/mitigation. These sites are not relied upon to meet the current housing land requirement up to 2025. The detail of these designations will be reviewed through the next local development plan. Earlier release of these areas, or sites within them, will only be considered where:

A shortfall in the 5 year effective land supply is identified in the annual Housing Land Audit which cannot be met by:

- 1) windfall provision assuming previous trends
- 2) constrained sites which are likely to become available for development to meet the shortfall in the relevant timeframe.

In these circumstances an appropriate release of LONG term land may be recommended where:

This can be achieved without compromising delivery of a master-planned approach and where appropriate access, infrastructure and landscape setting can be secured.

The site is demonstrated to be effective within the next five years.

Note: Supplementary or other guidance will be prepared to address the detailed implementation and approach to LONG sites and the conditions which will apply to early/partial release and/or progression through the next local development plan.

Policy H11

4. Add the following sentence at the start of the “Justification” for Policy H11:

The council's Housing Need and Demand Assessment identifies the need for Gypsy/Traveller's sites.

Issue 4b	Rural Groupings and Housing in the Countryside	
Development plan reference:	<p><b>Policies page 7-86: Section on Residential Development, page 19-31</b></p> <ul style="list-style-type: none"><li>• <b>H5 Development within Rural Groupings, page 25</b></li><li>• <b>H6 Re-use &amp; Replacement of Existing Buildings in the Countryside, page 26-27</b></li><li>• <b>H7: New Housing in the Open Countryside, page 27-28</b></li></ul>	<p><b>Reporter:</b> Allison Coard</p>
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>H5 Development within Rural Groupings</u></b> Forestry Commission (0307) Scottish Environment Protection Agency (0569) Strathdee Properties (1020)</p> <p><b><u>H6 Re-use &amp; Replacement of Existing Buildings in the Countryside</u></b> CJ &amp; CRH Dunbar (Pitgaveny) (0908) Strathdee Properties (1020) Fred Olsen Renewables Ltd (1047)</p> <p><b><u>H7 New Housing in the Open Countryside</u></b> Grant and Geoghegan (0204) Crown Estates (0861) CJ &amp; CRH Dunbar (Pitgaveny) (0908) Strathdee Properties (1020) Fred Olsen Renewables Ltd (1047)</p>		
Provision of the development plan to which the issue relates:	Provides policy context for development in the countryside.	
Planning authority's summary of the representation(s):		
<p><b><u>H5 Development within Rural Groupings</u></b> Forestry Commission (0307) Seeks inclusion of policy H7 text "Proposals which involve the loss of woodland will be assessed against policy ER3 and must take account of the Council's supplementary guidance on Trees and Development" in policy H5.</p> <p><b><u>Scottish Environment Protection Agency (0569)</u></b> Object as policy establishes principle of development on sites that have not been fully researched. All potential sites included in associated Supplementary Guidance need to be adequately assessed in relation to flood risk prior to adoption to ensure they are capable of being developed in line with requirements of national and local planning policy.</p> <p><b><u>Strathdee Properties (1020)</u></b> Support identification of rural groupings. Responses on individual groupings and further opportunities within them provided. Welcomes opportunity to comment on future review of rural groupings.</p>		

## **H6 Re-use & Replacement of Existing Buildings in the Countryside**

### **CJ & CRH Dunbar (Pitgaveny) (0908)**

Concerned policy does not take into account different conditions and arrangements of buildings in the countryside. Raise concern about need for well-defined curtilage, limiting new build to 50% before completion of conversion and, ability of some outlying stables, stores and cattle sheds to be converted. Seeks more flexible approach to ensure healthy supply of redeveloped houses can add to Moray's housing mix.

### **Strathdee Properties (1020)**

Consider wording of point i) and ii) to be too restrictive as possibly more scope for additional new build units than the numbers gained through conversion or replacement due to sites characteristics, previous use and established boundaries. Seek alteration of wording to allow each development to be dealt with individually.

### **Fred Olsen Renewables Ltd (1047)**

Seeks assurance through rewording of policy that proposals are not incompatible with existing or consented rural land uses such as renewable energy projects on amenity grounds.

## **H7 New Housing in the Open Countryside**

### **Grant and Geoghegan (0204)**

Concern about interpretation of policy requirements making policy less certain, transparent and clear which is inconsistent with national planning policy and guidance. Specifically cites part a) reference to 'traditional pattern of settlement in the locality' and queries whether this is different to the existing settlement pattern and why this is required given compliance with other requirements will ensure integration with rural landscape; part b) need for clarity in that an existing grouping relates to sites directly alongside an existing grouping/cluster of buildings and not separate or dispersed sites in the countryside; and, part c) considers this to be unnecessary as compliance with a) and b) will ensure proposal does not change rural character of area and request further clarification on 'particular attention' will be given to proposals where there has been a 'significant growth' given that compliance with a), b) and c) will ensure there is not an unacceptable buildup.

### **Crown Estates (0861)**

Support policy as this will help contribute to ongoing supply and flexibility in delivery of appropriate forms of rural housing.

### **CJ & CRH Dunbar (Pitgaveny) (0908)**

Object to criteria b) regarding ribbon development. Future development of dispersed communities that have developed along a road or coastal edge will be blocked and this will go against the established settlement pattern. Consider development should not be restricted to local development plan period given potential for unavoidable delays in preparation and adoption. Seek assessment of proposals on own merits. Consider that existing native tree cover should be taken into account in requirement for 25% native tree planting. Local landscape and conditions may mean tree planting is less appropriate environmentally and best solution for each site should be sought.

### **Strathdee Properties (1020)**

Considers points b) and c) to be too restrictive and seek their removal to provide additional flexibility. Seek removal of restriction on additional new housing that adds to a re-use or rehabilitation scheme permitted under policy H6 as there may be circumstances where this is appropriate.

Fred Olsen Renewables Ltd (1047)

Seek assurance through rewording of policy that proposals are not incompatible with existing or consented rural land uses such as renewable energy projects on amenity grounds.

**Modifications sought by those submitting representations:**

**H5 Development within Rural Groupings**

Forestry Commission (0307)

Suggests addition of policy H7 text within policy H5 “Proposals which involve the loss of woodland will be assessed against policy ER3 and must take account of the Council’s Supplementary Guidance on Trees and Development”.

Scottish Environment Protection Agency (0569)

Remove part of the first sentence of third paragraph “but their development has not been fully researched and proposals will still require to demonstrate they can be satisfactorily serviced”. All sites put forward in the related Supplementary Guidance must be adequately assessed to ensure they are capable of development.

Strathdee Properties (1020)

Support noted.

**H6 Re-use & Replacement of Existing Buildings in the Countryside**

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend point i) to read “no more than 50% of new build units can be built before the conversion is complete, unless evidence is submitted in the form of a development appraisal to show that further development is required for enabling purposes”. Amend point iii) to read “be contained within the curtilage of the existing building site (where the curtilage of the building can be established) and must not extend into previously undeveloped land. Add new point iv) to policy to read “be contained within established natural or manmade boundary features or include a form of defensible boundary features that accords with supplementary guidance where no curtilage can be established. At paragraph “exceptions to design requirements ...” add text “where further enabling development of more than 50% has been permitted under criterion ii) the planning authority will use planning conditions to ensure that appropriate trigger points are defined to guarantee completion of the conversion”. At paragraph “the replacement of temporary structures...” add “the re-use, renovation and partial replacement of such buildings will however be considered eligible if these structures are considered to be of traditional, long-life construction and if their redevelopment will result in a form of development that is well integrated with the landscape”.

Strathdee Properties (1020)

Seeks amendment to wording of policy criterion i) and ii) to allow more flexibility.

Fred Olsen Renewables Ltd (1047)

Seeks rewording of policy to ensure proposals are compatible with existing or consented rural land uses.

**H7 New Housing in the Open Countryside**

Grant and Geoghegan (0204)

For part a) define ‘traditional pattern of settlement’ or state as existing settlement pattern. Preference is to remove references to patterns of settlement. For part b) clearly state it

specifically refers to sites immediately adjacent/attached to an existing grouping/cluster of buildings and not to separate or dispersed sites in the countryside. Remove part c).

Crown Estates (0861)

Support noted.

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend point b) by adding the words “unless this form reflects the traditional built character of the surrounding area” after the word “development”. Under the section entitled Design, at the end of paragraph which begins “a new dwelling that adds to ....” add the words “Exceptions to this will only be supported where the proposed new development assessed under this policy is considered to be sited in an area that can successfully absorb such a level of growth in a single Local Development Plan period with no adverse impact on the landscape character of its immediate surroundings”. Replace point vi) text with “proposals should be accompanied by a plan showing 25% of the plot area to be planted with or already have native tree species, at least 1.5 metres in height or a justification why such a level of native tree cover is not considered appropriate in this instance”.

Strathdee Properties (1020)

Remove points b) and c) to provide additional flexibility. Remove restriction on additional new housing that adds to re-use or rehabilitation scheme permitted under policy H6.

Fred Olsen Renewables Ltd (1047) Seeks rewording of policy to ensure proposals are compatible with existing or consented rural land uses.

**Summary of responses (including reasons) by planning authority:**

**H5 Rural Groupings**

**Trees and Development**

Policy H5 affords a significant degree of protection to trees and woodland in rural groupings. Trees and woodland are identified as ‘amenity land’ in rural groupings and proposals that adversely affect the value of these areas will not be supported. In contrast to proposals for new housing in the open countryside, sites with development potential are specifically identified and any associated issues addressed in Supplementary Guidance Rural Groupings (CD03). This Guidance can focus attention on trees and woodlands at a site-specific level, where required. As part of the forthcoming review on Rural Groupings, the Council will be surveying and updating all amenity land. The Forestry Commission will be consulted on this review.

Given the above, it is not considered that further reference to Policy ER3 Development in Woodlands and Supplementary Guidance Trees and Development (CD03) is necessary, particularly as the Local Development Plan and suite of Supplementary Guidance will be read as whole.

No modification is proposed.

**H6 Re-use & Replacement of Existing Buildings in the Countryside**

**Site Boundaries**

Containment within the curtilage of the existing building site is necessary to prevent development sprawling into undeveloped land especially where there are no discernable features to contain it. The inability to establish the curtilage of an existing building site is not accepted as reasonable justification to amend the policy as no evidence has been

submitted to substantiate this point. The creation of manmade boundary features can be manipulated to accommodate a large area potentially contributing to a build-up of development in the locality that does not reflect a traditional settlement pattern and undermines the primary objective of the policy.

No modification is proposed.

### **Additional New Build**

The principle objectives are to re-use or rehabilitate local vernacular buildings to maintain the character and appearance of the countryside and allow a scale of new build development commensurate to the original building(s). Unlimited new build can undermine these objectives regardless of site characteristics, boundaries or previous use. It is clearly set out that additional new build may be permitted provided it can be justified for enabling purposes.

To ensure local vernacular buildings are re-used or rehabilitated and that these schemes do not comprise of new build only, it is considered necessary to apply a threshold to the number of new build before conversion is complete. Discretion may be applied where satisfactory evidence is submitted to justify a higher threshold for enabling purposes.

This balanced approach to development adheres to the Scottish Government objectives of low carbon sustainable development in that a stable level of growth is promoted that supports rural communities and protects the environmental quality of the countryside from suburbanisation and car-based commuting. This is particularly pertinent for Moray given that there is limited public transport in rural areas and that the high quality landscape is important to the tourism industry.

No modification is proposed.

### **Ancillary Buildings**

The purpose of the policy is to retain local vernacular buildings that assist in maintaining the character of the countryside. Buildings that are robust and long-established, regardless of their previous use, may form part of a re-use or rehabilitation scheme. Therefore, steadings, stores and cattlesheds may be eligible. The policy clearly sets out the building structures that will not be acceptable, i.e. wooden or corrugated-iron sheds. The Council is amenable to the addition of text to clarify this point, should the Reporter be so minded.

The Council would have no objection if the Reporter were to make a modification as outlined above whereby the revised text states "Buildings that are robust and long-established, such as stone built steadings, stores and cattle sheds, may form part of a reuse or rehabilitation scheme. The replacement of temporary structures, such as wooden or corrugated-iron sheds, stores or stables will not be considered eligible under this category."

### **Compatible Land Uses**

The Council's Environmental Health Section is a consultee on planning applications and any issues regarding compatibility of land uses will be considered by them through that process.

No modification is proposed.

**H7 New Housing in the Open Countryside****Traditional Settlement Pattern**

The policy refers to the traditional pattern of settlement. Traditional pattern of settlement means the arrangement of vernacular buildings in the locality. It does not include buildings of modern construction. The traditional pattern of settlement varies across Moray. The Supplementary Guidance Housing in the Countryside (CD03) provides further clarity on the form a traditional pattern of settlement may take. For example, a rural area may be characterised by small clusters of buildings or individual houses dispersed throughout the countryside. It is important that proposals take account of the traditional pattern of settlement to ensure that development relates to the long-established building arrangement in the vicinity to maintain the character and appearance of the countryside. Where they do not, the rural character of that part of the countryside will be detrimentally impacted on. Further clarity on this aspect can be provided within Supplementary Guidance.

No modification is proposed.

**Pressurised Rural Areas**

The policy highlights that there are areas where there has been a significant growth in the number of planning consents for new houses in recent years with the effect of changing their rural character. Background Paper (BD/4b/01) illustrates this point: the Birnie area which lies in close proximity to Elgin has had 57 consents for new houses over the adopted Moray Local Plan period 2008-2014. More development has been consented in the Birnie area than has been allocated in the settlements of Alves (10 units) and Lhanbryde (45 units) located near to Elgin over the same period. The location of many plots, often in close proximity to one another, has had the effect of adversely altering the appearance and ambience of the countryside. This significant level of growth in a rural area over a relatively short timeframe undermines the Scottish Government objectives of low carbon sustainable development given the environmental quality of the countryside is being eroded by suburbanisation and car-based commuting. Given the above, it is considered necessary to address build-up within policy H7.

No modification is proposed.

**Existing Groupings/Ribbon Development**

A proposal located in close proximity but not necessarily immediately adjacent to an existing building may have an impact on the rural character or setting of that building. Supplementary Guidance Housing in the Countryside (page 15) (CD03) exemplifies this scenario. The incremental accumulation of buildings in close proximity to each other has had the effect of adversely changing the rural character for each house and the area as a whole. Therefore, it is important to address this issue on an individual and area-wide basis.

Ribbon development is not considered acceptable where it results in an accumulation of houses along a road or landscape feature, regardless of the traditional built character. For example, the addition of a house to a row of distillery cottages would detract from their historic and aesthetic character and landscape setting. However, infill development may be acceptable where this reflects the character of the existing buildings and is unobtrusive.

No modification is proposed.

**Local Development Plan Timeframe**

To ensure the principle objective of Policy H6 Re-use & Rehabilitation of Existing Buildings

in the Countryside is not undermined, it is also necessary to limit the number of new build associated with a re-use or rehabilitation scheme through Policy H7 New Housing in the Open Countryside. Failure to do so would undermine the objective and inclusion of this criterion within policy H6.

Whilst site characteristics may be favourable, the intention of this policy criterion is to ensure that a stable level of growth takes place incrementally within rural groupings allowing new buildings to establish before further development takes place. It is important that the area surrounding local vernacular buildings does not become saturated by new build units as the primary objective of policy H6 and rural character of the area will be lost.

No modification is proposed.

### **Tree Planting**

The inclusion of existing native trees within the 25% calculation of criterion vi) of H7 may mean larger plots evade necessary tree planting to integrate development within the landscape. Therefore, it is not considered appropriate to include reference to existing native trees within policy criterion vi). As set out in Supplementary Guidance Housing in the Countryside (CD03) a pragmatic approach will be taken to tree coverage within the plot.

No modification is proposed.

### **Compatible Land Uses**

The Council's Environmental Health Section is a consultee on all planning applications and any issues regarding compatibility of land uses will be considered by them through that process.

No modification is proposed.

## **Reporter's conclusions:**

### **H5: Development within Rural Groupings**

1. I agree with the council that the plan should be read as a whole and that Policy ER3 provides appropriate protection for trees and woodland. The supplementary guidance can also provide additional detail although its status will not be confirmed until after the proposed plan has been adopted. In the interests of maintaining succinct policies which focus on the relevant issues I consider that further cross reference in Policy H5 is unnecessary. The proposed supplementary guidance on rural groupings will provide an opportunity to address more detailed issues of tree and woodland protection in the context of specific sites.

2. In response to my further information request (02) the council informs me that it agrees with the change as suggested by the Scottish Environment Protection Agency. I understand that there has also been agreement that sites within the Rural Groupings Supplementary Guidance at Carron, Broom of Moy, Darklands and Berryhillock identified as being at risk of flooding by the Scottish Environmental Protection Agency (SEPA) are deleted or subject to revision.

3. Whilst the policy refers to potential sites having been identified these will await confirmation through adoption of the supplementary guidance. The guidance referred to

will not become part of the development plan until the proposed plan has been adopted and will be subject to a separate consultation and adoption process. This separate process falls outwith the remit of this examination. A review of the Rural Groupings Supplementary Guidance is currently ongoing as identified in the Action Programme and the Scottish Environment Protection Agency (SEPA) will be consulted in respect of the identification of any new sites.

4. I am content that the policy includes appropriate caveats in terms of technical and infrastructure requirements which would cover issues such as flooding. In this context I agree it is unnecessary and potentially confusing to retain a reference in the policy to the fact that the sites have not been fully researched and still require to demonstrate they can be serviced. My recommendation reflects this.

#### H6: Site Boundaries

5. Policy H6 is an enabling policy which allows for new build in locations currently and previously associated with residential use. I consider that a more flexible approach could undermine the underlying objective of enabling development whilst retaining the character and quality of Moray's countryside. Taking this into account, I find it is sensible to retain development within the identifiable curtilage. This does not prohibit development within the footprint of the previous building. However, it would prevent any further development in instances where there is no identifiable curtilage. I agree with this approach given that such containment should avoid the negative consequences of a more sporadic and uncharacteristic pattern of development.

6. The policy is based on the premise of re-using previous sites which included a building. Consequently, I consider it is important that completion of the conversion or re-use of that building is secured. The application of a 50% threshold provides a means to achieve this. The enabling role of any development and the possibility of justifying a higher number of units on any site is recognised through part i) of the policy. It is not explicit that the same caveat would apply in part ii) and I consider this should be added. The council accepts above that such discretion would also be applied to the 50% threshold. Consequently, with some minor adjustment to the wording to provide clarity and avoid repetition, I accept the change proposed in the representation in so far as it applies to the 50% threshold.

#### H6: Ancillary Buildings

7. In relation to ancillary buildings the objective of the policy is to retain buildings which contribute to the character of the countryside and reflect the local vernacular. This would apply to long established buildings using traditional materials such as steadings and other agricultural buildings. I agree that retention and re-use of more recent structures of limited merit such as sheds and stores built from timber and corrugated tin is unlikely to meet this objective. I agree with the council that the policy in this respect could be more clearly stated. However, my modification does not extend to inclusion of a more flexible approach which would enable the re-use, renovation and partial replacement of temporary structures given that I consider this would conflict with the objective of this policy.

#### H7: Traditional Settlement Pattern

8. I understand that the policy deliberately refers to traditional settlement pattern in the locality as opposed to that existing. This reflects the objective of the policy which seeks to avoid suburban layouts and an incremental build-up of new housing which may establish a

discordant and new pattern of settlement. Consequently, I consider the existing wording should be retained.

#### H7: Areas of significant growth

9. Criteria c) recognises that there may be a point at which the level of existing or proposed new development may tip the balance of acceptability if the underlying objective of achieving appropriate and sustainable rural development is to be achieved. I consider this objective reflects that of Scottish Planning Policy and that criterion c) is appropriately applied. My conclusion is that no change is required.

#### H7: Groupings of Buildings and ribbon development

10. Criterion b) refers to adding to existing groupings and prevention of ribbon development. Again, I consider this relates to the overall objective of avoiding a suburban pattern of development and to protecting the character and amenity of the countryside. I agree with the council that the incremental addition of houses in proximity to each other may have a detrimental impact on the countryside and that criterion b) is appropriately included to address this matter. I consider this is distinct from criterion c) which relates to the impact of the total amount of housing which may be more sporadic in nature but could also have a detrimental impact on the countryside.

11. On the matter of ribbon development the traditional pattern of development may include some small groupings along roadsides. I accept that there may be limited opportunities for infill or siting where landscape or other features create an opportunity for an additional house to be accommodated. I am content that these details are better addressed through supplementary guidance. However, I consider that some flexibility could be added to this requirement by reference to inappropriate ribbon development. My recommendation reflects this.

#### H7: Tree Planting

12. I agree that the requirement for 25% native tree planting on smaller sites may prove more difficult to achieve particularly where trees or woodland are already established. I also agree that in certain circumstances planting a quarter of the site in trees may block daylight or be at odds with the established landscape character or optimal site layout. I accept the principle of encouraging native tree planting in association with new development. However, I consider this should be applied in a more flexible fashion to ensure a landscaping scheme appropriate to the particular characteristics of the site. My recommendation reflects this.

#### H6 and H7: Timescale for further proposals

13. This concern relates to the requirement expressed in H6 and H7 that any further subsequent proposals for new build as part of an approved redevelopment scheme will not be allowed during the lifetime of the local development plan. The reason for this is stated to be to ensure a stable level of organic growth.

14. The criteria of Policy H6 aim to consider new build but only as part of a rehabilitation scheme. To suggest that further incremental additions may be possible in the future, even if beyond the timeframe of this plan, appears to run contrary to this objective. In addition the reference to controlling the rate of organic growth appears unrealistic given the nature

of the stated criteria. Such control is only likely to be exercised through monitoring of the impact of this policy which can inform any future policy approach. In a similar fashion I consider that Policy H7 contains appropriate safeguards to prevent inappropriate additions to these groupings.

15. Consequently, I consider that the statement relating to controlling the rate of growth and the timescale which applies should be deleted from policies H6 and H7.

#### H6 and H7 : Compatible Land Uses

16. I consider this would form part of any planning application assessment and need not be specifically stated in the policy. Specific issues relating to noise or other environmental health issues would be assessed at this detailed stage through consultation with the council's environmental health section.

### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### Policy H5

1. In the third paragraph delete "but their development has not been fully researched and proposals still require to demonstrate they can be satisfactorily serviced".

#### Policy H6

2. Delete "unless evidence is submitted to the authority's satisfaction that further development is required for enabling purposes" from part i). Add footnote to clarify that this applies to part (i) and part (ii) by inserting the following text after part vi):

Variations to i) and ii) above will only be considered where evidence is submitted which demonstrates, to the satisfaction of the council, that application of an alternative limit or threshold would enable the re-use or rehabilitation scheme.

3. Add the following text to the third from final paragraph before the wording "The replacement of temporary structures, such as wooden or corrugated-iron sheds, stores or stables will not be considered eligible under this category":

Buildings that are robust and long-established, such as stone built steadings, stores and cattle sheds, may form part of a reuse or rehabilitation scheme.

4. Delete the following paragraph:

Proposals for further new build under Policy H7 that will be in addition to that permitted as part of the original re-use or rehabilitation scheme (consented under this policy) will not be allowed during the lifetime of the Local Development Plan to ensure a stable level or organic growth.

#### Policy H7

5. Under the heading "Siting" in part b) add the word "inappropriate" between "create" and ribbon development.

6. Under the heading design delete part vi) and replace with:

Proposals must be accompanied by a landscaping plan showing an appropriate proportion of the plot, generally 25%, to be planted with native tree species at least 1.5 metres in height

7. Delete the following paragraph:

A new dwelling that adds to a re-use or rehabilitation scheme permitted under Policy H6 will not be allowed during the lifetime of the Local Development Plan to ensure a stable level of organic growth.

Issue 4c	Affordable Housing	
Development plan reference:	Policy H8 Affordable Housing, page 29	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<u>H8 Affordable Housing</u> NHS Grampian (0300) Scotia Homes Ltd (0480) Scottish Government (0490) Dufftown and District Community Council (0522) The Ellis Group (0878) CJ And CRH Dunbar (Pitgaveny) (0908) Homes for Scotland (1035)		
Provision of the development plan to which the issue relates:	This policy sets out the threshold and level of affordable housing required in new developments.	
Planning authority's summary of the representation(s):		
<u>H8 Affordable Housing</u> NHS Grampian (0300) Concerned at the scale of affordable housing need, as the provision of satisfactory housing is key to a healthy population. Policy H8 of the Proposed Plan suggests implementing a 25% quota on all residential developments in excess of 4 dwellings. This aims to address the high need for affordable housing in the region which currently represents 78% of all housing need, up to 2023. This approach is welcomed, as the accompanying Supplementary Guidance on Affordable Housing makes reference to provision being met through offsite alternatives or commuted payments. Healthcare facilities should qualify as a commuted payment and should therefore represent a valid method of developer contributions in lieu of affordable housing.		
<u>Scotia Homes Ltd (0480)</u> Suggest Policy H8 is amended to identify that financial obligations, secured through s75 Planning Obligations, will only be sought where they comply with the relevant policy tests as identified in paragraph 14 of Circular 3/2012. Development land values in Moray are low, making it difficult to fund needed infrastructure and other section 75 requirements. LDP and Guidance must allow for flexibility to ensure that delivery of development is viable and percentage of affordable housing provided accords with the required policy tests. Suggest first sentence is amended to reflect this and confirm that "up to 25%" of the total units should be affordable.		
<u>Scottish Government (0490)</u> There is no reference to supplementary guidance on affordable housing in the PP. The 2008 Regulations set out clearly the links between the LDP and supplementary guidance.		
<u>Dufftown and District Community Council (0522)</u> All housing should be affordable through the Government help to buy scheme.		

The Ellis Group (0878)

Welcome the flexibility provided for in the wording of Policy H8.

CJ and CRH Dunbar (Pitgaveny) (0908)

Support generous supply of affordable housing on new housing developments of medium and large scale and agree with 25% contribution. Object to the threshold for the provision of affordable housing being set at 4 units or more. This is a significant reduction on the existing threshold of 10 units or more as set out in the adopted Moray Local Plan 2008 and its adoption may render the potential development of small sites as unviable.

Planning Advice Note (PAN) 2/2010 sets out a general guide for Local Authorities and developers to expect to provide appropriate on-site provision of affordable housing for developments of 20 or more units.

For smaller developments on-site provision is not always possible and concessions in the form of off-site provision or commuted sums may be appropriate. The advice note also recognises that the general scale of development in rural areas tends to be smaller and that a lower threshold for on-site provision may be appropriate in order to make affordable housing available in a range of locations.

PAN 2/2010 grants autonomy to Local Authorities in terms of the scale and distribution of affordable housing required for an area. Consider that there is insufficient justification included in the policy to reduce the threshold from the level of 10 units or more set out in the adopted Moray Local Plan (2008). Suggest it would be more appropriate to establish an individual affordable housing provision based on the requirements of each Housing Market Area in turn as this would allow for sensitivity to be built in to accommodate differing levels of need in different parts of the local authority area, particularly rural areas.

Homes for Scotland (1035)

Policy seeks a "minimum" of 25% affordable housing. Word has no justification in either the current or emerging draft SPP. Current version refers to a benchmark of 25% which should only be exceeded on specific sites and in exceptional circumstances. The emerging new version of SPP makes clear that 25% should be considered a maximum. Homes for Scotland takes the view that anything more than 25% is unviable. Open to Council's to allocate sites specifically for affordable housing. Also open to developers to offer more.

**Modifications sought by those submitting representations:**

**H8 Affordable Housing**

NHS Grampian (0300)

Healthcare facilities qualify as a commuted payment and should therefore represent a valid method of developer contributions in lieu of affordable housing.

Scotia Homes (0480): Scotia Homes Ltd (0480): Amend Policy H8 to identify that financial obligations, secured through s75 Planning Obligations, will only be sought where they comply with the relevant policy tests as identified in paragraph 14 of Circular 3/2012. Guidance should be amended to confirm that "up to 25%" of the total housing units should be affordable.

Scotia Homes (0480)

Amend Policy H8 to identify that financial obligations secured through section 75 planning obligations will only be sought where they comply with the relevant policy tests as

identified in paragraph 14 of Circular 3/2012. Guidance should be amended to confirm that “up to 25%” of the total housing units should be affordable.

Scottish Government (0490)

Include reference to supplementary guidance on affordable housing in the PP.  
Dufftown and District Community Council (0522): All housing should be affordable through the Government help to buy scheme.

Dufftown and District Community Council (0522)

All housing should be affordable through the Government help to buy scheme.

The Ellis Group (0878)

Support noted.

CJ and CRH Dunbar (Pitgaveny) (0908)

Amend policy wording to increase the threshold to 10 or more units. Also suggest it would be more appropriate to establish an individual affordable housing provision based on the requirements of each Housing Market Area in turn as this would allow for sensitivity to be built in to accommodate differing levels of need in different parts of the local authority, particularly rural areas.

Homes for Scotland (1035)

Delete the word "minimum" from the policy.

**Summary of responses (including reasons) by planning authority:**

**H8 Affordable Housing**

The new Scottish Planning Policy para 129 (CD01) states that “The level of affordable housing required as a contribution within a market site should generally be no more than 25% of the total number of houses.”

The Council’s Housing Need and Demand Assessment (CD12) identifies that of the overall need and demand for 538 new houses to be built each year, 78% of this (424 units) is for affordable homes. The proposed Policy H8 therefore aims to maximise the contribution of affordable houses to try and address this significant need, while also pursuing other projects such as the Council House new Build Programme to address the affordable housing requirement. Given the high level of demand and the statement in SPP, the Council consider that the 25% requirement of all houses to be affordable is justified.

The policy clearly states that the Council will take into account site development costs and other reasons which might make on site provision unfeasible and that other options such as offsite provision or commuted payments may be considered.

The Council has not identified sites specifically for affordable housing, but in the past, projects such as the Moray Volume Procurement Initiative have delivered 100% affordable housing on some sites.

In terms of the comment from NHS Grampian, there appears to be some confusion between policy requirements and developer obligations. The Council needs to deliver affordable housing under the terms of Policy H8 and would not be looking for commuted payments towards healthcare provision in lieu of affordable housing.

Policy IMP3 on Developer Obligations is more relevant to consider contributions towards such facilities and this is being supported through Supplementary Guidance which should be complete by early 2015. NHS Grampian has been consulted on the preparation of this guidance and any identified health facility related contributions would be in addition to affordable housing requirements.

The Council lowered the threshold from 10 units to 4 units to assist with the delivery of affordable housing. Some local authorities secure developer obligations for affordable housing on all new developments, however, the Council considers that in a Moray context, a threshold of 4 houses is suitable.

Relating affordable housing provision to the requirements of each Local Housing Market Area is not considered necessary. The Council's Housing Need and Demand Assessment identified the following levels of affordable housing requirements for each respective Local Housing Market Area, Buckie 85.4%; Elgin 80.4%; Forres 75%; Keith 66.7%; Speyside 83.3%. With the exception of Keith, there is little variation across the other Local Housing Market Areas and a consistent level of 25% is therefore considered appropriate.

The Scottish Government Help to Buy scheme is only currently available on new build homes from participating homebuilders and mortgage lenders are likely to require a deposit of approximately 5%, with the mortgage and deposit covering a combined minimum of 80% of the total purchase price. There are therefore still significant funding issues affecting many people's ability to secure affordable housing for purchase and for rent.

The Council notes that the Policy does not include a reference to the Affordable Housing Supplementary Guidance and if the Reporter is so minded the Council would not object to additional wording being added to the policy to state, "Supplementary Guidance has been produced in order to provide further advice on the interpretation of this policy and this will be used in the process of determining planning applications."

No modification is proposed beyond the addition of wording to cross reference the policy to the supplementary guidance.

#### **Reporter's conclusions:**

1. Scottish Planning Policy in paragraphs 113-122 explains the important role that development plans have in addressing the supply of land for all housing, including affordable housing. Paragraph 129 states that consideration should be given to the level of affordable housing likely to be deliverable in the current economic climate and that the contribution within a market site should generally be no more than 25% of the total number of houses.

2. Policy IMP3 on Developer Obligations is relevant to the identification of other facilities, such as healthcare, which may be necessary to enable development to proceed. Its associated supplementary guidance will be relevant in defining the scale and nature of contributions which may be sought. This is set in the context of the tests set out in Circular 3/2012 through the associated policy justification.

3. Whilst Policy IMP3 is cross referenced to Policy H8 there is no suggestion that the requirement to provide affordable housing would be set aside in favour of other

contributions. A considerable affordable housing need is identified in Moray and the focus of Policy H8 is specific to the delivery of affordable housing. I consider this reflects the policy objective and that this emphasis would be lost if this policy were also to refer to other potential requirements such as healthcare.

4. I agree with Scotia Homes that it is important to clarify that financial obligations will only be sought in accordance with the tests set out in Circular 3/2012. I appreciate that in certain market and site specific conditions project viability is more marginal and that it is important that the policy includes sufficient flexibility to respond to such circumstances.

5. Given the level of identified need and the Scottish Planning Policy context I consider the wording of H8 should be directed at delivery of a 25% contribution subject to the appropriate caveats regarding project viability. However, use of the term minimum implies more could be required and the further reference to the contribution being determined by the Head of Housing and Property creates a level of uncertainty for prospective developers. On the other hand the changes suggested by Scotia Homes dilute the policy to an extent which I consider could imply that a lesser contribution may generally be appropriate.

6. In a rural area such as Moray smaller sites are not uncommon. The level of affordable housing need indicates the importance of achieving some contribution from sites throughout the area. A restriction to sites over 10 would significantly reduce the opportunities for delivery. Scottish Planning Policy does not set a lower threshold to which a 25% contribution should apply. I find that the threshold of 4 presents a reasonable balance between the practicalities of delivery on smaller sites and the need to meet affordable housing needs in a predominantly rural area.

7. My conclusion is that a slight change to the wording is required to refer simply to a requirement for a 25% contribution and to clarify that some flexibility to this may be applied where funding is available or in the interests of project viability. My recommendation reflects this.

8. I agree that the policy should include appropriate reference to the proposed supplementary guidance. Circular 6/2013: Development Planning emphasises the importance of establishing an appropriate “hook” in the development plan for any proposed statutory supplementary guidance. The guidance can only be approved following adoption of the plan. My recommendations include a slight change to the council's suggested text to reflect this and to omit the unnecessary reference to this being taken into account in determining planning applications. This is implicit where included as part of the development plan.

9. The help to buy scheme should assist in enabling access to housing for first time buyers. However, it is also important to provide a range and choice of affordable housing including low cost, affordable housing to rent and social rented provision. This reflects the definition set out in paragraph 126 of Scottish Planning Policy. I consider that Policy H8 makes provision for this and that no further change is required to address this representation.

**Reporter's recommendations:**

Modify the proposed plan as follows:

1. Delete "a minimum of" from the first sentence of Policy H8 . Delete the remaining wording and replace with:

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

2. Add the following wording to the end of the policy:

Supplementary Guidance will be produced in order to provide further advice on the interpretation and implementation of this policy.

Issue 4d	Housing Mix/Accessible Housing	
Development plan reference:	Policy H9 Housing Mix/Accessible Housing, page 29	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>H9 Housing Mix/Accessible Housing</u></b> Springfield Properties Plc (0010) Elgin Community Council (0122) Elgin South Area Forum (0194) Scotia Homes Ltd (0480) Scottish Government (0490) Dufftown and District Community Council (0522) The Ellis Group (0878) CJ And CRH Dunbar (Pitgaveny) (0908) Homes for Scotland (1035)</p>		
Provision of the development plan to which the issue relates:	Policy H9 Accessible Housing (pg 29) aims to promote mixed housing developments and to plan for changing demographics and more accessible houses.	
Planning authority's summary of the representation(s):		
<p><b><u>H9 Housing Mix/Accessible Housing</u></b> <u>Springfield Properties Plc (0010)</u> Have a number of concerns about this policy and guidance, which add an additional layer of paperwork/ assessment/ statements to the planning process for a requirement more adequately covered in Building Regulations. Specific requirement to provide 15% of the balance of a development site is of particular concern as is the statement in para 6.6 where there is a suggestion the developer should be encouraged to provide adaptations which facilitate independent living as part of their marketing literature. This does not need to be included in a Local Development Plan as it is practically and more usefully covered by Building Regulations. A considered and suitable market driven mix of housing cannot be dictated to this extent by a planning policy and guidance.</p> <p><u>Elgin Community Council (0122) and Elgin South Area Forum (0194)</u> Concerned about housing mix and integration of society.</p> <p><u>Scotia Homes Ltd (0480)</u> Considers policy H9 to be too prescriptive and unnecessary as the issue is controlled by other legislation. The requirement is also likely to conflict with the policy tests for s75 Planning Obligations identified in Circular 3/2012: Planning Obligations and Good Neighbour Agreements.</p> <p>Suggest delete the last two paragraphs. Issue is more properly addressed by the market and by Scottish Building Regulations. Policy places further financial burdens on developments, in the absence of a justified planning purpose. Planning legislation should not duplicate or introduce separate requirements which would conflict with building standards. Building Regulations cover matters relating to this issue.</p>		

Provision of accessible housing is supported but this is a market consideration which could be encouraged/ supported as a land use through a new policy on sustainable mixed use communities. Accessible housing can be achieved and delivered outwith the planning system.

The Ellis Group (0878)

Welcome the basic flexibility in H9 but there needs to be some recognition that market factors will also affect the proposed housing mix on any site.

CJ and CRH Dunbar (Pitgaveny) (0908)

Object to the detail of the supplementary guidance. Concerned that the requirement on all new housing developments of 10 or more to provide 15% of the private sector housing to wheelchair accessible standard is extremely onerous and would significantly threaten the viability of new developments.

Seek clarity to the origins of this figure and whether derived from national guidance or prescribed within the HNDA. Most likely that the house types that would result from the implementation of Policy H9 in its present form, and more specifically the provision of the guidance would be single storey dwellings, which would be at odds with the wider aims of exemplar urban design and an appropriate mix of house types in new developments. Policy would result in very low density development with a significant percentage of housing being one storey, a land-hungry approach in contradiction to the need for higher densities to meet environmental standards and meet the Council housing unit requirements.

Concerned that the 15% requirement applies solely to wheelchair accessible housing and does not take account of other types for special needs residents. Request clarity as to whether an additional requirement will be levied on new housing developments to cater for Special Needs/Sheltered Housing. As this requirement is in addition to the proposed requirement for 25% affordable housing, there would be a combined requirement of 36.25% to be given over to non mainstream housing. This will considerably hinder the deliverability of new housing developments.

At Findrassie, this would equate to 554 non mainstream homes (375 affordable, 169 wheelchair accessible). All development at Findrassie will be designed and constructed to be compliant with both the DDA standards and the functional standards of design set out in the Scottish Building Regulations 2007. These standards require ramped access, low or minimal gradients, door widths to accommodate wheelchairs.

Homes for Scotland (1035)

Disagree with the implication that the market does not already deliver adaptable homes. All the provisions of the former Housing for Varying Needs Standards are now encompassed by the Building Regulations. There is no obvious benefit to building 15% or any other percentage of new houses fully adapted to these needs, since the demand is unknown in advance. Customers have the opportunity to request adaptations/changes during construction, or are purchasing a property easily capable of further adaption in the future.

**Cross reference to supplementary guidance**

Scottish Government (0490)

Consider this to be an innovative policy, the text could be clearer but reading in conjunction with the justification box clarifies this. No reference to supplementary

guidance on accessible housing in PP. The 2008 Regulations set out clearly the links required between the LDP and supplementary guidance.

### **Wheelchair access**

Dufftown and District Community Council (0522)

Require higher level of wheelchair access houses, all new houses should have wheelchair access.

## **Modifications sought by those submitting representations:**

### **H9 Housing Mix/Accessible Housing**

Springfield Properties Plc (0010)

Seek removal of this policy requirement to provide a 15% quota of wheelchair accessible housing and require its removal as it adds a further unnecessary layer of assessment at the Development Management stage of a planning submission. Building Regulations cover housing for varying needs more adequately and effectively than this.

Elgin Community Council (0122) and Elgin South Area Forum (0194)

All housing should be integrated.

Scotia Homes Ltd (0480)

Guidance is not required or it should be amended to clarify that it only applies to non private sector proposals.

The Ellis Group (0878)

The policy needs to recognise that market factors will also affect the proposed housing mix on any site.

CJ and CRH Dunbar (Pitgaveny) (0908)

Policy H9:Housing Mix/ Accessible Housing should be deleted from the LDP and the requirement for Mixed/Accessible housing instead be incorporated into the provisions of Policy H8 at a total rate of 25% with the precise details and proportions of mainstream affordable to accessible housing negotiated at the detailed design and planning stage.

Homes for Scotland (1035)

Delete the requirement for 15% of homes to be built to wheelchair accessible standard.

### **Cross reference to supplementary guidance**

Scottish Government (0490)

Include reference to supplementary guidance on accessible housing in PP.

### **Wheelchair access**

Dufftown and District Community Council (0522)

All new houses should have wheelchair access.

## **Summary of responses (including reasons) by planning authority:**

### **H9 Housing Mix/Accessible Housing**

The changing demographics in Moray, specifically the ageing population and the significant increase in smaller households, as well as changing health care arrangements support the need for the mix of housing to be closely aligned to the Council's Housing Need and Demand Assessment (CD12)(HNDA). While the Council can specify the exact

housing mix to be provided in the affordable housing contribution, the Council has previously been unable to determine or influence the mix of private sector housing.

The HNDA found that there is a mismatch between the size and type of housing required, and the size and type of housing available across all tenures, and that accessible housing for market sale tended to sell quickly and at premium prices. This mismatch, along with increasing housing needs associated with physical disability, are the likely drivers of owner occupiers seeking public sector accessible housing to meet medical needs. The ageing population and other demographic changes are likely to increase this demand.

A wheelchair accessible property is one which conforms to Housing for Varying Needs standards for wheelchair users. Housing for Varying Needs is a design guide which has been used as the design benchmark for affordable housing. The design need is for a home that provides a completely step free environment, space for a wheelchair to circulate and access all rooms, a kitchen and bathroom that suits the occupants particular needs and fittings and services that are within reach and easy use.

In terms of the urban design issues raised, the text of the policy requires different house types to be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Objectors have stated that the market will dictate the mix of housing provided, however, the Council wishes to ensure that there is a closer alignment with the HNDA requirements and that developments reflect and plan positively for the changing demographics facing Moray. The HNDA identifies that 78% of the need and demand in Moray is for affordable houses, with specific requirements to provide single storey, accessible properties. A greater mix of house styles and sizes also allows up and downsizing within the same community and for longer term care to be provided at home.

The objectors consider that the 15% requirement is too much and duplicates the requirements set out in Building Standards. This has been discussed further with Building Standards officers and is considered to be incorrect. There are key differences between what is required under the definition of wheelchair accessible housing in Housing of Varying Needs and Building Standards.

The key differences are that the wheelchair accessible standard requires:

- Properties to be single storey to allow access by a wheelchair user to the whole property, or if the property is a flat, a lift would be required. Under Building Standards accessibility requirements, houses can be two storey, but capable of future adaptation
- Front door entrance should be 900mm wide rather than 800mm to 850mm under Building Standards
- The hallway should be 1200 to 1500mm wide. Building Standards have a minimum of 1200mm in new properties and 900 mm in older properties
- A “turning circle” of activity space in the downstairs wetroom of 1500mm

Scottish Planning Policy (CD 01) paragraph 132 recognises that “local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability.”

The Council's Housing Need and Demand Assessment (CD12) provides further evidence in support of this policy. Key points and statistics from the Assessment relevant to supporting this proposed policy include:

- The ageing population of Moray is one of the key housing market drivers identified in the HNDA and the Housing Market Partnership aimed to ensure that an accurate evidence base was available to support provision of sufficient appropriately designed housing to meet the demands of this demographic change
- The proportion of households in Moray headed by someone aged 75+ is projected to increase from 13.7% in 2008 to 19.9% in 2023 (on average an increase of 208 households per annum)
- Well over half of older people in Scotland are owners and most would prefer to remain in that sector
- Scottish Government research identified that factors encouraging older people to leave rural areas are a lack of suitable accommodation, limited support to stay in their own home, lack of local care services, poor availability and access to local shops, feelings of social and geographical isolation.
- There will be an estimated 76 newly forming households per year requiring amenity/medium dependency housing
- The Council receives approximately 15-20 new applications per year from households requiring fully wheelchair accessible properties. This does not include any households applying to the local registered social landlords or private sector demand. It also excludes any social housing tenant receiving substantial adaptation to their current home for the benefit of a wheelchair user
- Disabled people of all ages are in need of adaptations to enable them to remain in their own home and maintain their independence for as long as possible. The number of disabled adaptations with public funding has been increasing steadily over the last few years from 134 in 2005/6 to 224 in 2009/10. Currently 308 major adaptations are carried out per year funded through the Housing Revenue Account, the Private Sector Housing Grants, Occupational Therapy service and through Scottish Government housing grant. The projected annual disabled adaptation need identified in the HNDA is 394 per year
- The ageing population is a significant driver increasing the need for disabled adaptations

The proposed policies H8 and H9 address these trends by ensuring that both the private and social housing is linked directly to the Housing Need and Demand Assessment and these households are located in the most suitable places, with access to public transport and local facilities.

The differences between the requirements of the wheelchair accessible standard and the current Building Standards are not considered to be a financial burden upon housebuilders. The Council has endeavoured to reflect the changing housing needs (i.e. smaller houses, more flats, small bungalows, terraces and semi-detached properties) in the indicative capacities included for sites and in the more flexible wording within Policy H1. In the longer term, planning for and providing more accessible housing reduces the need for expensive adaptation works in the future.

No modification is proposed.

#### **Cross reference to supplementary guidance**

If the Reporter is so minded the Council would not object to adding the following text to cross reference the policy with the supplementary guidance on Accessible Housing; "Supplementary Guidance has been produced in order to provide further advice on the

interpretation of this policy, and will be used in the process of determining planning applications.”

### **Wheelchair access**

The Policy aims to address wider issues to deliver houses to meet the needs of the Housing Need and Demand Assessment and reflect changing demographics including a proportion of houses built to wheelchair accessible standard.

No modification is proposed.

### **Reporter’s conclusions:**

#### H9 Housing Mix/Accessible Housing

1. Scottish Planning Policy paragraphs 132-134 requires local authorities to consider the need for specialist provision including wheelchair accessible housing. Like affordable housing any particular needs in this respect should be justified through the Housing Need and Demand Assessment. Paragraph 132 establishes the basis for local development plan policy to support the delivery of specialist housing to address particular needs.

2. In Moray the Housing Need and Demand Assessment has identified a mismatch in the type of housing currently available and the needs of smaller households and an increasingly ageing population requiring accessible housing. In this context I agree that there is a clear remit to support delivery of a housing mix and accessible housing through Policy H9.

3. I note Dufftown and District Community Council’s view that all housing should be wheelchair accessible. Current building standards go some way to address this by applying standards which focus on housing capable of future adaptation and with prescribed accessibility requirements. The council’s approach would however go further than this to secure a standard of accessible housing which would immediately allow for wheelchair use.

4. The determining issue falls on whether the required 15% provision to wheelchair accessible standard is sufficient or overly onerous. I note that this contribution is over and above the requirement for affordable housing provision. The council contend that this should not impose any additional financial burden on developers and that identified site capacities reflect the generally lower density associated with single storey properties. However, some sites will undoubtedly be more suitable than others for such provision. In addition, I share some concern that this requirement places an additional restriction on the market and that this may impact at least to some extent on the viability of any scheme.

5. The reference to off-site provision appears ambiguous given that this may be difficult to deliver. An alternative site would be required to achieve this. I accept the point that the provision of other adapted housing to meet particular needs including sheltered housing may be appropriate given the focus on housing to meet varying needs. However, much of this sort of provision would also be wheelchair accessible. In addition, I consider there may be circumstances where the range and mix of housing achieved on the site as a whole may justify a lower percentage of wheelchair accessible housing. This may be particularly relevant when gradients on the site, or its general lack of accessibility, make it less suitable for wheelchair use.

6. So whilst I support the principle of this policy, in accordance with Scottish Planning Policy, I have concerns regarding the imposition of a blanket percentage contribution without the application of sufficient flexibility.

7. Consequently my recommendations retain the objective of this policy but remove the blanket requirement for a 15% contribution. I believe this approach should be detailed further through supplementary or other guidance which could detail the likely proportions required and any exceptions which might apply. In accordance with Circular 6/2013 this will require an appropriate link to the policy. This further detail is particularly relevant if the requirements for accessible housing, in so far as they differ from the building regulations, are to be clearly understood.

### **Reporter's recommendations**

Modify the proposed plan as follows:

1. Replace the penultimate paragraph with:

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

2. Add the following final paragraph:

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

<b>Issue 5a</b>	<b>Natural Environment Policies E1 to E5</b>	
<b>Development plan reference:</b>	<b>Natural Environment Policies, page 33-38</b> <ul style="list-style-type: none"> <li>• <b>E1 Natura 2000 Sites and National Nature Conservation Sites, page 33</b></li> <li>• <b>E2 Local Nature Conservation Sites and Biodiversity, page 34</b></li> <li>• <b>E3 Protected Species, page 35</b></li> <li>• <b>E4 Trees and Development, page 36</b></li> <li>• <b>E5 Open Spaces, page 37-38</b></li> </ul>	<b>Reporter:</b> Richard Bowden
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>E1 Natura 2000 Sites and National Nature Conservation Sites</u></b>  West Coast Energy Ltd (0730)  Mrs Jean Oliver (0996)  Cabrach Community Association (0674)  Scotia Homes Ltd (0480)  CJ And CRH Dunbar (Pitgaveny) (0908)  Scottish Natural Heritage (1027)  Dufftown and District Community Council (0522)</p> <p><b><u>E2 Local Nature Conservation Sites and Biodiversity</u></b>  West Coast Energy Ltd (0730)  Scotia Homes Ltd (0480)  RES UK Ltd (0402)  RSPB Scotland (0285)  Fred Olsen Renewables Ltd (1047)  Scottish Environment Protection Agency (0569)  Forestry Commission (0307)  Scottish Natural Heritage (1027)</p> <p><b><u>E3 Protected Species</u></b>  West Coast Energy Ltd (0730)  Scotia Homes Ltd (0480)  RES UK Ltd (0402)  Scottish Natural Heritage (1027)  Forestry Commission (0307)</p> <p><b><u>E4 Trees and Development</u></b>  Scotia Homes Ltd (0480)  Fred Olsen Renewables Ltd (1047)  Forestry Commission (0307)</p> <p><b><u>E5 Open Spaces</u></b>  Christine I Clerk (0685)  CJ And CRH Dunbar (Pitgaveny) (0908)  Scotia Homes Ltd (0480)  Crown Estates (0861)  Homes for Scotland (1035)  Elgin Community Council (0122)  Elgin South Area Forum (0194)  Scottish Environment Protection Agency (0569)</p>		

<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Policies E1 to E5 provide the framework for considering development proposals which may affect designated nature conservation habitats and species. The policies also seek to safeguard existing trees and open spaces and ensure new developments include new tree planting and quality/quantity of open spaces.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>E1 Natura 2000 Sites and National Nature Conservation Sites</u></b>  <u>West Coast Energy Ltd (0730)</u>  Ramsar sites are not part of the Natura suite of sites and are not included in the Natura legislation, though policy makers often ascribe Natura protection to Ramsar sites. WCE do not have an issue with the approach of giving Ramsar sites Natura policy protection. However, the justification uses a confused phrase that could imply that SSSI sites are also being afforded the same level of protection as Natura sites.</p> <p><u>Mrs Jean Oliver (0996) and Cabrach Community Association (0674)</u>  Considers that the Cabrach should have been included in the Cairngorms National Park where it geographically belongs.</p> <p><u>Scotia Homes Ltd (480)</u>  Support policy.</p> <p><u>CJ and CRH Dunbar (Pitgaveny) (0908)</u>  Seek confirmation of the quantum of assessment necessary and whether the SEA Environmental Report and Habitats Regulations Appraisal that accompany the Proposed Plan can be taken as an appropriate assessment of proposed development sites. Request clarity as to the meaning of 'significant' and whether any such requirement might equally be applied to a process of masterplanning of those sites proposed for development by the Council in the Moray Proposed Plan.</p> <p>Seek clarity on the use of the term 'plans' in para 1 and whether this term is meant to be understood as constituting the Plans, Programmes and Strategies produced by the Council which are subject to Strategic Environmental Assessment or if it relates to proposals for development that are submitted to the Council as planning applications for determination. Amend the policy wording such that there is greater flexibility to allow for approval of proposals that include appropriate mitigation measures to control and balance any adverse effects that may arise through the development as proposed.</p> <p><u>Scottish Natural Heritage (1027)</u>  Confusing to refer to "plans" in this policy. Habitats Regulations Appraisal should be carried out for both plans and projects. This policy is referring to projects (i.e. Proposals). Amending the policy would establish consistency of terminology and avoid confusion.</p> <p>Wording is at odds with Scottish Planning Policy (SPP), the wording is unclear because the two references to adversely affecting the designation seem to cancel each other out. The part of the policy in National designations needs to accurately mirror equivalent policy wording in SPP however it omits or at the end of test (a) and the implication is that (a) and (b) should be met. This is inconsistent with SPP.</p> <p>Last paragraph is not clear that this is in relation to the question of imperative reasons of overriding public interest. Rewording to more accurately reflect Habitats Regulations (as</p>	

amended). Justification text should be amended to more accurately reflect secondary legislation.

Dufftown and District Community Council (0522)

Cabrach is not included in the Cairngorms National Park, a proposal for this should be developed. Consider that the ancient drove roads have the potential to provide long distance recreational routes linking the whole of Moray.

**E2 Local Nature Conservation Sites and Biodiversity**

West Coast Energy Ltd (0730)

The policy wording appears unduly restrictive i.e. Development proposal 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” Suggested rewording of a) to explicitly allow for mitigation of local effects i.e. Local public benefits, after mitigation, clearly outweigh the nature conservation effects; or” European Protected Species should be excluded to avoid confusion with policy E3.

Scotia Homes Ltd (0480)

Support policy.

RES UK Ltd (0402)

Suggests that the policy should recognise that there are a range of developments, including renewable energy projects, where consideration of the balance between nature conservation and the benefits of a specific proposal will be required. The EIA process assists this.

RSPB Scotland (0285)

Considers that Sites of Interest to Natural Science (SINS) should be listed. This would assist the Council with its duty under the Nature Conservation Scotland Act (2004) to further the conservation of biodiversity when carrying out all its functions and to take measures to enhance biodiversity where possible. Scottish Planning Policy (SPP) encourages local designations to be identified and protected through the development plan.

The protection of local nature conservation sites by local authorities was an action identified in the Scottish Biodiversity Strategy Action Plans 2004-8. Environmental designations map shows Moray Wildlife sites, however these are not defined or referred and do not appear to include all of the SINS. A review of Local nature Conservation sites would be welcomed. Scottish Natural Heritage guidance in 2006 sets out guidelines for introducing a more coherent approach across Scotland to the selection and naming of sites of local and regional importance for biodiversity and geodiversity. Preparation and inclusion of supplementary guidance on Biodiversity would be welcome.

Fred Olsen Renewables Ltd (1047)

Include "significant" in opening sentence to ensure local designations are distinguished from national and international designations and to ensure consistency with paragraph 139 of Scottish Planning policy (SPP) which states, "the level of protection given to local designations through the development plan should not be as high as the level of protection given to national and international designations. SPP also states, "Both statutory and non statutory local designations should be identified and protected in the development plan and the factors which will be taken into account in development

management decision making should be set out.

Scottish Environment Protection Agency (0569)

Support commitment to habitat creation/protection and emphasis on wildlife corridors, contributes to green/blue networking objectives. Ideally policy would mention these key words to strengthen links and recommend that minor amendments to achieve this are considered. A phase 1 Habitat survey should be used to identify if wetlands are present and then the more detailed National Vegetation Classification (NVC) survey identifies if the wetlands are groundwater dependent habitats. In some cases a simple walk over and photographic study can provide the information required.

Forestry Commission (0307)

Term "Local Nature Reserves" used in para 1 is ambiguous. NPF2 and SPP refer to Local nature Conservation Sites. This policy should use the term currently used by the Council to identify priority local habitats.

Scottish Natural Heritage (1027)

Considers the Council should produce Supplementary Guidance to accompany this policy and Policy E2. More guidance is required on how applicants for planning permission should consider existing and potential biodiversity on the site to enable biodiversity to be conserved and enhanced.

**E3 Protected Species**

West Coast Energy Ltd (0730)

There is considerable scope for confusion between policy E2 and E3. Protected species are mentioned in both.

Scotia Homes Ltd. (0480)

Support policy.

RES UK Ltd (0402)

The policy text does not fully consider all types of proposals that may have an effect on European Protected Species. Onshore wind farm developments, for example, may have some adverse effect on species covered by this policy but a better way of assessing such effects is through the application process and the EIA process.

This policy should contain reference to the wider environmental benefits of projects and where a balance can be achieved.

Scottish Natural Heritage (1027)

Wording requires amendment to bring into line with environmental legislation and Scottish Planning Policy and include reference to badgers. Council should produce Supplementary Guidance to accompany these policies E2 and E3. More guidance is required on how applicants for planning permission should consider existing and potential biodiversity on the site to enable biodiversity to be conserved and enhanced.

A biodiversity checklist would be helpful. Need additional information on sites most likely to need protected species surveys, timing of surveys and standard mitigation measures.

Forestry Commission (0307)

Considers the term "there is no satisfactory alternative" is subjective and should be removed. It could be argued a lack of control over nearby land would result in there being

no satisfactory alternatives to deliver the development in any area. This exemption has not been provided for the higher designation, European Protected Habitats/Species.

#### **E4 Trees and Development**

Scotia Homes Ltd (0480)

Scotia Homes supports this policy.

Fred Olsen Renewables Ltd (1047)

Propose additional words are added to end of sentence after "retained or replaced...." to be "where it is appropriate and reasonable to do so." Seek clarification that this policy has to be applied primarily to trees in urban areas and that woodland removal will be considered under a separate set of criteria, subject to guidance from Forestry Commission Scotland.

Forestry Commission (0307)

FCS supports inclusion of this policy and the recognition that development proposals in woodlands require separate control systems, however the difference should be reiterated in the supplementary guidance on Trees and Development.

#### **E5 Open Spaces**

Christine I Clerk (0685)

Space should be found for allotments.

CJ and CRH Dunbar (Pitgaveny) (0908)

Requests wording to be added on page 37 stating, "Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments".

Concerns about the proportionate requirements for the quantity of 'green spaces' to be provided in new developments as set out in bullet points 1 through 4 on page 37. Bullet point two requires clarity as to whether the minimum provision of 15% open space will be applied to all industrial sites regardless of scale, or whether the policy is intended to include a proportionate provision according to small/medium/large sites or some similar categorisation. The text of bullet points two and three would benefit from an inclusion similar to that at bullet point four, to allow for allotments, formal parks and play spaces to be included as options within the open space requirement.

Under the heading: "Provision of new Open Spaces - Quantity", text should be included which states that whilst 30% may be an aspirational target there should be recognition that a better quality landscape scheme may be achieved through a masterplan-led process where: existing features are mapped and protected, community needs are anticipated, green networks are put into place, and a SUDS scheme is designed that contributes towards local biodiversity, rather than seeking to adhere to an arbitrary figure. A high quality landscape framework and provision of amenity space can be achieved with less than 30% cover. Additional text should be included within the section of Policy E5 entitled "Provision of new Open Spaces" in order to ensure that due consideration is given to the best ways to plan for and include Open Space in new developments.

Scotia Homes Ltd (0480)

Supports the principle of seeking to secure a minimum of 15-20% of open space on site with 10 houses or more and new industrial sites where this is underpinned by the masterplanning process and informed by the Council's strategy on landscape and open

space requirements. Notes the justification states that until the Open Space Strategy is operational open space requirements will be dealt with on a case by case basis. Considers the policy to be too prescriptive and unsubstantiated pending consultation on the Open Space Strategy.

#### Crown Estates (0861)

Objects to policy E5 and proposes an amendment that would allow economic development opportunities to be realised by communities where area of open space are of limited value and where there is over provision. Policy ED5 Opportunity Sites allows for appropriate alternative uses on brownfield sites. However, Opportunity sites are not identified in all settlement. In line with SPP all communities should be able to respond to new economic development opportunities and have land available to accommodate alternative uses. The inflexibility of Policy E5 is highlighted in Mosstodloch where the Objective/Issues state the bypass completion present opportunities, however much of the area enclosed by the bypass is designated ENV and actually inhibits development.

In settlements where there is over-provision of open space and the value of this open space is limited it is reasonable that the policy controlling such areas is more flexible. In these cases there is no substantive reason to retain the open space and the policy should ensure that these spaces can accommodate economic activities or community facilities if these are important to the function and character of the area and where the other Policy E5 criteria are met. By retaining the qualifying criteria within Policy E5 the amendment will not jeopardise open space that is a scarce resource or is high quality in terms of landscape quality or function. This position would align with SPP's position on sustainable economic growth and the Vision for Moray set out in the Proposed Plan.

#### Homes for Scotland (1035)

The section on Safeguarding Open Spaces seems acceptable, and clearly recognises that the protection of open spaces is dependent on an assessment of what exists, its quality, functions and distribution. SPP requires that Councils carry out open space and green space audits and prepare a strategy for provision/protection. It appears that the Council has done these but any decision on protecting or releasing specific areas of open space would require that background information. Such audits and strategies should have been available to inform this LDP.

Open space audit and strategy should lead to a specific set of approaches to providing new open spaces. There should be less reliance on blanket standards and recognition that new spaces should be sought only when there is, or would be, a deficit in provision as a result of new development. However, Policy E5 falls back on rigid space standards for new development. The basis of planning new open spaces in development should be an assessment of provision and deficiencies not rigid requirements.

#### Elgin Community Council (0122) and Elgin South Area Forum (0194)

All critical open spaces should be identified and defined in a guidance document. This will aid enforcement for example where car show rooms park cars on verges in Elgin. Open space in Elgin is being eroded, for example Reiket Lane. Concerned requirement for 30% open space in developments over 200 houses will result in developers building in block of less than 200. The policy is unclear how phased development would be handled. A solution is to build houses with gardens suitable for allotments. Pleased to see allotments included as part of provision for new open spaces within Policy E5. Note comment that Council will be addressing Open Space Strategy including allotments as a priority area of work for next year.

Scottish Environment Protection Agency (0569)

Agree that open spaces can have particular benefits for flood risk and support the encouragement given to increasing "blue corridors" and protecting existing open and green spaces.

**Modifications sought by those submitting representations:**

**E1 Natura 2000 Sites and National Nature Conservation Sites**

West Coast Energy Ltd (0730)

Rewording might be to "Ramsar sites are afforded the same protection as Natura sites. SSSI sites are protected under the Wildlife and Countryside Act 1981."

In the main text for National Designations it is necessary to add "or" between section a) and b) to reflect the actual wording in SPP.

Mrs Jean Oliver (0996) and Cabrach Community Council (0674)

Cabrach to be included within the Cairngorms National Park.

Scotia Homes Ltd (0480)

Support noted.

CJ and CRH Dunbar (0908)

Seek clarity on the need for separate 'appropriate assessment' of development likely to have an impact on a Natura 2000 site and request that confirmation is provided within the body of the policy as to whether any such 'appropriate assessment' can include that undertaken by the Council in the preparation of the Proposed Plan as part of the Strategic Environmental Assessment Habitats Regulations Appraisal.

Clarification of the wording of the Policy Justification in relation to the need for appropriate assessment or environmental impact assessment to accompany applications for planning permission, and specifically whether this requirement will equally be applied to masterplans for proposed developments.

More appropriate to amend the policy wording such that there is greater flexibility to allow for approval of proposals that include appropriate mitigation measures to control and balance any adverse effects that may arise through the development as proposed.

Scottish Natural Heritage (1027)

Amend text - amend the two references to plans to proposals.

Proposals will only be approved where...In exceptional circumstances, proposals may be approved where...

Amend beginning to read "Development proposals which will affect a National Park, Site of Scientific Interest (SSSI) or National Nature reserve..."

Insert "or" at the end of paragraph (a) of the policy on National designations.

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

Amend beginning of justification text 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 SNH 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.

Dufftown and District Community Council (0522)

Develop a proposal to include the Cabrach in the Cairngorms National Park.

**E2 Local Nature Conservation Sites and Biodiversity**

West Coast Energy Ltd (0730)

For clarity it would assist if European Protected Species were specifically excluded in the first para to avoid confusion with policy E3.

Scotia Homes Ltd (0480) - Support noted.

RES UK Ltd (0402)

Suggest additional wording is inserted at bullet point a) local public or wider environmental benefits clearly outweigh the nature conservation value of the site, and...

RSPB Scotland (0285)

Recommend that non statutory Local Nature Conservation Sites are acknowledged to highlight their importance.

Review of Local Nature Conservation Sites would be welcome.

Preparation of Supplementary Planning Guidance on Biodiversity.

Fred Olsen Renewables Ltd (1047)

Would benefit from providing clear referencing to the statutory and non statutory local designations that require due consideration.

Scottish Environment Protection Agency (0569)

Ideally policy should mention these key words to make these links stronger and recommend minor amendments to achieve this are considered.

Forestry Commission (0307)

This policy should use the term currently used by the Council to identify priority local habitats.

Scottish Natural Heritage (1027)

Council should produce Supplementary Guidance to accompany this policy and Policy E2.

**E3 Protected Species**

West Coast Energy Ltd (0730)

For clarity it is recommended that E2 explicitly confines consideration of species to those that are neither EPS nor nationally protected species. In E3 the EPS related section is an extract from the legislation and SPP. In the para regarding nationally protected species it would be useful to specify the Wildlife and Countryside Act 1981 (as amended) as per SPP.

Scotia Homes Ltd (0480)

Support Noted.

RES UK Ltd (0402)

Suggest the following additional wording as a first bullet point after paragraph one, "there are wider environmental benefits to outweigh the adverse effect; or". Also the word and at the end of the current first bullet point should be replaced with or.

Where development will affect a protected species of bird, developers must demonstrate that there is no other satisfactory solution" should be removed as this wording does not allow sufficient opportunity for proposals to be considered on their own merits and for EIA projects to demonstrate the full representation of the various aspects pertaining to a site.

Scottish Natural Heritage (1027)

Amend Text:

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; and The development is necessary to preserve public health or public safety; and 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.

Add under E2 and E3 that Biodiversity and Protected Species Supplementary Guidance will be prepared.

Forestry Commission (0307)

Term "there is no satisfactory alternative" is subjective and should be removed.

**E4 Trees and Development**

Scotia Homes Ltd (0480) - Support noted.

Fred Olsen Renewables Ltd (1047)

Propose additional words are added to end of sentence after "retained or replaced...." to be "where it is appropriate and reasonable to do so." Seek clarification that this policy has to be applied primarily to trees in urban areas and that woodland removal will be considered under a separate set of criteria, subject to guidance from Forestry Commission Scotland.

Forestry Commission (0307)

Supports the recognition that development proposals in woodlands require separate control systems, however the difference should be reiterated in the supplementary guidance on Trees and Development.

**E5 Open Spaces**

Christine I Clerk (0685)

Space should be found for allotments.

CJ and CRH Dunbar (Pitgaveny) (0908)

Add wording which states that: "Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments".

Under 'Provision of new Open Spaces -Quantity' bullet point two should be amended to clarify whether the minimum provision of 15% open space will be applied to all industrial sites regardless of scale, or whether the policy is intended to include a proportionate provision according to small/medium/large sites or some similar categorisation.

Bullet points two and three should be amended to allow for allotments, formal parks and playspaces to be included within the open space requirement. Bullet point four should be amended to recognise that 30% is a target for the provision of open space, not a requirement.

Text should also be added under "Provision of new Open Spaces - Quality" as follows: "The ratios of Open Space to numbers of housing units in new developments should be used as a guide rather than a prescription. A masterplan-led approach conducted as part of an inclusive exercise will deliver the best result in terms of overall open space provision".

Under "Provision of new Open Spaces add text "Other aspects which must be taken into account in the consideration of appropriate levels and types of Open Spaces are as follows: Existing Open Space provision within the vicinity of new sites and the quality of that provision; are there elements of an open space strategy that are best applied though provision of a commuted sum for enhancement elsewhere?; the impact of the density of development. Higher density areas which include flats, and houses with smaller gardens require more public open space while lower density areas with larger gardens and detached houses may need less; the types and maintenance regimes of SUDS; the landscape maintenance strategy; existing and surrounding landscape features and accessible landscapes.

Scotia Homes Ltd (0480)

Amend to secure minimum of 15-20% of open space on residential sites of 10 or more house and new industrial sites where this is underpinned by a masterplan and informed by the Councils strategy on landscape and open space requirements.

Crown Estates (0861)

The first criterion under the section 'Safeguarding Open Spaces' should be amended to the following: "The proposal is for a public use, community facility or economic opportunity that clearly outweighs the value of the open space to the local community; or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation, and".

Homes for Scotland (1035)

The various percentage space requirements in Policy E5 should be deleted and replaced with reference to the accessibility of a development to sufficient open space within a reasonable distance from the development.

Elgin Community Council (0122) and Elgin South Area Forum (0194)

All critical open spaces should be identified and defined in a guidance document.

Scottish Environment Protection Agency (0569)

Support noted.

**Summary of responses (including reasons) by planning authority:**

**E1 Natura 2000 Sites and National Nature Conservation Sites**

Scottish Planning Policy (SPP) paragraph 211 notes that all Ramsar sites are also Natura 2000 sites and or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

The boundary of the Cairngorms National Park is outwith the control of Moray Council. The Council recognises that the Cabrach area has wild land qualities, although it is not formally designated as such. This comment and the comment from Dufftown and District Community Council will be forwarded to the Cairngorms National Park Authority for their consideration.

The reference to “plans” in paragraph 1 refers to development proposals.

Scottish Planning Policy states that “any development plan or proposal likely to have a significant effect on these sites (Natura 2000 sites) which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment” of the implications for their conservation management.”

Development proposals which are designated in the Local Development Plan likely to require an appropriate assessment will be identified in the designation text. Further discussion on the information required and the level of assessment required will be held between the applicant, the Council, Scottish Natural Heritage and, if necessary SEPA.

If the Reporter is so minded, the Council would not object to modified wording to provide further clarity as proposed through the representations from CJ and CRH Dunbar (Pitgaveny) and Scottish Natural Heritage.

The modified policy text would be;

**“Natura 2000 designations.**

Development likely to have a significant effect on a Natura 200 sites 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 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 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 Reserve will only be permitted where:

- a) It will not adversely affect the integrity of the area or the qualities for which it has been designated; or
- b) Any adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance."

The second paragraph of the Justification text would be modified to state;

"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."

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

### **Context**

The wording of Policy E2 is largely carried forward from the Moray Local Plan 2008 and is considered to reflect the policy principles of Scottish Planning Policy, specifically to;

- Conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to local communities
- Promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way
- Protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long established woods, hedgerows and individual trees with high nature conservation or landscape value
- Seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats...

Policies should not be read in isolation and need to be considered along with all policies within the Local Development Plan. When considering development proposals, the Council will consider a wide range of policies and consider the wider benefits of proposals against impacts and proposed mitigation measures.

The text specifically states that, "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." No modification is proposed.

### **Local designations**

The Council has not included Sites of Interest to Natural Science within the Plan. These are historic designations made when Grampian Regional Council existed. The records are dated, often vague and more importantly the panel of local experts required to assist with the interpretation and understanding of development impacts upon the designation is out of date with many members no longer available.

Scottish Planning Policy (para 196) states that "reasons for local designation should be clearly explained and their function and continuing relevance considered when preparing plans." The Council does not consider that the necessary information and support is available to include Sites of Interest to Natural Science in the Plan.

In terms of Wildlife Sites, a Wildlife Sites Assessment Panel was set up in Moray but this has not been in existence for several years and a large number of proposed sites remain to be assessed. The Council does not have the expertise to carry out these assessments, but agree that Policy E2 should make reference to existing Wildlife Sites. Therefore if the Reporter is so minded the Council would not object to "Wildlife Sites" being added after "protected species" in Policy E2 with the appropriate cross referencing with the Proposals Map.

### **Level of Protection**

The Council considers that the level of protection afforded through Policy E2 to local nature conservation sites and biodiversity is clearly differentiated from Policy E1's protection to international and national designations.

The criteria listed in Policy E1 under a), b) and c) are clearly different from criteria a) and b) in Policy E2.

No modification is proposed.

### **Biodiversity**

The policy refers to "green and blue networks" and the justification text refers to "creating and restoring habitats and wildlife corridors".

Local Nature Reserves are specifically referenced in the Policy to cover Findhorn Bay Local Nature Reserve.

If the Reporter is so minded, the Council would not object to additional text being added into the Justification section of Policy E2 to refer to phase 1 Habitat surveys and National Vegetation Surveys to identify the presence of wetlands and groundwater dependent habitats.

### **Supplementary guidance**

As an alternative to producing supplementary guidance on Biodiversity and Protected Species, the Council has agreed with Scottish Natural Heritage that in the short term, guidance on these topics will be added to the Council's Climate Change supplementary planning guidance.

No modification is proposed.

**E3 Protected Species**

Policies should not be read in isolation. When originally drafted, planning officers endeavoured to include the requirements of Policy E2 and E3 into one policy. However, the differing requirements and complexity of legislation resulted in separate policies being drafted, while recognising that the two policies are linked. This also applies to several other environment policies where Protected Species will be a relevant issue.

The Council has discussed this issue further with Scottish Natural Heritage and if the Reporter is so minded, the Council would have no objection to the proposed rewording of this policy to state;

“Proposals which would have an adverse effect on a European protected species will not be approved unless:

- There is no satisfactory alternative
- 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.”

As an alternative to producing supplementary guidance on Biodiversity and Protected Species, the Council has agreed with Scottish Natural Heritage that in the short term, guidance on these topics will be added to the Council’s Climate Change supplementary planning guidance.

**E4 Trees and Development**

The policy includes the word “may”, allowing the Council the discretion when to choose to attach conditions on planning consents to ensure that existing trees and hedges are retained or replaced. This is considered sufficient to address the respondent’s issue.

Policy E4 applies to trees in both an urban and rural setting and primarily covers the instances where the Council will use powers such as Tree Preservation Orders and planning conditions to safeguard trees and hedges. The policy clearly states that “proposals affecting woodland will be considered against Policy ER3”.

In terms of the comments from the Forestry Commission Scotland, the Council has discussed this issue further with Forestry Commission Scotland and has agreed to add

further cross referencing between policies and supplementary guidance. Discussions have also taken place to ensure provisions for compensatory planting are made.

No modification is proposed.

### **E5 Open Spaces**

The provision of the appropriate quality and quantity of new open spaces is a key requirement to support the government's aspirations for Placemaking. Open spaces provide opportunities for social interaction and exercise, create green corridors and contribute to an area feeling safe and pleasant. The justification text recognises that the Council will take into consideration issues such as topography, existing and surrounding features and other matters when applying the standards.

The policy requires that all residential sites of 201 and more housing units are required to provide a minimum 30% of open space which should include allotments. The text further states that in terms of allotments, proposals 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.

The Council therefore considers that the Policy framework is in place to support allotments and the Council will work with local groups to identify suitable sites and future opportunities where a need has been identified.

Sports areas are identified as ENV 5 designations and their provision forms part of the sliding scale of requirements for new open space provision. While the Council does not support additional wording being introduced into the policy, if the Reporter was so minded, the justification text could be expanded to state, "Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments."

For clarification, the 15% requirement for open space in new industrial developments will be applied to all industrial sites. Business Parks are required to provide 30% open space.

In terms of the proposed additional wording regarding the ratio of open space being a guide, the Council does not support this proposed wording. The standards are required to support the Primary policy on Placemaking and to ensure new open spaces are fit for purpose and well connected. The justification text states that factors such as topography, existing and surrounding features and other matters will be taken into consideration when applying this policy.

The Council is committed to preparing an Open Space Strategy as a priority project early in the life of the new Local Development Plan and this will provide further justification for interpreting Policy E5. However, in the short term, the quantity and quality criteria set out in the policy are considered appropriate to support the objectives of Scottish Planning Policy (para 225) to enhance existing and promote the creation of new green infrastructure and this should be done through a design-led approach, applying standards which facilitate appropriate provision within the local context.

The Council considers the proposed standards to be appropriate in a Moray context and represents the nature of Moray's towns and villages. The Open Space Strategy will provide further guidance for developers and the Council is committed to preparing this as a priority in the implementation of the new Local Development Plan.

Primary Policy 1 Sustainable Economic Growth should also be read in this regard, which supports proposals which contribute towards sustainable economic growth where the quality of the natural and built environment is safeguarded.

The scenario envisaged by Elgin Community Council and Elgin South Area Forum should not arise as Policy H1 requires proposals for development “on all designated housing sites must include or be supported by information regarding the comprehensive layout and development of the whole site. This allows consideration of all servicing, infrastructure and landscaping provision to be taken into account at the outset.”

The standards of quality and quantity will therefore be established and in the scenario of a masterplan, these will have been approved as supplementary guidance against which all resultant planning applications would be considered.

Support for provision of allotments is noted.

No modification is proposed.

### **Reporter’s conclusions:**

#### Policy E1 Natura 2000 Sites and National Nature Conservation Sites

1. In response to a concern expressed with regard to Ramsar sites, I note that the Scottish Planning Policy (SPP) confirms that all Ramsar sites are also Natura 2000 sites and/or sites of Special Scientific Interest - and so are statutorily protected accordingly. I also note the comments suggesting that Cabrach should have been included in the Cairngorms National Park boundary – but this is not something that can be explored further as part of this plan examination. In any event this is a matter outwith the control of the council.
2. Other detailed concerns are raised about the wording and interpretation of this policy – essentially seeking further clarity to avoid potential confusion and to ensure consistency with the SPP.
3. With regard to the wording of policy E1, the council is right in acknowledging the importance of clarity and consistency with the SPP. In that context it has put forward the following suggested replacement form of wording for the policy - aimed at achieving those goals and in doing so to address the concerns in the representations:

#### ***“Natura 2000 designations.***

*Development likely to have a significant effect on a Natura 2000 sites 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 may be approved where:*

- d) There are no alternative solutions; and*
- e) There are imperative reasons of over-riding public interest including those of a social or economic nature, and*
- f) 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 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 Reserve will only be permitted where:*

- c) It will not adversely affect the integrity of the area or the qualities for which it has been designated; or*
- d) Any adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.”*

The council also proposes the second paragraph of the Justification text associated with policy E1 should also change, to now state:

*“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.”*

4. I am satisfied that the above proposed substitution for the policy E1 in the draft plan and the suggested amendment to some of the wording of the accompanying Justification text, in combination, would address all of the main concerns expressed in the representations. I also conclude that those proposed changes would ensure that the policy wording is broadly consistent with the key policy principles set in paragraphs 207-212 of the SPP concerning European designations, notably Natura 2000 Sites including Ramsar sites, as well as with regard to national designations. In my recommendations below I have made some minor changes to reflect more fully the wording of the SPP, in order to ensure even greater consistency.

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

5. A number of representations raise concerns about specific aspects of the wording of policy E2 – including with regard to the balance between public benefits and local nature conservation effects; renewable energy, Sites of Special Scientific Interest (SSSIs), Sites of Interest to Natural Science (SINS), Local Nature Reserves and other local designations; as well as with regard to ‘wildlife corridors’ and ‘green/blue’ networking objectives.

6. In response, the council points out that policy E2 is largely carried forward from the adopted local plan and contends that the proposed wording is intended to reflect the specific policy statements of the most recent Scottish Planning Policy (SPP) on these matters. In principle I endorse the council’s approach in doing that - and so conclude that its wording is preferable to the alternative suggested in representations. The council also rightly makes the point that policy E2 should not be read in isolation but considered alongside all other policies of the new plan. In my view this is consistent with the fact that

the council, as the planning authority, will have regard to all development plan policies of relevance - as well as other considerations, including the SPP – when weighing the benefits of development proposals against likely adverse impacts, along with any proposed mitigation measures.

7. I am also satisfied that the scope of policy E2 – in stating at the outset its concern with protecting specific local designations and other valuable local features of particular interest, as listed - is adequately differentiated from the protection provided for international and national designations through policy E1 of the plan. Nevertheless I note that paragraph 196 of the SPP confirms that the level of protection to be given to local designations should not be as high as that given to international or national designations. As presently drafted it could be interpreted that the policy wording at the outset of each of the two policies suggests a potentially higher degree of protection in the case of policy E2 compared with policy E1 where only *significant* adverse effects are of concern. Accordingly, I conclude that the opening phrase of policy E2 should be reworded to state “Development likely to have a significant adverse effect on Local ....” [to then continue as in the proposed draft].

8. I note that the SPP in paragraph 196 states that “International, national and locally designated areas and sites should be identified and afforded the appropriate level of protection in development plans. Reasons for local designation should be clearly explained and their function and continuing relevance considered when preparing plans.” In that context I am satisfied that the council has provided sufficient justification for no longer including Sites of Interest to Natural Science (SINS) in the new plan – noting that these are historic designations with inadequate records that are now out of date and difficult to interpret.

9. I understand that a number of proposed Wildlife Sites have been in existence for some time. In many other instances sites are still being assessed, presumably with a view to possible designation as Wildlife Sites in appropriate cases. In that context I agree with the council that it would be beneficial and logical to amend the wording of the first sentence of policy E2 to insert after the words *protected species* the words *Wildlife Sites* – with the appropriate cross-reference to the Proposals Map.

10. I find that policy E2 quite properly makes specific mention of Local Nature Reserves. I am also satisfied that with regard to biodiversity it makes appropriate reference to ‘green and blue networks’ – and note that the Justification section refers to creating and restoring wildlife corridors. Accordingly, I conclude that there is insufficient justification to make amendments to the policy wording on those matters. Nevertheless, I am persuaded that it would be appropriate to incorporate an additional statement at the end of the Justification section with regard to phase 1 Habitat surveys – in the terms advocated by Scottish Environment Protection Agency (SEPA). I note that in some cases a simple walk over and photographic study would provide the information required. I also note that the council acknowledges that such an amendment to the plan text would be beneficial.

11. Finally, I note that the council has reached agreement with Scottish Natural Heritage that in order to provide appropriate further guidance on Biodiversity and Protected Species in the short term this should take the form of additional guidance in the council’s Climate Change Supplementary Guidance document. I am content that this will provide an expeditious means of moving this important matter forward rather than awaiting separate guidance to be drafted as new Supplementary Guidance. Any such

supplementary planning guidance (SPG) would require approval by Scottish Ministers through a separate process following adoption of the plan.

### Policy E3 Protected Species

12. The representations, including one from Scottish Natural Heritage (SNH), raise detailed concerns about the wording and interpretation of this policy – seeking further clarity, in part to avoid potential confusion or overlap with policy E2 and to ensure consistency with the Scottish Planning Policy (SPP). SNH also contends that there should be Supplementary Guidance to accompany both policies E2 and E3. One of the other representations seeks a reference to be made to striking a balance between nature conservation and the benefits of a specific proposal.

13. I note that the SPP has a section headed Protected Species. This makes clear that the presence or potential presence of legally protected species is an important consideration in determining planning applications. More specifically it states that the level of protection afforded by legislation must be “factored in” to the planning and design of development proposals and any impacts must be fully considered prior to the determination of the application.

14. The council rightly draws attention to the differing requirements and complexity of the legislation concerning protected species covered in policy E3 and in respect of other related matters covered by policy E2. I note that this formed the basis for drafting these two separate but linked policies, which in my view is logical. Accordingly, I am in agreement with the council that the terms of policy E3 should not be read in isolation but considered along with all other relevant policies of the new plan – including policy E2.

15. I note that the council has sought to address the concerns expressed in the representations. Indeed, following consultations with SNH, it has put forward the following revised form of wording for policy E3 that accords with SNH’s proposed modification:

*“Proposals which would have an adverse effect on a European protected species will not be approved unless:*

- There is no satisfactory alternative*
- 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.”*

16. Based on all the available evidence - and having had regard to the terms of the representations as well as Scottish Planning Policy - I conclude that it would be beneficial and logical to amend the wording of policy E3 in the manner now being advocated by the council and SNH. I am not, however, persuaded that a case has been made in representations to justify including a reference in the policy to giving weight to the potential benefits of a proposal to assess if in some cases those might “outweigh” nature conservation concerns, when an application is being determined. In my view that would be contrary to the wording and intention of the relevant legislation that affords protection to particular species internationally or nationally. Instead I find the terms of the revised wording now put forward by SNH and endorsed by the council more appropriate in setting out the exceptional circumstances that might apply in particular cases.

17. Finally, I note that the council has reached agreement with SNH that in order to provide appropriate further guidance on Biodiversity and Protected Species in the short term this should take the form of additional guidance in the council’s Climate Change Supplementary Guidance. I am content that this provides an expeditious means of moving this important matter forward rather than awaiting separate guidance to be drafted and issued as a new Supplementary Guidance note. Any such supplementary planning guidance (SPG) would require approval by Scottish Ministers through a separate process following adoption of the plan.

#### Policy E4 Trees and Development

18. Most of the representations express support for policy E4 but one seeks an amendment to the policy wording to provide further clarification concerning criteria relating to the replacement or retention of existing trees and shrubs. It also seeks further clarification as to whether the policy is intended primarily for trees in urban areas.

19. I am not persuaded by the arguments put forward in support of an amendment to the wording of the policy relating to retention or replacement of trees and hedges. Nevertheless, I consider that the existing wording of the third paragraph of policy E4 would be strengthened and clarified if it was preceded by the following additional wording, reflecting the Scottish Planning Policy (SPP) set out in paragraph 218:

*“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.”*

20. Furthermore, for additional clarification I consider that it would be appropriate to insert the following new paragraph between the second and third paragraphs of the Justification section accompanying policy E4. This again would accord with the SPP on the matter:

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

#### Policy E5 Open Space

21. A number of representations seek amendments to policy E5 to address their particular interests – for example in allotments, sports facilities or regarding the amount of

open provision expected as part of proposals for new residential or other forms of development. Some express concerns about what they regard as over-provision of open spaces that are of limited value whilst another recognises the need for protection of open spaces - subject to an assessment of the amount and quality of the open space and how it is used and distributed. Reference is also made to the obligation on councils to carry out open space and green space audits – acknowledging that this has been done in Moray – as the basis for devising an open space strategy. At the time of drafting of the proposed plan Moray’s open space strategy was not yet finalised or operational.

22. I note that the Scottish Planning Policy (SPP) in paragraph 224 states that local development plans should identify and protect open space identified in the open space audit and strategy as valued and functional or capable of being brought into use to meet local needs. It then states that local development plans should seek to enhance existing and promote the creation of new green infrastructure – through a design-led approach, applying standards which facilitate appropriate provision, addressing deficits or surpluses in the local context

23. With those principles in mind, I endorse the council’s statement that the provision of the appropriate quality and quantity of new open spaces is a key element in supporting and achieving the aims of the Scottish Government’s policies on Placemaking - as set out on page 12 of the SPP. In this context, I have also had regard to the requirements for residential and commercial developments to make progressively greater levels of provision of new open spaces, commensurate with the scale of development, as specified in policy E5 of the proposed plan. I note that this includes allowance for allotment provision in the case of the largest residential development proposals (for more than 200 houses) and business parks. I also note that there is a sub-section of the policy entitled allotments. In summary, I am persuaded by the arguments put forward by the council that the proposed quantitative and qualitative standards and related requirements set out in the policy are appropriate for the plan area and reflect the profile of its mix of towns and villages in rural areas. No substantive evidence to the contrary has been drawn to my attention.

24. I also note that sports areas are also identified as ENV 5 designations for particular settlements - with their provision forming part of the “sliding scale” of requirements for open space provision. With a view to improving clarity I conclude that it would be beneficial to add at the end of paragraph 3 of the Justification section of policy E5 the following new wording: *“Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments.”*

25. I am not persuaded that other changes to the text of policy E5 or the Justification section are merited. This is because in my view the existing wording of the proposed plan – as set out in policy E5 and its associated Justification section (as now being revised), together with Primary Policy PP1, when considered in combination - already satisfactorily address the points of concern raised in representations. In coming to this conclusion, I have taken into account the role played by the open space strategy when it is completed and operational, together with the requirement for masterplans, particularly in the case of large or complex development sites.

**Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. Replace the main text of policy E1, under the heading Natura 2000 designations and National Designations with the following:

**Natura 2000 designations.**

Development likely to have a significant effect on a Natura 2000 sites 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 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 Reserve 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."

2. Amend the second paragraph of the Justification text associated with policy E1 to state:

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.

3. Amend the wording of the first sentence of policy E2 as follows:

- the opening phrase should be reworded to state “Development likely to have a significant adverse effect on Local ....” [to then continue as in the proposed draft]
- insert after the words “protected species” the words “Wildlife Sites”. An appropriate cross-reference should also be made to the Proposals Map to reflect this.

4. At the end of the Justification section of policy E2 add the following sentence:

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.

5. Replace the wording of policy E3 with the following:

Proposals which would have an adverse effect on a European protected species will not be approved unless:

- There is no satisfactory alternative
- 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.

[For the avoidance of doubt the Justification section of policy E2 would remain unaltered.]

6. At the beginning of the third paragraph of policy E4 add the words:

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.

(For the avoidance of doubt the rest of the policy wording shown in the proposed plan including the remainder of paragraph 3 from “*The Council may attach ...* “ onwards would remain unchanged).

7. In the Justification section of policy E4 the following new paragraph should be inserted between the second and third paragraphs shown in the proposed plan – with the remainder of the Justification section remaining unaltered.

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.

8. At the end of paragraph 3 of the Justification section of policy E5 add the following new wording:

Open air sports facilities will be considered to contribute towards the overall provision of open space in new developments.

Issue 5b	Natural Environment Policies E6-E10	
Development plan reference:	<b>Natural Environment Policies, page 39-41</b> <ul style="list-style-type: none"><li>• <b>E6 National Parks and National Scenic Areas, page 39</b></li><li>• <b>E7 Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape, page 39</b></li><li>• <b>E8 Coastal Protection Zone, page 40</b></li><li>• <b>E9 Settlement Boundaries, page 40</b></li><li>• <b>E10 Countryside Around Towns, page 41</b></li><li>• <b>Natural Environment General</b></li></ul>	<b>Reporter:</b> Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>E6 National Parks and National Scenic Areas</u></b> Scottish Natural Heritage (1027) Fred Olsen Renewables Ltd (1047)</p> <p><b><u>E7 Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape</u></b> Highland Council (0093) Mountaineering Council of Scotland (0207) RES UK Ltd (0402) West Coast Energy Ltd (0730) Scottish Natural Heritage (1027) Dorenell Ltd (1044) Fred Olsen Renewables Ltd (1047)</p> <p><b><u>E8 Coastal Protection Zone</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>E9 Settlement Boundaries</u></b> Fred Olsen Renewables Ltd (1047)</p> <p><b><u>E10 Countryside Around Towns</u></b> Fred Olsen Renewables Ltd (1047)</p> <p><b><u>Natural Environment General</u></b> Scottish Environment Protection Agency (0569)</p>		
Provision of the development plan to which the issue relates:	Policies E6 to E9 set out the approach to considering development proposals within areas designated for their landscape value, including the Cairngorms National Park, Areas of Great Landscape Value, Countryside Around Towns and the Coastal Protection Zone.	
Planning authority's summary of the representation(s):		
<p><b><u>E6 National Parks and National Scenic Areas</u></b> Fred Olsen Renewables Ltd (1047)</p> <p>Para 190 of the Scottish Planning Policy states that "Planning authorities should not impose additional zones of protection around areas designated for their landscape or natural heritage value." While the Council has not explicitly stated that additional buffers will be imposed, the suggestion that developments should not impact on the integrity of the area raises concerns that buffers will be imposed around NSA's.</p>		

Scottish Natural Heritage (1027)

Considers that the wording of this policy is at odds with Scottish Planning Policy (SPP) paragraph 137 and 141 of the draft SPP. To avoid confusion and inconsistency the policy should be amended. Policy is unclear as the two references to “adversely affecting” the designation cancel each other out.

**E7 Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape.**Highland Council (0093)

Highland Council is satisfied that this policy appears to have no impact on Highland and offers some protection to the Drynahan, Lochindorb and Dava Moors Special Landscape Area which lies close to the Moray boundary.

Mountaineering Council of Scotland (0207)

Fully support the statement on hill tracks.

RES UK Ltd. (0402)

Policy should recognise that a significant adverse effect should not in itself be a reason for refusal.

West Coast Energy Ltd (0730)

Considers that the exclusion b) is overly restrictive and does not match the previous history of wind farm decisions in Moray. Wind farms have been widely accommodated within or close to AGLV's in Scotland, including Moray. Such wind farms will inevitably have significant, in EIA terms, landscape effects on the AGLV. They have ultimately been considered acceptable proposals because the overall effects on the landscape and visual resource has been outweighed by the benefits.

Exclusion c) is vague and refers to a document that is now 16 years old. While the LCA remains a valuable document the baseline conditions have changed significantly since 1998 and indeed the acceptance of some of the Forces for Change has evolved considerably, particularly around wind energy developments.

Scottish Natural Heritage (1027)

Welcome coverage of this policy of hill tracks, however, as well as potential impacts on habitats, hydrology and recreation, the policy should cover visual impact of hill tracks, which is recognised in the justification text.

Dorenell Ltd (1044)

Considers the policy to be inconsistent with national policy. Scottish Planning Policy (SPP) para 139 and the draft SPP state that the “level of protection given to local designations through the development plan should not be as high as the level of protection given to international or national designations. “Policy is misaligned with SPP as it states, “will be refused unless” three specific criteria are met. Wording provides an excessive level of protection for local landscape designations, above the level supported by the SPP and draft SPP.

Concerned that AGLV's predate 2006 and have no description of special qualities included within the LDP. There is no commitment within the Action Plan to review local landscape designations, making the Plan inconsistent with SPP para 139.

The environmental designations map needs justification text to explain why each proposed AGLV has been designated. These should have been reviewed and updated to

take account of circumstances. Dorenell wind farm consent granted by Scottish Ministers in December 2011 may impact upon the specific qualifying interests of the Ben Rinnes, Blackwater and Tomintoul AGLV.

Fred Olsen Renewables Ltd (1047)

Include “significant” in the opening sentence to ensure consistency with SPP. Policy is the same as that for NSA’s and National parks which is out of sync with the requirements of the SPP.

The principal test is whether the development has a significant effect on the underlying reasons for the designation which should be clearly set out and reviewed to ensure they have ongoing relevance. These should be published in supplementary guidance and referred to in the revised version of this policy.

Considers that the policy also needs to make a distinction between development which is within these areas and those which are out. Insert “as far as possible” after “New developments should...” to reflect that this is a subjective matter. Request that additional buffers around AGLV’s are not imposed upon developments.

**E8 Coastal Protection Zone**

Scottish Environment Protection Agency (0569)

Support reference in this policy to protection from flooding.

**E9 Settlement Boundaries**

Fred Olsen Renewables Ltd (1047)

Policy should be updated to ensure it does not hinder the appropriate development of grid infrastructure, expansion of existing substations or other fitting developments. Outwith settlement boundaries, proposals should be given due consideration if there is a reasoned justification for expansion in this area.

**E10 Countryside Around Towns**

Fred Olsen Renewables Ltd (1047)

Unclear if renewable energy or other infrastructure development would be acceptable in CAT’s without reference to other documents. Renewable energy may be appropriate in CAT’s which are close to the source of consumption.

**Natural Environment General**

Scottish Environment Protection Agency (0569)

It would be useful for readers of the Plan if more information was provided in this section on the water environment so they can understand the importance of it.

**Modifications sought by those submitting representations:**

**E6 National Parks and National Scenic Areas**

Scottish Natural Heritage (1027)

To avoid confusion and inconsistency between wording in the Plan and SPP policy should be amended.

Fred Olsen Renewables Ltd (1047)

Additional buffers should not be imposed around areas designated for their landscape or natural heritage value.

**E7 Areas of Great Landscape Value (AGLV's) and impacts upon the wider landscape.**

Highland Council (0093)

Support noted.

Mountaineering Council of Scotland (0207)

Support noted.

RES UK Ltd (0402)

Policy should recognise that a significant adverse effect should not in itself be a reason for refusal.

West Coast Energy Ltd (0730)

Exclusion b) should be less restrictive, exclusion c) should be clearer and not refer to an outdated LCA.

Scottish Natural Heritage (1027)

The policy should cover visual impact of hill tracks, which is recognised in the justification text.

Dorenell Ltd (1044)

Insert "significant" before the word "adverse" in first sentence. The words, "will be refused" should be replaced with "should demonstrate that". Review of local landscape designations should be undertaken before AGLV's are included in the Plan.

Fred Olsen Renewables Ltd (1047)

Include "significant" in the opening sentence. Underlying reasons for designation should be set out in supplementary guidance. Insert "as far as possible" after "new developments should..."

**E8 Coastal Protection Zone**

Scottish Environment Protection Agency (0569)

Support noted.

**E9 Settlement Boundaries**

Fred Olsen Renewables Ltd (1047)

Policy should be updated to ensure it does not hinder the appropriate development of grid infrastructure, expansion of existing substations or other fitting developments. Outwith settlement boundaries, proposals should be given due consideration if there is a reasoned justification for expansion in this area.

**E10 Countryside Around Towns**

Fred Olsen Renewables Ltd (1047)

Clarify if renewable energy proposals are acceptable in CAT's.

**Natural Environment General**

Scottish Environment Protection Agency (0569)

Add text; "To integrate land and water policies to protect and enhance the quality of the water environment to support achieving a cleaner and healthier water environment for the benefit of the economy, our health and social well-being, in line with the Water Framework Directive 2000, the Water Environment and Water Services (Scotland) Act 2003 and the Scotland River Basin Management Plan. The water environment

encompasses rivers, lochs, wetlands and groundwater that drain into the sea, as well as estuaries and adjacent coastal water".

**Summary of responses (including reasons) by planning authority:**

**E6 National Parks and National Scenic Areas**

Scottish Natural Heritage (1027)

In the interim the new Scottish Planning Policy was published on 23<sup>rd</sup> June and if the Reporter is so minded the Council would not object to this policy wording being revised to be consistent with the wording of paragraph 212 of the SPP (CD 01).

Fred Olsen Renewables (1047)

No additional buffers have been added by the Council to National Scenic Areas. There are currently no National Scenic Areas within the land area covered by the Moray Local Development Plan.

The wording regarding affecting the integrity of the area reflects the wording set out in paragraph 212 of Scottish Planning Policy. The Council has suggested that in response to the representation from Scottish Natural Heritage, that the wording of Policy E6 is amended to ensure consistency with Scottish Planning Policy.

No modification is proposed.

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

The support for this policy is noted, particularly in relation to hill tracks.

Scottish Planning Policy (SPP) paragraph 197 states that the purpose of areas of local landscape is to "safeguard and enhance the character and quality of a landscape which is important or particularly valued locally or regionally...". Proposals which are considered to have significant adverse effects which cannot be mitigated are therefore considered to be contrary to the objectives of local landscape designations.

Development proposals are assessed against a range of policies, which vary according to the nature of the proposal to provide a balanced consideration within the context of Policy E7.

The Council recognises that the AGLV designation has not been reviewed, which is a resource issue, however, the AGLV's are still considered to be relevant and represent the areas of greatest landscape value within Moray. The Council previously included a commitment to review the Areas of Great Landscape Value, but due to resource issues this has not been progressed. The Council would not support including such a commitment if it cannot be delivered within the timescale of the Local Development Plan.

The policy is aimed at covering a wide range of development proposals which may come forward within designated AGLV's, ranging from houses in the countryside to large scale biomass and wind farm proposals. The policy aims to avoid significant adverse impacts on the landscape character of these designations and encourage the highest standards of design.

In terms of considering the capacity of the landscape to accommodate wind energy proposals, the Council has a specific Landscape Capacity Study, completed in 2012 on this subject. This provides the most up to date and relevant guidance on this subject area,

however the Landscape Character Assessment still contains useful information which can be applied when considering other types of land use proposals.

For clarity, if the Reporter is so minded, the Council would not object to additional text being included within the policy and/or justification to confirm that the Landscape Capacity Study will provide the basis for considering the landscape impact of wind energy proposals.

In terms of the comment raised by Scottish Natural Heritage, if the Reporter is so minded the Council would support including a reference to visual impact within the policy wording to address the respondent's comment and for consistency between the policy and justification text.

There is no formal record of the special qualities of the designated Areas of Great Landscape Value, so this information cannot be included within the Plan.

In terms of the issue raised by Fred Olsen Renewables Ltd, if the Reporter is so minded the Council would not object to including the word "significant" within the opening sentence of the policy. The policy is not the same as Policy E6 National Parks and National Scenic Areas (NSA), with the criteria for these policies being clearly different.

No additional buffers have been added around National Scenic Areas.

### **E8 Coastal Protection Zone**

Scottish Environment Protection Agency (0569)

Support noted. No modification is proposed.

### **E9 Settlement Boundaries**

Fred Olsen Renewables Ltd (1047)

Policy E9 is long established and aims to guide development within towns and villages, prevent ribbon development and maintain a clear distinction between the built up area and the countryside. The types of development put forward by the respondent would be considered against a range of policies within the Local Development Plan to determine whether they compromised any of these principles.

No modification is proposed.

### **E10 Countryside Around Towns**

Fred Olsen Renewables Ltd (1047)

Some low intensity, small scale renewable energy proposals may be suitable within the Countryside Around Town areas. For such proposals, Policy E10 needs to be read in conjunction with other policies such as ER1 and IMP1.

No modification is proposed.

### **Natural Environment General**

Scottish Environment Protection Agency (0569)

If the Reporter is so minded the Council would not object to adding the following text at the beginning of the Natural Environment policies;

"Natural Environment. Introduction. The aims of the policies on the natural environment 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.

### **Context**

Moray contains a number of sites of international, national and local importance relating to ecology, geology and geomorphology. These sites contribute significantly to the high quality environment of the Moray area. Scottish Planning Policy aims to protect and make efficient use of existing resources and environmental assets and recognises that planning can help us to live within our environmental limits and to pass on healthy ecosystems to future generations.”

### **Reporter’s conclusions:**

#### **Policy E6 National Parks and National Scenic Areas**

1. Each of the representations lodged, for different reasons, queries the consistency of the policy wording with the Scottish Planning Policy (SPP). This is in part a reflection of the fact that at the time the representations were lodged the exact terms of the new SPP were not yet confirmed. By contrast, the council has had the benefit of responding to these representations following the publication of the finalised SPP in June 2014. Indeed the council has expressed its intention for the policy wording to reflect the terms of this new SPP and I endorse this approach.

2. I note that there are no National Scenic Areas currently designated in the plan area – and the council has confirmed that it has not sought to add additional buffers to any such areas. I consider that in order to address the other concerns expressed in the representations and to aid clarity there is merit in the policy E6 wording being updated to be consistent with the new SPP – specifically as set out in paragraph 212. This deals with national designations, including National Parks and National Scenic Areas. Accordingly, I conclude that the policy should be re-worded to read as follows:

*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.*

3. I see no reason to amend the Justification section associated with policy E6 in response to the concerns raised in the representations or in the light of the proposed change of wording to the policy outlined above. Instead I am satisfied that the Justification section, as already worded, remains relevant and sufficient to support and reflect the intention of the policy.

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

4. Whilst there are representations lodged indicating support for policy E7, a number of others question its detailed terms and seek various amendments to the policy wording. In

assessing the merits of the arguments put forward in the representations I have had regard to the policy principles set out in Scottish Planning Policy (SPP). In particular SPP paragraph 197 encourages planning authorities to limit non-statutory local designations to areas designated for their local landscape or nature conservation value and states that the purpose of areas of local landscape value should be to:

- safeguard and enhance the character and quality of a landscape which is important or particularly valued locally or regionally; or
- promote understanding and awareness of the distinctive character and special qualities of local landscapes; or
- safeguard and promote important local settings for outdoor recreation and tourism.

5. I note that the 8 Areas of Great Landscape Value (AGLV) designated by the council in the plan area all predate 2006 and have not been reviewed during the period of the new plan's preparation. Furthermore, whilst the council has indicated its intention to undertake such a review it has confirmed that this is not currently a firm commitment due to resource constraints. It is regrettable that updating of the AGLV designations, including the boundaries of existing AGLVs - to take account of changing circumstances affecting relevant parts of the plan area - has not been possible for the council so far.

Nevertheless, based on the available evidence I am persuaded by the council's argument that there is sufficient merit to continue using the existing AGLV designations for the plan period. This is on the basis that they still broadly remain the areas of greatest landscape quality and value in Moray.

6. In this context I endorse the council's intention with regard to the policy's aim - to ensure the avoidance of significant adverse impacts on the landscape character of AGLVs and to encourage high standards of design – and for these policy principles to apply to a wide range of proposals, including for example housing developments, as well as other forms of development such as windfarms and biomass schemes. Additional, more specific considerations with regard to wind energy proposals are set out below.

7. The policy E7 wording requires proposals to be in general accordance with the guidance of the Moray and Nairn Landscape Character Assessment (MNLCA) of the area. I note that this document was produced on behalf of Scottish Natural Heritage (SNH) in 1998 and that the MNLCA has not been formally updated or replaced in the period since then. Nevertheless, I am persuaded that, despite being somewhat dated, that document still offers useful information and so remains of general relevance when considering most land use proposals potentially affecting AGLVs – but additional considerations apply to wind energy proposals, as detailed below.

8. In respect of wind energy proposals there is much more recent reference material available in the form of the Moray Wind Energy Landscape Capacity Study (LCS) 2012. That document that was specifically drafted to aid the planning authority's assessment of landscape impacts associated with new wind energy development proposals coming forward. For clarity I conclude that it would be appropriate for policy E7 to make clear that in the case of wind energy proposals the LCS will form the basis of the assessment of their acceptability in terms of landscape impact.

9. For consistency of approach, having recommended use of the term "significant adverse effects" in the re-wording of policy E6, I am in agreement with the suggestion - put forward by one objector and now endorsed by the council -that policy E7 should similarly refer to *significant* adverse impacts, even though the criteria to then be applied

are clearly different in each of the two policies. Accordingly, I conclude that it would be appropriate for the opening sentence of policy E7 to be amended to insert the word “significant” immediately prior to the words “adverse effects”.

10. I am in agreement with the council and Scottish Natural Heritage (SNH) that the last part of the policy wording, concerning hill tracks should include a reference to visual impact. I consider that this is merited not only to reflect the intention of the policy but would also to provide consistency with what is already stated in the Justification section associated with this particular policy.

11. I have carefully considered the other concerns expressed and the suggested alterations put forward in representations with regard to policy E7. Nevertheless I am satisfied that the council has provided adequate justification in arguing that those matters should not form the basis for further amendments to the policy or its Justification. In coming to this conclusion I have had regard to the overall reasoning outlined above. I also note that the special qualities of each of the AGLVs in Moray has not been documented in a form that could be usefully included as a modification in the new plan.

#### Policy E8 Coastal Protection Zone

12. The only representation in this case is simply supporting policy E8 so no changes to the terms or wording of this policy are required.

#### Policy E9 Settlement Boundaries

13. The only representation lodged in respect of this policy seeks its updating so that appropriate development and grid infrastructure, sub-station expansions and other “fitting developments” would not be hindered. The respondent also contends that proposals outwith settlement boundaries should be given due consideration if there is a reasoned case made for expansion beyond the settlement boundary.

14. As the council points out, policy E9 carries forward long-established policy principles from the previous local plan. Most importantly I find that policy E9 quite properly seeks to guide development within towns and villages; prevent ribbon development; and to maintain a clear distinction between the built-up area and the countryside beyond it. This policy has to be read alongside all of the other policies of the development plan that might be relevant to any proposal, together with national planning policy principles set out in the Scottish Planning Policy (SPP), where applicable.

15. On this basis any development proposal coming forward would be considered on its merits through the development management process when a planning application is being assessed prior to its determination. Accordingly, I conclude that there is no need or justification to amend the terms of this particular policy in order to address the matters raised in the representation.

#### Policy E10 Countryside Around Towns

16. The only representation seeks clarification about the interpretation of this policy with regard to small-scale renewable energy proposals. I am satisfied that the council has provided a full and appropriate response, confirming that some proposals of this type could be acceptable in principle in the Countryside Around Towns but also stressing that policy E10 has to be read alongside other relevant policies of the new plan – notably in

this case policies ER1 and IMP1. Based on these considerations I conclude that there is no need or justification to amend the terms of policy E10 in response to the matters raised in this representation.

### Natural Environment General

17. The only other representation lodged concerning the Natural Environment policies of the proposed plan raises a general concern that the plan should be more informative regarding the water environment and its importance. It is suggested that this could be achieved by adding an additional bullet point to the first paragraph of the Natural Environment Section. In response the council acknowledges that this would be beneficial but suggests a simpler form of wording than that put forward in the representation.

18. In principle, I see the merit of adding a reference to address the matters raised in the representation but find that this can be more succinctly and appropriately phrased, along the lines advocated in the response from the council. This is in order for the overall wording of this section to remain in keeping with the style and summary form adopted throughout the proposed plan. I find, however, that whilst the proposed wording put forward by the council is appropriate it fails to make clear that the policy aims also include the protection of trees - in the terms set out in the 4<sup>th</sup> bullet point of the Introduction immediately after the section heading Natural Environment.

19. Accordingly, in order to provide further clarity I conclude that the introductory paragraph of the Natural Environment section of the new plan should read as follows:

“The aims of the policies on the natural environment 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 more generally to safeguard trees during the development process.”

20. I am not, however, persuaded that the full wording and extensive cross-referencing to other Acts and Directives put forward in the representation should be incorporated in the form suggested. This is because that would entail too much detail that is inappropriate in an introductory section and would be out of balance with the remainder of the report in terms of style and content.

### **Reporter’s recommendations:**

Modify the proposed plan in the following terms:

1. Replace the first paragraph of the section of the proposed plan headed Natural Environment, under the sub-heading Introduction with the following text:

*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 more generally to safeguard trees during the development process.”*

[For the avoidance of doubt the remainder of the introductory section – under the heading Context – would remain unaltered.]

2. Revise the wording of policy E6 to read as follows:

*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.*

3. Amend the start of the opening sentence of policy E7 to read: “*Development proposals which would have a significant adverse effect upon ...*” [with the remainder of that sentence continuing as before]

4. Extend the wording of the second bullet (b) of policy E7 by adding the following words: “*– 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*”.

5. Amend the last paragraph of policy E7 to read as follows:

*“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”*

Issue 6	Built Environment Policies	
Development plan reference:	<b>Built Environment Chapter, page 42-47</b> <ul style="list-style-type: none"><li>• <b>BE1 Scheduled Monuments and National Designations, page 43</b></li><li>• <b>BE2 Listed Buildings, page 44</b></li><li>• <b>BE3 Conservation Areas, page 45</b></li><li>• <b>BE5 Battlefields, Gardens and Designed Landscapes, page 47</b></li></ul>	<b>Reporter:</b> Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<b><u>BE1 Scheduled Monuments and National Designations</u></b> Dufftown and District Community Council (0522) Cabrach Community Association (0674) Mrs Jean Oliver (0996) RES UK Ltd (0402) Fred Olsen Renewables Ltd (1047) <b><u>BE2 Listed Buildings</u></b> Scottish Government (0490) West Coast Energy Ltd (0730) <b><u>BE3 Conservation Areas</u></b> Scottish Government (0490) <b><u>BE5 Battlefields, Gardens and Designed Landscapes</u></b> Dufftown and District Community Council (0522) Cabrach Community Association (0674) Mrs Jean Oliver (0996) RES UK Ltd (0402) Fred Olsen Renewables Ltd (1047)		
Provision of the development plan to which the issue relates:	Policies relating to the protection and enhancement of the built environment.	
Planning authority's summary of the representation(s):		
<b><u>BE1 Scheduled Monuments and National Designations</u></b> <u>Dufftown and District Community Council (0522),Cabrach Community Association (0674),</u> <u>Mrs Jean Oliver (0996)</u> Castles should be designated due to their importance for locals and tourism. Because of the area's history (battle sites and castles) an archaeological survey should be carried out. An archaeological evaluation of Tomnamuidh Wood should be carried out because of its proximity to Balvenie Castle.  <u>RES UK Ltd (0402)</u> Policy does not take account of the particular benefits that can be achieved through the development of renewable energy projects.  <u>Fred Olsen Renewables Ltd (1047)</u> Suggest policy is split into two policies to ensure national designations are separate from		

local designations in line with SPP which affords them different levels of protection. The word integrity should be added between “archaeological sites or integrity of their setting” to be consistent with SPP. The policy protecting local designations appears overly protective with its negative stance relative to SPP and considering planning should be a positive process suggest amended wording.

### **BE2 Listed Buildings**

Scottish Government (0490)

Under the statement where demolition of a listed building is being proposed it must be shown that; the SHEP tests are listed A-D. It would make sense for subsection E to be a statement in its own right within the policy as it could be interpreted as a criterion for demolition, which is not the meaning.

West Coast Energy Ltd (0730)

Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of the listed building. This is unreasonably restrictive as many developments would have a detrimental effect on the setting of a listed building but not to a degree that means the development would not be supported. Typically wind developments impact on the setting of a number of listed buildings but are still acceptable as the degree of harm is not excessive.

### **BE3 Conservation Areas**

Scottish Government (0490)

Reference to “outstanding” conservation area: The “Outstanding” classification for conservation areas was previously used to identify those eligible for funding from Scottish Ministers. Following public consultation in 2004, and enactment of the Planning etc (Scotland) Act (2006), there is now no requirement that a conservation area be classified outstanding, and Historic Scotland no longer make use of these.

### **BE5 Battlefields, Gardens and Designed Landscapes**

Dufftown and District Community Council (0522), Cabrach Community Association (0674), Mrs Jean Oliver (0996)

An archaeological investigation of Tomnamuidh Wood should be carried out due to proximity to Balvenie Castle.

RES UK Ltd (0402)

The policy does not take account of the particular benefits that can be achieved through the development of renewable energy projects.

Fred Olsen Renewables Ltd (1047)

Appears overly negative towards development and suggest rephrasing to state that development affecting such areas would be supported provided they meet the criteria presented.

### **Modifications sought by those submitting representations:**

### **BE1 Scheduled Monuments and National Designations**

Dufftown and District Community Council (0522), Cabrach Community Association(0674), Mrs Jean Oliver (0996)

Reference requirement for Tomnamuidh Wood to be subject of an archaeological survey.

**RES UK Ltd (0402)**

Amend wording “Any such adverse impacts are clearly outweighed by social, environmental or economic benefits of national importance or.” Also the word “and” should be replaced by “or” at bullet point b

**Fred Olsen Renewables Ltd(1047)**

Amended wording “ Development proposals affecting sites of local archaeological importance or their setting shall be supported provided they can demonstrate that any significant adverse effects on the underlying cultural heritage value of the asset can be satisfactorily mitigated.”

**BE2 Listed Buildings**

**Scottish Government (0490)**

Subsection E incorporate into policy text rather than be included as a subsection.

**West Coast Energy Ltd (0730)**

Reword “Development proposals will be refused where they would have an unacceptable effect on the character, integrity or setting of the listed building”.

**BE3 Conservation Areas**

**Scottish Government (0490)**

Remove references to “outstanding”.

**BE5 Battlefields, Gardens and Designed Landscapes**

**Dufftown and District Community Council (0522), Cabrach Community Association (0674), Mrs Jean Oliver (0996)**

Reference requirement for Tomnamuidh Wood to be subject of an archaeological survey.

**RES Ltd (0402)**

Amend wording bullet point b) “Any significant adverse affects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.”

**Fred Olsen Renewables Ltd (1047)**

Rephrasing to state that development affecting such areas would be supported provided they meet the criteria presented.

**Summary of responses (including reasons) by planning authority:**

**BE1 Scheduled Monuments and National Designations**

Reference to specific archaeological surveys is not appropriate in the context of this policy.

Archaeological surveys are identified where appropriate when there are proposals for development. The only reference to the need for surveys within the plan is on designated development sites where there are known archaeological remains. The proximity of Tomnamuidh Wood to Balvenie Castle is not justification enough for inclusion within the Local Development Plan as there are no development proposals identified. These comments have been forwarded to the Regional Archaeologist to consider further.

Castles and battlefields of national importance are identified by Historic Scotland. Balvenie Castle is a scheduled monument and there is an identified battlefield of historic

importance in Moray at Glenlivet. The Plan does not include all built and natural heritage interests as it is not possible to include all this information within the settlement text and proposals maps. The Development Management section holds this information which is used in the determination of planning applications.

The policy is aimed at all development that could impact on scheduled monuments and archaeological sites and therefore it is not appropriate or relevant to specifically reference renewable energy proposals in the context of this policy. The distinction between local and national designations within the policy is quite clear and does not require the policy to be split into individual policies. The protection afforded to local designations is appropriate and reflective of the approach taken across other policies within the plan. The proposed amendment would dilute the protection of local designations as the replacement of “and” with “or” significantly changes the policy and would mean that developers would only have to meet one of the criterion as opposed to both.

If the Reporter is so minded the Council would not object to the insertion of the word “integrity” into line 2 of paragraph 3. This would amend it to read “Development proposals which will adversely affect sites of local archaeological importance , or the integrity of their settings will be refused unless it can be demonstrated that;”

### **BE2 Listed Buildings**

The reference to detrimental is considered appropriate and amending it to unacceptable is considered to dilute the policy. The aim of the policy is to protect listed buildings from inappropriate development. This amendment infers that proposals would have to be completely unacceptable to be recommended for refusal. When a proposal is being determined a judgement will have to be made in terms of impact and whether the development is to the detriment of a listed building and/or its setting so as to warrant a recommendation of refusal. This will not always be as clear cut as being deemed unacceptable and the term detrimental gives scope for interpretation. This policy will not be read or considered in isolation. For example a wind farm proposal affecting a Listed Building would be considered against a range of policies including ER1 Renewable Energy Proposals and IMP1 Developer Requirements.

If the Reporter is so minded the Council would not object to subsection e) appearing as a separate statement.

### **BE3 Conservation Areas**

There is no reference to the outstanding classification for conservation areas within the policy or justification text. The reference to the outstanding classification for conservation areas will be deleted from the settlement context text as a non notifiable change.

No modification is proposed.

### **BE5 Battlefields, Gardens and Designed Landscapes**

The policy is not considered to be overly negative and clearly sets out the requirements a developer is expected to meet in order for a proposal to be considered acceptable. Reference to a specific archaeological survey is inappropriate in the context of this policy. Archaeological surveys are identified where appropriate when there are proposals for development. There is only reference to the need for surveys within the plan on designated development sites where there are known archaeological remains. The proximity of Tomnamuidh Wood to Balvenie Castle is not justification enough for inclusion within the Local Development Plan as there are no development proposals identified.

If the Reporter is so minded the Council would not object to the insertion of the word “environmental” into bullet point b) to read “Any significant adverse affects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.”

### **Reporter’s conclusions:**

1. The National Planning Framework (NPF3) and the Scottish Planning Policy (SPP) recognise the value of the historic environment as a key cultural and economic asset. In particular they highlight the contribution made by cultural heritage features to the economy and to cultural identity – and confirm the role that the planning system plays in safeguarding these important assets. This is underlined in the policy principles set out in paragraph 137 of the SPP, which states that “change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset and to ensure that its special characteristics are protected, conserved or enhanced.”

2. More specifically, paragraph 139 of the SPP requires local development plans and supplementary guidance to provide a framework for protecting and where appropriate enhancing all elements of the historic environment. It goes on to refer to planning authorities having regard to information relating to historic environment features in the area when determining planning applications through the Development Management process – particularly when dealing with developments potentially affecting: listed buildings or their settings; conservation areas; scheduled monuments; or other locations where there are national designations of relevance, including battlefields, Gardens and Designed Landscapes. It is in this context that I now turn to consider the unresolved representations concerning the built environment policies of the proposed plan.

#### Policy BE1

3. I note that the representations argue in favour of various adjustments to the wording or scope of this policy – in some cases to seek further descriptions of the historical features to be safeguarded whilst in other cases seeking to differentiate between heritage interests of national and local significance. In general I am not persuaded that it would be appropriate to modify the policy BE1 wording to address the concerns that have been highlighted as I find that the policy is broadly consistent with the national policy principles summarised above and clearly differentiates between national and local designations. Furthermore, I conclude that it would be inappropriate to include more details in the plan document itself as this information is readily available elsewhere and its inclusion would create an imbalance in the scope and format of the plan overall. Similarly, I find insufficient justification for differentiating between renewable energy and other forms of developments. I reach this conclusion on the basis that the plan is to be read as a whole and particular policy principles applying to different forms of development and locations are more appropriately detailed in sector specific policies and settlement statements – for example with reference to policy ER1 in respect of Energy Renewal proposals.

4. Nevertheless, I am persuaded by the argument put forward in one of the representations that the wording of policy BE1 should make reference to “integrity” - in the terms now acknowledged by the council as being appropriate. I conclude that this would be beneficial and appropriate, as it would bring the policy more in line with the wording and intentions of paragraph 145 of the SPP.

Policy BE2 Listed Buildings

5. One representation seeks amendments to the wording or layout of policy BE2 on the basis that it is too restrictive - and suggests that the policy should refer to “unacceptable” effects rather than “detrimental” effects on listed buildings or their settings. I am concerned that the suggested new wording put forward in this case would inappropriately change the policy and its intention. In coming to this conclusion I have had regard to the terms of the Scottish Planning Policy (SPP) on listed building set out in paragraphs 141-142 - including the statement there that “listed buildings should be protected from demolition or other work that would adversely affect it or its setting.” In that context, I am persuaded by the council’s argument that the term “detrimental” used in the policy provides sufficient scope for interpretation, whilst maintaining broad consistency with the policy principles of the SPP.

6. The council has acknowledged the validity of the points raised in the other representation which seeks the policy to be amended to delete subsection e) and instead include its wording as a separate ‘stand-alone’ paragraph (to follow after d)). I am supportive of this proposed amendment as the terms of what is shown as subsection e) in the proposed plan do not apply to demolitions but to all new developments. On this basis I conclude that this should indeed be a separate statement within the policy, instead of being listed under the section of the policy dealing specifically with demolitions. Accordingly, I conclude that the revision to the policy wording layout agreed by the council should be incorporated when the plan is approved.

Policy BE3

7. I note that the only representation is concerned solely with references to ‘Outstanding’ conservation areas. I also note, however, that the policy BE3 wording makes no such references – and the council has undertaken to delete any such references from the settlement context text as “non-notifiable changes” to the plan. On this basis I conclude that any and all such changes necessary to exclude the word “outstanding” from the text of the proposed plan should be made by the council wherever reference is being made to conservation areas.

Policy BE5 Battlefields, Gardens and Designated Landscapes

8. I note that the 3 representations argue in favour of various adjustments to the wording or scope of policy BE5 – in some cases to seek further descriptions whilst in others urging benefits to be highlighted or more positive phrasing of the policy. I find as not compelling almost all of the arguments put forward in support of the possible amendments to the policy wording. Instead I am satisfied that the policy is not overly negative in its phrasing and conclude that it would be inappropriate to include more details in the plan document itself as this information is readily available elsewhere. Furthermore its inclusion would create an imbalance in the scope and format of the plan overall. In summary, I conclude that the policy wording in the proposed plan is already broadly consistent with the relevant sections of the Scottish Planning Policy (SPP) – including paragraphs 147 and 148.

9. The only change to the policy wording that I find appropriate is the one already accepted by the council – in particular to insert the word “environmental” into bullet point b) of policy BE5 in the terms suggested.

**Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. Amend the wording of paragraph 2 of policy BE1 to now read:  
 "Development proposals which will adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless it can be demonstrated that: ..."  
 [The bullet points and text thereafter would remain unaltered]
2. Amend the bullet points listed at the end of paragraph 4 of policy BE2, by deleting subsection e) – and provide a new paragraph comprising the wording shown as e) in the proposed plan to be inserted below paragraph 4 – prior to the paragraph that starts "Buildings which are allowed ...".
3. Insert the word "environmental" into bullet point b) of policy BE5 to now read "Any significant adverse affects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits."
4. Wherever reference is being made to conservation areas, remove any examples of the prefix "outstanding" from the text of the proposed plan, including in the settlement statements – so that all are simply referred to as "conservation areas".

Issue 7	Environmental Protection Policies	
Development plan reference:	<p>Environmental Protection Chapter, page 48-56</p> <ul style="list-style-type: none"><li>• EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS), page 51</li><li>• EP6 Waterbodies, page 52</li><li>• EP7 Control of Development in Flood Risk Areas, page 53</li><li>• EP9 Contaminated Land, page 54</li><li>• EP10 Foul Drainage, page 55</li><li>• EP13 Ministry of Defence Safeguarding, page 56</li></ul>	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)</u></b> CJ and CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>EP6 Waterbodies</u></b> CJ and CRH Dunbar (Pitgaveny) (0908) Scottish Environment Protection Agency (0569)</p> <p><b><u>EP7 Control of Development in Flood Risk Areas</u></b> CJ and CRH Dunbar (Pitgaveny) (0908) Network Rail Infrastructure Limited (1041) Royal Society for the Protection of Birds Scotland (0285) Elgin Community Council (0122) Elgin South Area Forum (0194)</p> <p><b><u>EP9 Contaminated Land</u></b> CJ and CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>EP10 Foul Drainage</u></b> CJ and CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>EP13 Ministry of Defence Safeguarding</u></b> Fred Olsen Renewables Ltd (1047)</p>		
Provision of the development plan to which the issue relates:	Policies seeking to avoid adverse impacts on the environment by taking into account the water environment, flood risk, contamination and drainage.	
Planning authority's summary of the representation(s):		
<p><b><u>EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)</u></b> CJ and CRH Dunbar (Pitgaveny) (0908)</p> <p>Policy states that “all sites should be drained by a sustainable drainage system” but then omits any requirements for developments of less than 10 houses to contain details of such a system. Important to state what is meant by development of such sites and to require the submission of a defined level of information to ensure that such drainage systems are implemented across all sites as intended.</p> <p>Paragraph 1 should be reworded to clarify which drainage systems are to be installed on all sites, and then to list the various purposes required of the drainage systems.</p>		

Paragraph 3 indicates that maintenance for SUDS must be to the satisfaction of the Council, SEPA and Scottish Water. The policy should be amended to recognise that not all three organisations necessarily have interest in any/all SUDS aspects.

The term Drainage Impact Assessment is used in paragraph 4, there is some disparity in the use of this term as Scottish Water uses the term to describe a slightly different process. This could cause confusion between Drainage Impact Assessment and Drainage Assessment, suggest rewording.

### **EP6 Waterbodies**

#### **CJ and CRH Dunbar (Pitgaveny) (0908)**

Paragraph 2 states the Council operate a presumption against culverting of watercourses. SEPA are the competent authority in this regard and the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) provide appropriate means by which activities impacting on the water environment are controlled, permitted and protected.

Clarify requirement for appropriate buffer strips to be retained around all water features. Unclear whether this is meant to apply to water features designed into new development, including SUDS and helpful if an indication of what an appropriate sized buffer strip is given.

#### **Scottish Environment Protection Agency(0569)**

Strengthen first sentence to state “Proposals must be designed to avoid adverse impacts upon the water environment and should seek opportunities for restoration.” Recommend a minimum size buffer strip is stated in line with SEPA’s guidance and of other local planning authorities suggest 6 metres.

### **EP7 Control of Development in Flood Risk Areas**

#### **CJ and CRH Dunbar (Pitgaveny)(0 908)**

Error in text, word civic should have been used in place of civil.

Essential civic/civil infrastructure could include below ground power lines, telecommunications, gas supplies and/or roads and highways etc. Such infrastructure need not be refused because of flood risk where there is no effect on the infrastructure itself or on flood risk. In the event the term is meant to reflect infrastructure such as schools, fire stations can accept policy. Some clarification sought.

#### **Network Rail Infrastructure Limited (1041)**

Policy should be clarified by being more explicit about the circumstances where exceptions will be made for essential civil infrastructure. The use of the term essential infrastructure already implies that this is in fact essential life line infrastructure for public health, wellbeing and safety so why wouldn't it be supported by LDP policy.

The criteria for exceptions should be the functional and operational requirements of providers of existing linear land-based infrastructure.

#### **Royal Society for the Protection of Birds Scotland (0288)**

Support this comment and wish to see it rigorously enforced in development management decisions.

#### **Elgin Community Council (0194), Elgin South Area Forum(0122)**

Some sites are demarcated or protected against flooding or land slip by existing features such as retaining walls, fences, drainage and topography that are not in joint ownership.

Essential elements for protection should be identified and recorded against the relevant designations with a requirement to afford suitable access for future maintenance stated within the plan.

### **EP9 Contaminated Land**

CJ and CRH Dunbar (Pitgaveny) (0908)

On-site treatment of contaminated or hazardous material is widely accepted as a sustainable solution to the treatment of contaminated land. Suggest this is included into the policy as an alternative to excavation and removal of materials.

### **EP10 Foul Drainage**

CJ and CRH Dunbar (Pitgaveny) (0908)

Amend wording.

### **EP13 Ministry of Defence Safeguarding**

Fred Olsen Renewables Ltd (1047)

Unclear what policy is enforcing or requiring. Request clarification or reinstate as guidance rather than policy as appropriate. Areas to which this policy applies should be shown on the proposals map

## **Modifications sought by those submitting representations:**

### **EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

CJ and CRH Dunbar (Pitgaveny) (0908)

Amend paragraph 1 “Surface water from development should be dealt with in a sustainable manner that either has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing blue and green networks while contributing to placemaking, biodiversity, recreational, flood risk and climate change objectives”.

Amend paragraph 3 “Applicants must agree provisions for the long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.”

Amend paragraph 4 to delete the word “impact” so it reads as a drainage assessment.

### **EP6 Waterbodies**

CJ and CRH Dunbar (Pitgaveny) (0908)

Paragraph 2 remove the sentence that states “The Council operates a presumption against culverting of watercourses and any unnecessary engineering works in the water environment”.

Wording should be amended to clarify what is intended to constitute an appropriate buffer strip to be retained around all water features. The wording should also state the following “The designation of an appropriate buffer strip should emerge through the masterplanning process with guidance from the Council” instead of a prescriptive requirement. The wording of the policy should also clarify whether the water features referred to in paragraph 3 are existing water features in the natural environment or whether these extend to include water features that are designed into new developments.

**Scottish Environment Protection Agency 0569**

Amend 1<sup>st</sup> sentence "Proposals must be designed to avoid adverse impacts upon the water environment and should seek opportunities for restoration".

Recommend that the minimum size of the buffer strip is stated in line with our own guidance and of other local authorities, suggest 6 metres.

**EP7 Control of Development in Flood Risk Areas**

CJ and CRH Dunbar (Pitgaveny) (0908)

The policy should state that other forms of infrastructure may be acceptable in Flood Risk Areas including power lines, telecommunications, gas supplies and/or roads/highways. Wording for 2<sup>nd</sup> bullet point of paragraph c) should be amended to include the text "essential civic infrastructure such as schools, public and municipal buildings will generally not be permitted.

Network Rail Infrastructure Limited (1041)

Amended wording or similar "Exceptions will be made if the development is essential for operational reasons and/or where the development has significant community benefits and/or maintains a strategic connected network."

Royal Society for the Protection of Birds Scotland (0288)

Supportive comment.

Elgin Community Council (0194) Elgin South Area Forum (0122)

Implies that the Local Development Plan should identify flood and land slip protection measures within designations and a requirement to afford suitable access for future maintenance.

**EP9 Contaminated Land**

CJ and CRH Dunbar (Pitgaveny) (0908)

At paragraph b) insert the words "and/or treatment" after the word disposal.

**EP10 Foul Drainage**

CJ and CRH Dunbar (Pitgaveny) (0908)

In paragraph 1 insert words "or the developer can satisfy the Scottish Water 5 key tests for the funding of part 4 works to allow such funding to be made available by Scottish Water" after the word "Programme".

**EP13 Ministry of Defence Safeguarding**

Fred Olsen Renewables Ltd (1047)

Clarification of intent and coverage of policy sought.

**Summary of responses (including reasons) by planning authority:**

**EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

The policy states that all sites must be drained by a sustainable drainage system (SUDS) not just those of a certain scale. The threshold of 10 or more houses and non residential properties of 500 sq m and above relates to the requirement to provide a drainage impact assessment. It is difficult to set out the level of drainage treatment that will be required as this will differ dependent upon the scale of development, location, type of use and ground conditions. On this basis the policy is relatively broad and does not set out prescriptive solutions for developers. This policy has been prepared in consultation with the Scottish

Environment Protection Agency and the presumption against culverting and unnecessary engineering works is intended to advise developers at the outset that this will not be acceptable.

If the Reporter is so minded the Council would not object to the inclusion of the suggested policy wording as set out above.

#### **EP6 Waterbodies**

The proposed amended text is not accepted as not all sites will be subject to the masterplanning process. The Scottish Environment Protection Agency has provided clarification on the size of buffer strip required on a number of identified sites based on their guidance. Accordingly, additional text seeking a 6 m buffer strip for identified sites has been suggested to the Reporter within the Schedule 4 for the individual settlements. The reference to culverting is to make it clear at the outset that this will not be acceptable albeit regulated by the Scottish Environment Protection Agency.

For clarity additional text will be added to the justification section of the policy setting out what constitutes a water feature. "Water features include waterbodies, ponds and existing sustainable drainage systems (SUDS) both natural and man-made".

If the reporter is so minded the Council would not object to the suggested wording strengthening the first sentence "Proposals must be designed to avoid adverse impacts upon the water environment and should seek opportunities for restoration".

Furthermore the Council would not object to the inclusion of reference to the size of buffer required and the following text should replace the first sentence of paragraph 3 "A buffer strip of at least 6m between development and all water features is required".

#### **EP7 Control of Development in Flood Risk Areas**

Support for the policy and its rigorous implementation is noted. The modifications sought in terms of identifying essential elements of protection from flooding and land slip are not considered appropriate for inclusion within the Local Development Plan. Burdens on land are a legal issue and not a planning matter.

Civil infrastructure is the intended terminology. There does appear to be confusion surrounding the phrase civil infrastructure and what types of development this may relate to. The policy as currently worded references hospitals, schools and depots however there is no reference to transport or utilities infrastructure. Scottish Planning Policy (CD01 para 263) provides clarification within a glossary of terms that sets out the definition of civic infrastructure which does relate to residential institutions, school and hospitals and essential infrastructure which relates to essential transport and utilities infrastructure.

The current policy is reflective of the flood risk framework as set out in Scottish Planning Policy (CD01 para 263) but is not as extensive in coverage of some aspects of medium and high risk. Importantly, Scottish Planning Policy sets out limitations within medium to high risk flood areas and makes a clear distinction between civil and essential infrastructure. Essential infrastructure may be considered suitable in medium to high risk flood areas on the basis that it can be designed and constructed to remain operational during floods and not impede water flow, while civil infrastructure is not. This distinction is not currently reflected in EP7 of the Proposed Plan. If the Reporter is so minded the Council would not object to the insertion of the wording below and it is considered that

this would adequately deal with the representations from CJ and CRH Dunbar (Pitgaveny) and Network Rail Infrastructure Limited.

Insert into b) low to medium risk category

“A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Generally not suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flood events.”

Insert into c) medium to high risk category

“May be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation, e.g. for caretakers or operational staff.

Generally not suitable for:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and an alternative, lower risk location is not available and
- New caravan camping sites.
- Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome.
- Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

If the Reporter is so minded the Council would not object to the inclusion of the definitions as set out in Scottish Planning Policy for essential infrastructure, most vulnerable uses and civil infrastructure to be provided in the justification section accompanying the policy.

### **EP9 Contaminated Land**

If the Reporter is so minded the Council would not object to the insertion of wording suggested by CJ and CRH Dunbar (Pitgaveny) at paragraph b) insert the words “and/or treatment” after the word disposal.

### **EP10 Foul Drainage**

The proposed amendment to the policy is not considered to adequately reflect the current situation with regards to Scottish Water investment. Scottish Water and the Scottish Environment Protection Agency are both satisfied with the wording and content of the

policy as it stands.

No modification is proposed.

### **EP13 Ministry of Defence Safeguarding**

The purpose of the policy is to safeguard MOD operations at the Lossiemouth and Kinloss bases. Due to the range of proposals that could be subject to consultation it is difficult to explicitly state what is required of an applicant as this will be dependent upon the type of proposal and its location in relation to the MOD bases. Moray Council holds information relating to the consultation zones and developers can make early contact to discuss the implications of the consultation zone on a specific proposal. The consultation zones are already denoted on the proposals map.

No modification is proposed.

### **Reporter's conclusions:**

#### **Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

1. In the representations a number of concerns are raised with the policy EP5 wording – including regarding the lack of details on requirements applicable to smaller developments. It also seeks other detailed changes to more properly reflect what is intended and to be factually accurate.

2. I note that the wording in the proposed plan does specify at the outset of policy EP5 that all sites (of whatever size) should be covered by a sustainable drainage system. I can see the justification for the policy being intentionally broadly phrased rather than seeking to be prescriptive for all situations - which will vary considerably depending on scale, type, location and ground conditions. I am also satisfied that the stated threshold (of 10 or more houses and non residential properties of 500sq metres and above) is appropriate for requiring Drainage Assessments – having had regard to the case put forward in support of this by the council and the terms of the Scottish Planning Policy (SPP), for example in paragraph 267.

3. Nevertheless, I find that the other points of concern highlighted in the representation are valid criticisms of the policy wording. Furthermore, I note that this has been implicitly acknowledged by the council in agreeing to a number of changes suggested in the representation. I am persuaded by the reasoning put forward for such changes and so conclude that it would be appropriate to make a number of amendments to the wording of policy EP5, as detailed in my recommendations. These include a re-drafting the opening paragraph of the policy – to include the principles of avoiding pollution and promoting habitat enhancement and amenity when dealing with surface water - as well as more limited but important changes to paragraphs 3 and 4. I conclude that in all cases the recommended changes are necessary for the purposes of aiding clarity and improving factual accuracy.

#### **Policy EP6: Waterbodies**

4. The two representations see changes to the wording of this policy in response to their concerns about the scope and detailed terms of the policy. The first concern relates to the policy statement regarding the council's "presumption against the culverting of watercourses and any unnecessary engineering works in the water environment." As the

objector points out, these matters are regulated on the basis of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) for which the Scottish Environment Protection Agency (SEPA) is the competent authority, not through the council as the planning authority. Indeed I note that this is acknowledged by the council.

5. Prior to reaching any conclusions on the matter I have also had regard to the terms of the Scottish Planning Policy (SPP), in a section headed Managing Flood Risk and Drainage. This sets out a number of policy principles for the planning system based on a precautionary approach to flood risk management, flood plains, water storage and surface water drainage issues – as well as setting down a framework for considering developments in land areas falling within particular different flood risk categories. The SPP then sets out in paragraph 264 under Development Management a number of considerations to be taken into account in applying the risk framework – and these include, amongst many other matters, reference to culverted watercourses drains and field drainage.

6. In this context, I conclude that it is reasonable for the council to indicate in policy EP6 its presumption against the culverting of watercourses. Nevertheless, I see insufficient justification for that particular section of the policy wording to continue with the phrase “... and any unnecessary engineering works in the water environment.” I conclude that such engineering matters are more appropriately assessed by SEPA as the regulatory authority.

7. The concept of a buffer strip around water features has been considered, where appropriate, elsewhere in this plan in association with particular land use designations made within and around particular settlements. For consistency, I conclude that the suggested amendment to the policy text wording – put forward by the Scottish Environment Protection Agency (SEPA) and now endorsed by the council - should be incorporated in policy EP6. In summary I conclude that this requires a change to the opening sentence of the third paragraph of the policy to read: “A buffer strip of at least 6m between any new development and all water features is required.” Finally I endorse the changes agreed by the council to the opening sentence of the policy and to the Justification section – on the basis that these would aid clarity and underline the overall principles and intentions of the policy. I note that this standard form of wording is also being applied where appropriate to specific proposals or allocations in the proposed plan.

#### Policy EP7: Control of Development of Flood Risk Areas

8. A number of representations seek amendments to the detailed wording and scope of this policy. In response, the council has provided clarification with regard to each of the matters of concern raised. In particular I find that the council has properly drawn attention to certain topics – notably specific matters relating to protection from flooding, land slip and legal burdens – that fall outwith the scope of the new plan and this Examination. The council has also acknowledged that whilst the policy’s reference to civil rather than civic infrastructure is intentional, the wording in the policy text regarding the scope of the terms used has not been as clear as that given in the Scottish Planning Policy (SPP) in paragraph 263. There distinct reference is made to the differences between the terms ‘essential infrastructure’, ‘civil infrastructure’ and ‘most vulnerable uses’ - and to the circumstances where each of these terms is being used in relation to different levels of flood risk.

9. In my view it is important to ensure consistency with national policy on these matters

– and to avoid potential confusion or misunderstandings for intending developers. Accordingly, I conclude that the council is correct in now proposing to change the wording of policy EP7 to correspond more closely to that of the SPP, in particular with reference to the specific categories of flood risk and associated policy criteria, as set out in paragraph 263 of the SPP. For completeness, given the new wording now being incorporated in the revised policy wording, I also conclude that it would be appropriate for the Justification section associated with policy EP7 to be extended to include the meanings of the terms ‘essential infrastructure’, ‘civil infrastructure’ and ‘most vulnerable uses’ - as defined in the SPP glossary of terms.

#### Policy EP9: Contaminated Land

10. A representation seeks a minor adjustment to the policy wording. This is intended to reflect the fact that there is a general acceptance that on-site treatment of contaminated or hazardous material in some cases can be a sustainable alternative to excavation and removal of materials. I find this argument persuasive and note that there is no disagreement from the council on this matter. Accordingly I conclude that it would be logical and appropriate to insert the words ‘and/or treatment’ after the word ‘disposal’ in the sub-section headed b).

#### Policy EP10: Foul Drainage

11. A representation puts forward changes for paragraph 1 of policy EP10 - intended to set out specific funding requirements of Scottish Water relating to particular criteria. In summary, I find those suggested amendments neither necessary nor logical – as well as being out of keeping with the format of this and other policies set out in the plan. Indeed I note that the wording of policy EP10 in the proposed plan has already been agreed by both Scottish Water and the Scottish Environment Protection Agency (SEPA). Based on all of these considerations I conclude that there is no need or justification to amend the terms of the policy wording.

#### Policy EP13 Ministry of Defence Safeguarding

12. A representation argues that the terms and intentions of this policy are unclear – particularly with regard to what matters are being required or enforced and in what specific geographical areas it applies. It is suggested by the objector that the policy either requires clarification or should instead be expressed as guidance rather than as a policy.

13. I do not find the arguments put forward in support of the representation persuasive as the basis for either amending its terms or for deleting it in favour of a general guidance statement to be provided in its place. Instead I find that the policy is clearly aimed at safeguarding the Ministry of Defence (MOD) operations at the established Lossiemouth and Kinloss bases. I note that the relevant consultations zones are shown on the Proposals Map.

14. In this context the council has provided a helpful explanation as to why it is difficult to be prescriptive about particular requirements when the list of potential development proposals that might come forward for consideration is wide-ranging. Furthermore, I find that this spectrum of possible future uses would require different forms of built development - and in combination these would be likely to have varying implications for assessment through the Development Management process prior to any planning application being determined. On this basis I conclude that each proposal would need to

be considered on its particular merits and assessed against the terms of policy EP13, as well as having regard to all other relevant policies of the plan as a whole. In summary, I conclude that an insufficient case has been made for amending the terms of the policy in response to the concerns expressed in the representation.

### **Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. Amend policy EP5 by:

- A re-wording as follows of paragraph 1: "Surface water from development should be dealt with in a sustainable manner that either has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing blue and green networks while contributing to placemaking, biodiversity, recreational, flood risk and climate change objectives".
- A modification of paragraph 3 to read: "Applicants must agree provisions for the long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate."
- In paragraph 4 to delete the word "impact" so the opening words would read: "A Drainage Assessment (DA) will be required ..."

2. Amend policy EP6 in the following terms:

- A modification of the first sentence of the policy to now read: "Proposals must be designed to avoid adverse impacts upon the water environment and should seek opportunities for restoration."
- A modification to the first sentence of paragraph 3 to now read: "A buffer strip of at least 6m between any new development and all water features is required."
- In the Justification section associated with this policy add the words: "Water features include water-bodies, ponds and existing sustainable drainage systems (SUDS) both natural and man-made."

3. Amend policy EP7 in the following terms:

- At the end of the first paragraph add the phrase "as defined in Scottish Planning policy."
- under the sub-heading b) replace the wording in the proposed plan with the following:

"b) Areas of low to medium risk (0.1 to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential infrastructure and most

vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flood events.”

- Under the sub-heading c) replace the wording in the proposed plan with the following:

“Areas of medium to high risk (0.5% or above) may be suitable for:

- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
- Job related accommodation, e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

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

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.”

3. Extend the Justification section associated with policy EP7 to include the meanings of the terms ‘essential infrastructure’, ‘civil infrastructure’ and ‘most vulnerable uses’ [as defined in the SPP glossary of terms].

4. Amend the wording of sub-section b) of policy EP9 by inserting the words ‘and/or treatment’ after the word ‘disposal’.

Issue 8a	Renewable Energy Proposals	
Development plan reference:	Policy ER1 Renewable Energy Proposals, page 58-59	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>ER1 Renewable Energy Proposals</u></b> Highland Council (0093) Mountaineering Council Of Scotland (0207) John Scott (0370) RES UK Ltd (0402) Scottish Environment Protection Agency (0569) West Coast Energy Ltd (0730) Force 9 Energy (0886) Speyside Business Alliance (0997) Dorenell Ltd (1044) Fred Olsen Renewables Ltd (1047)</p>		
Provision of the development plan to which the issue relates:	Policy ER1 sets out the framework for considering all renewable energy proposals, with specific references to onshore wind and biomass proposals.	
Planning authority's summary of the representation(s):		
<p><b><u>ER1 Renewable Energy Proposals</u></b> <b><u>Scottish Planning Policy/Spatial Framework</u></b> <u>Dorenell Ltd (1044)</u> Policy is inconsistent with the requirements of Scottish Planning Policy and draft revised SPP. Policy ER1 requires significant modification. Structure of policy is confusing, would be more logical to place the section relating to all renewable energy proposals at the start of the policy and then address specific issues relevant to individual renewable energy technologies.</p> <p>Lack of overall support for the deployment of renewable energy technologies of all types and scales is inconsistent with paragraph 184 of the SPP. In relation to the 4 assessment criteria relating to "all renewable energy proposals", the wording "they are compatible with...." within criterions 'a' and 'c' and the wording "tourism/recreational interest and facilities" within 'c' is unclear and requires clarification.</p> <p>Wording "unacceptable impact in terms of visual appearance" within 'd' is highly subjective and therefore requires modification. Approach taken to onshore wind energy is inappropriate, merely redirecting the reader to The Spatial Framework, Capacity Study and Policy Guidance. Flawed as Guidance was originally written to support five specific assessment criteria related to environmental impacts within the adopted Plan.</p> <p>Purpose of Guidance cannot be to set out policy criteria, but as currently worded the onshore section of ER1 attaches significant weight to this document and does not provide any other assessment criteria. Only limited weight should be afforded to the Guidance within ER1 as it does not form part of this LDP and has not been subject to formal</p>		

examination process. Policy does not provide sufficient clarity on the issues that will be taken into account, as required by para 184 of SPP. SPP requires planning authorities to support delivery of wind farms in locations where the technology can operate efficiently and where environmental and cumulative impacts can be satisfactorily addressed.

Wind energy spatial framework within the Plan is identical to the wind energy spatial framework contained within the non-statutory Moray Wind Energy policy Guidance (2013). Considers the methodology to contain flaws and it is inappropriate to copy the spatial framework directly without undertaking a process of review. Guidance recognises this on page 12, "this approach provides greater clarity for developers and communities as to the real opportunities and constraints for further wind turbines development in Moray."

Considers that additional buffers have been added in relation to AGLV's, which have not been reviewed in recent years, Landscape Capacity Study, Countryside Around Towns, buffers around settlements and residential properties and access routes.

Reliance placed upon the Landscape Capacity Study is inappropriate, it was subject to no or limited public consultation, attributes the sensitivity of the landscape character type encompassing the consented Dorenell Wind Farm site to large scale wind turbines as High-Medium. Together with the site's AGLV designation, this means that part of the Dorenell site is categorised as an "area with potential constraints". However, the Dorenell Wind Farm Public Local Inquiry Report stated that the landscape has only medium sensitivity to large scale wind farm development.

Treatment of AGLV's within the spatial framework is inconsistent. Unclear what level of sensitivity has been placed on AGLV's. National planning policy makes it clear that local landscape designations should not necessarily be considered as a significant development constraint. The absence of a review of local landscape designations undermines the AGLV's credibility. Note that the Landscape Capacity Study has not sought to define the specific qualities of the AGLV's.

#### Force 9 Energy (0886)

ER1 does not meet national policy requirements, policy does not support windfarms, either within or outwith areas of search. Only considered favourably where within an Area of Search and meet the requirements of the Moray Wind Energy Policy Guidance and Landscape Capacity Study. Together they set out a negative stance towards windfarms which makes the policy negative and unsupportive of wider government policy objectives, including generation of 100% of Scotland's electricity by renewable means by 2020.

Policy does not set out clear criteria against which development will be assessed.

#### West Coast Energy Ltd (0730)

Note its brevity and referral to the 2013 Guidance and associated landscape capacity study. While have some issues with the adopted Guidance, welcome the Onshore wind turbines part of this policy.

#### RES UK Ltd (0402)

Suggest policy should read "Proposals for onshore wind turbines will be considered favourably where they are located within an Area of Search and where they meet the requirements of other material considerations, including relevant non-statutory planning guidance." Policy ER1 will be superseded when the Moray Local Development Plan is

adopted and the Moray Wind Energy Policy Guidance 2013 will then no longer be linked directly to current, adopted local development plan policy. This policy guidance will then require to be updated to reflect the updated LDP policy. More appropriate to cite these planning guidance documents as relevant material considerations here.

**Fred Olsen Renewables Ltd (1047)**

Concerned about the manner in which this policy is presented and the methodologies used to arrive at areas of search, as neither are consistent with current SPP. Both documents are described as guidance and as material considerations and should be treated as such. Therefore inappropriate to rely on these to provide the principal policy tests presented in the Plan.

Policy fails to meet the requirements of SPP which puts forward the criteria by which wind energy proposals should be assessed. Guidance and policy should be revisited and a framework entirely consistent with the requirements of the SPP should be provided.

Support that areas of search which have the greatest scope for supporting wind farm developments have been identified in the spatial strategy. Query why areas where existing wind farms such as Rothes and Paul's Hill have not been included as areas of search considering the viability for wind energy in these areas.

Para 187 of SPP refers to "extensions" to existing wind farms. There is no further identification of "areas requiring significant protection" or areas with potential constraint", para 189 SPP. Particular concern that the landscape capacity study has been used to inform the spatial framework and identify areas unsuitable for wind farms. Online advice states "it would be inappropriate to restrict areas of search on the basis of a perceived sensitivity to wind farm developments in locally significant non-designated natural heritage areas."

**Speyside Business Alliance (0997)**

Spatial guidance focussing on the precise definition and justification for areas to be afforded absolute protection from the significant effects of renewable energy proposals. A robust and detailed criteria based renewable energy and wind energy policy to be applied to projects outwith those protected areas, that is comprehensive, clear and sufficiently precise, with clear thresholds of acceptability and clear guidance on how the policy will actually be operated in practice.

**Consented and operational wind turbines**

**RES UK Ltd (0402)**

Considers the spatial framework identifying the 'Areas of Search' to be out of date because it does not take account of consented and operational wind farms, and therefore does not provide a suitable marker for the assessment of the suitability of future wind farms. For example, the operational Hill of Towie Wind Farm is located within an area partly identified as being suitable for medium typology wind turbine development (50-80 m in height). The consented wind turbines in situ at Hill of Towie are 100m in height to blade tip. The information being used is out of date, misleading and incorrect and cannot be used as a robust assessment tool by either a prospective applicant or by Moray Council.

**Typologies**

**RES UK Ltd (0402)**

The 'Areas of Search' information embedded in the Moray Wind Energy Policy Guidance is not fit for purpose in the context of a revised Local Development Plan. The reliance

should not just be on height, it should be scale, design and topography. Criteria d) should be reworded to reflect the role of EIA in assessing significant impacts.

Fred Olsen Renewables Ltd (1047)

No breakdowns have been given for developments below or above 20MW in generating capacity as set out in SPP para 189. Policy should be dictated by capacity not height.

**Environmental benefits**

Speyside Business Alliance (0997)

The key issues flowing from the wider Scottish experience should be reflected. The Scottish Government has not produced any evidence to show actual environmental benefit from renewable energy. Lack of verifiable evidence of actual effects will clearly influence the weight the Council places on the benefit side of the scales when developing LDP policy. An up to date and properly presented policy would be significantly more difficult for rogue decisions. It is difficult to avoid rogue decisions, but in the case of Dorenell, had the evidence base and spg been fully up to date and properly presented, it would have been significantly more difficult for the Reporter to reach the recommendation he did.

Current operational protocol of Scottish natural Heritage (SNH) only allows use of the word “object” where there is an identifiable national level natural heritage interest. Policies that are much more precise in their wording, including clear guidance on how the specified criteria are to be applied, with clearly defined thresholds of acceptability would minimise the chances of such inconsistent outcomes. Where Councils recognised the need for specific landscape capacity assessments and related policy guidance, robust decision making frameworks have resulted leading to clear and consistent basis for dealing with these applications.

**Cumulative impact**

Speyside Business Alliance (0997)

Emerging consensus of opinion on cumulative impact is that traditional approaches are limited and that the starting point has to be an independent assessment of landscape capacity directed at groups of applications. Maps are confusing, lack reference to policy and Core Areas of Wild Land mapping. Council should map existing and consented projects. Wish to supplement response after SPP is published. Mapping should define no go areas.

**Liaison between authorities**

Highland Council (0093)

There is a need for consultation between our two Planning Authorities for some proposals which lie close to our joint boundary, which is being carried out in practice.

Highland Council has previously made comments on The Moray Onshore Wind Energy Policy

Guidance 2013 and has no further comments to make on this policy. The Highland Council anticipates that the new Scottish Planning Policy, when finalised in June, will trigger a need for a review of Interim Supplementary Guidance and Moray Council will have an interest in that. Presume that Moray Council will likewise revisit their guidance and The Highland Council will welcome opportunity to comment on any revised guidance.

**John Scott (0370)**

Consider that the development activity in the Moray Firth and North Sea probably require some kind of liaison between planners in the local authorities bordering the Firth.

**Biodiversity**

**Scottish Environment Protection Agency (0569)**

Support inclusion of this policy and the requirements for proposals to detail proposed energy use, local heat users and connectivity of both heat users and electricity networks. Under d) recommend mention disturbance of carbon rich soils and habitats. Also recommend consider proposals could be considered favourable where habitats can potentially be restored e.g. Non native forestry plantation on peatbog removed.

**Cabrach area**

**Mountaineering Council of Scotland (0207)**

Support inclusion of the wind farm locational guidance in LDP. Any wind farm consent in Cabrach area will damage the local landscape and further degrade the setting of the National Park, already damaged by the consented Dorenell wind farm.

**Modifications sought by those submitting representations:**

**ER1 Renewable Energy Proposals**

**Scottish Planning Policy/ Spatial Framework**

**Dorenell Ltd (1044)**

Move section on "all renewable energy technologies" to start of policy. Should also support deployment of renewable energy developments of all types and scales.

Delete 'c' or substantially modify to define what is meant by "tourism/recreational interest and facilities." If 'c' is retained, recommend insert "they will not have a significant adverse impact upon key tourism receptors including recognised tourist routes and visitor attractions."

Modify "unacceptable impact" in 'd' to improve clarity. Wording "visual appearance" within 'd' should be modified to "visual impact" to enhance policy's objectivity.

Modify section of ER1 relating to onshore wind to list clear assessment criteria in line with national policy.

Spatial framework should be prepared afresh or substantially modified to address the concerns, take account of methodology within national policy and recent planning decisions.

**Force 9 Energy (0886)**

Policy should set out clear criteria against which development will be assessed.

**West Coast Energy Ltd (0730)**

Support noted.

**RES UK Ltd (0402)**

More appropriate if this policy read "Proposals for onshore wind turbines will be considered favourably where they are located within an Area of Search and where they meet the requirements of other material considerations, including relevant non-statutory planning guidance."

Reword d) They do not result in an unacceptable impact in terms of visual appearance, landscape character, noise, electro-magnetic disturbance, water course engineering, peat land hydrological impacts, pollution, traffic generation or damage to the local ecology. Where an application is accompanied by an Environmental Statement then such potential impacts will be assessed through this documentation and any relevant potential significant adverse effects will be addressed as part of the Environmental Impact Assessment process."

Fred Olsen Renewables Ltd (1047)

Guidance and policy should be revisited and a framework entirely consistent with the requirements of the SPP should be provided.

Speyside Business Alliance (0997)

Implies that a robust and detailed criteria based renewable energy and wind energy policy should be applied to projects outwith those protected areas, that is comprehensive, clear and sufficiently precise, with clear thresholds of acceptability and clear guidance on how the policy will actually be operated in practice.

**Consented and operational wind farms**

RES UK Ltd (0402)

Implies that the spatial framework should be updated to take account of consented, operational wind farms.

**Typologies**

RES UK Ltd (0402)

Implies that the typologies should not just be based on height, but scale, design and topography. Criteria d) should be reworded to reflect the role of EIA in assessing significant impacts.

Fred Olsen Renewables Ltd (1047)

Implies policy should provide breakdowns for developments below or above 20MW in generating capacity as set out in SPP para 189. Policy should be dictated by capacity not height.

**Environmental benefits**

Speyside Business Alliance (0997)

An up to date and properly presented policy is required.

Policies should be much more precise in their wording, including clear guidance on how the specified criteria are to be applied, with clearly defined thresholds of acceptability.

**Cumulative impact**

Speyside Business Alliance (0997)

Starting point for cumulative assessment has to be an independent assessment of landscape capacity directed at groups of applications. Maps should be clearer, referenced to policy and Core Areas of Wild Land mapping. Council should map existing and consented projects.

**Liaison between authorities**

Highland Council (0093)

Presume that Moray Council will revisit their guidance and The Highland Council will welcome opportunity to comment on any revised guidance.

**John Scott (0370)**

Require some kind of liaison between planners in the local authorities bordering the Firth.

**Biodiversity****Scottish Environment Protection Agency (0569)**

Under d) recommend mention disturbance of carbon rich soils and habitats. Also recommend that proposals could be considered favourable where habitats can potentially be restored e.g. Non native forestry plantation on peatbog removed.

**Cabrach area****Mountaineering Council of Scotland (0207)**

Insert the word "extremely" in the text on the map for Medium scale wind turbines, i.e. "10b Open Uplands with settled glens. Scope to accommodate further large scale typologies in this character type is limited, extremely largely due to the cumulative effects....."

**Summary of responses (including reasons) by planning authority:****ER1 Renewable Energy Proposals****Scottish Planning Policy/Spatial Framework**

The Council considers it has an up to date and robust policy framework which is being applied consistently and supported through expert advice at development management stage. The Council's Policy Guidance was shortlisted for award by the Royal Town Planning Institute Scotland judges in 2013 and has been referred to as best practice by Scottish Natural Heritage.

The policy and Guidance are based upon the principle of directing the right scale of wind turbine to the right location and recognising that the correct level of detail is required to provide certainty to developers and local communities.

The Moray Council was one of the first local authorities to prepare a spatial framework for wind farms and has planned positively for onshore wind turbines, as evidenced with the consent of large scale wind farms such as Cairn Uish, Rothes and Paul Hill. At the time of consent, Cairn Uish and Paul's Hill were the 3<sup>rd</sup> and 4<sup>th</sup> wind farms in Scotland and the largest in height and generation. This Council's positive approach and ambition to balance directing development to suitable locations and protecting Moray's outstanding environment has continued to be evident with the Council's support for large scale wind farms at Berryburn and Aultmore, while others have been granted on appeal at Hill of Towie, Dorenell and Hill of Glaschyle.

The Wind Energy Policy Guidance and landscape capacity study provide strategic guidance on landscape and visual issues. It is clearly stated in the study that more detailed assessment will be needed on a case by case basis to more fully judge potential effects, measured against the opportunities and constraints listed for each character type.

Full details of operational and consented wind turbines can be found in Core document CD25.

In terms of Scottish Planning Policy, paragraph 9 states that "Planning should direct the right development to the right place." As stated above, this is the principle underlying Policy ER1 and the Guidance. It would be misleading for a spatial framework to direct developers to an area which has significant constraints which are only evident further down the line in terms of the development process. The Council aims to engage early

with developers and highlight issues at the earliest possible time.

The Council fully supports the Scottish Government target of deriving the equivalent of 100% of electricity demand from renewable sources by 2020. The Scottish Planning Policy requires the planning system to support the development of a diverse range of electricity generation from renewable energy technologies and to guide development to appropriate locations and advise on the issues that will be taken into account when proposals are being assessed.

Policy ER1 supports Scottish Planning Policy, it recognises that the two main areas of development interest are in onshore wind turbines and biomass, but also sets out criteria which will apply to all forms of renewable energy. The nature and scale of wind turbine proposals has changed over the last 15 years according to financial incentives available. Biomass proposals have started coming forward in the last few years and have been supported positively by the Council.

With consent granted for 538MW generated from onshore turbines and a further 31MW from biomass, it is evident that the objections claiming that the Council is not positive towards renewable energy are unfounded (while respecting an element of these figures was granted on appeal).

The Scottish Planning Policy further states that the development plan should set out a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities. The Council considers that this has been achieved and provides the correct balance between supporting national objectives and protecting Moray's environment and the economic benefits that brings.

Policy ER1 is supported by the Council's Moray Onshore Wind Energy Policy Guidance 2013 and Landscape Capacity Study 2012, which are not considered to be out of date as claimed by objectors. It is also important to note that the Council commission expert landscape advice in applying the policy and the Council will actively negotiate modifications to proposals to deliver the right scale of turbine in the right location. The Guidance and Study are not applied in a rigid and inflexible way as these policy documents must be interpreted further at the local level.

The policy provides cross references to the supplementary guidance on Wind Energy and to the Landscape Capacity Study. The policy clearly sets out the Council's approach both within and outwith Areas of Search and sets out a series of criteria against which all renewable energy proposals will be considered. The Guidance and Landscape Capacity Study both provide considerable detail on a wide range of issues relevant when considering onshore wind energy proposals. The Council therefore considers that the policy does provide sufficient guidance.

The point regarding EIA is noted, however, the Council considers that this is adequately covered in Policy IMP2. If the Reporter is so minded the Council would not object to a reference being made to IMP2 or additional text being added to the policy justification to address this.

In terms of the layout and presentation of the policy, the Council can see merit in the suggestion to re-order the policy if the Reporter is so minded, with the section on "All Renewable Energy Proposals" coming before the more specific requirements for "Onshore wind turbines" and "Biomass".

The wording in criteria a) “they are compatible with” is a cross reference to other environmental policies within the Plan and in terms of criteria c) the reference to tourism/ recreational interests allows the Council and consultees to consider whether there would be a significant adverse impact upon such facilities and whether the impact could be mitigated. However, the Council accepts that criteria c) could be clearer and if the Reporter is so minded, the Council would support a revision of c) as suggested by the respondent to read;

“they will not have a significant adverse impact upon key tourism receptors including recognised tourist routes and visitor attractions.”

If the Reporter is so minded, the Council would not object to replacing “appearance” with “impact” in criteria d). The policy would also be clearer if the word “Other” on the first line of the paragraph under “All Renewable Energy Proposals” was changed to “All”. This would clarify that proposals for Onshore wind turbines and biomass have specific policy requirements, but there are additional requirements which apply to all renewable energy proposals. If the Reporter is so minded, the Council would not object to this minor rewording for clarification.

### **Consented and Operational Wind Turbines**

Objectors consider that consented and operational wind farms should be shown on the spatial frameworks. However, the amount of consented and operational wind turbines in Moray means that the spatial frameworks become very difficult to interpret. This information is available separately in the Moray Onshore Wind Energy Guidance and the information is updated monthly on the Council website.

No modification is proposed.

### **Typologies**

The Council has previously used number of turbines to determine the spatial framework and this did not reflect that the primary consideration in landscape and visual impact terms is height. The size of a turbine in relation to other features in the landscape is a critical factor in determining landscape and visual sensitivity and whether a good landscape “fit” is possible. The capacity study principally considers sensitivity in relation to turbine height, avoiding more complicated permutations of turbine/height numbers in the assessment. Scale (which is a relative measure against other features), design and topography are all assessed in the study with general guidance given on the appropriate horizontal extent of development where potential has been identified and taking account of likely landscape and visual constraints.

This is based upon expert advice provided by Alison Grant and Carol Anderson through the commission of the Moray Landscape Capacity Study. This approach with 4 typologies works very well in practice and is considered consistent with Scottish Planning Policy.

No modification is proposed.

### **Environmental benefits**

The objection regarding verifiable environmental benefits is not considered appropriate for discussion against an individual Local Development Plan policy and is more appropriately addressed to the Scottish Government.

Planning authorities are required to provide the policies to deliver Scottish Planning Policy and it is clear that one of the priorities is to make Scotland a low carbon place and this

can be achieved by reducing our carbon emissions and adapting to climate change. The policies within the Plan are considered to support these priorities.

### **Cumulative impacts**

The Council's approach to cumulative impact is set out in the Moray Onshore Wind Energy Guidance and expert advice is provided by the landscape consultant commissioned by the Council. The advice provided by the landscape advisor is consistent with best practice and guidance from Scottish Natural Heritage.

The Council will be undertaking a review of the Wind Energy Policy Guidance during the period of the Local Development Plan to reflect recent consents.

No modification is proposed.

### **Liaison between authorities**

The comments from Highland Council are noted. The Council liaises with adjacent authorities for both on and offshore wind turbine proposals.

No modification is proposed.

### **Biodiversity**

In terms of the objection by the Speyside Business Alliance regarding Core Areas of Wild Land, there are no such designated areas within the area covered by the Moray Local Development Plan. Under the terms of Scottish Planning Policy the areas where wind farms will not be acceptable are National Parks and National Scenic Areas.

The support offered by the Scottish Environment Protection Agency is noted. The Council considers that impacts upon carbon rich soils are fully set out under the terms of Policy ER7.

With regards to the suggested statement regarding potential habitat restoration, the Council considers that this is adequately covered by policy E2 Local Conservation Sites and Biodiversity which states that;

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

No modification is proposed.

### **Cabrach area**

The support from the Mountaineering Council of Scotland is noted. The wording used in the boxes on the spatial framework reflects the wording in the landscape capacity study and it is not considered appropriate to insert additional wording as suggested.

No modification is proposed.

### **Status of Guidance**

The Council does not agree with this representation. The Wind Energy Policy Guidance 2013 will be carried forward as supplementary planning guidance in support of Policy ER1 when the Moray Local Development Plan 2015 is approved. This is consistent with the advice given by Scottish Government planners.

**Areas of Great Landscape Value**

The Council recognises that the designated Areas of Great Landscape Value do not provide the most up to date and robust method of considering the landscape capacity and impacts for wind turbine development in Moray. This is clearly reflected in the Guidance which states on page 11, "Areas of Great Landscape Value (AGLV's) were previously included in Preferred Search Areas in the 2005 Guidance. Developers should take account of AGLV designations shown on Map11. There is no record of the special qualities of Moray's AGLV's or any indication of their sensitivities or capacity to accommodate wind turbine development. Therefore to identify the landscapes most sensitive to wind turbine developments, the results of the Landscape Capacity Study have been used and incorporated into the spatial frameworks. The results are summarised in the Landscape section of this Guidance."

While the Guidance on page 36 requires developers to take account of landscape designations and to recognise the value of the wider landscape, AGLV's do not form part of the spatial framework.

No modification is proposed.

**Reporter's conclusions:****Background**

1. In assessing this issue I requested further information on 20 January 2015. A response was received from the council on 11 February followed by submissions from other parties by 6 March 2015. As part of this exchange submissions were also received from Scottish Natural Heritage and the Cairngorms National Park Authority. A hearing was held on the 17 March 2015. Discussion focussed on achieving a spatial framework which is consistent with Scottish Planning Policy and the changes required to clarify the policy approach and its relationship with supplementary guidance.

**Spatial Framework**

2. Paragraph 161 of Scottish Planning Policy states that a spatial framework for wind farms should be included in local development plans. There is no dispute between parties on this matter. However, SPP is clear that the approach to spatial frameworks should follow that set out in Table 1 on page 39. Paragraph 163 places emphasis on following this approach in order to deliver consistency nationally. It also states that additional constraints should not be applied at this stage. It falls to the policy to set out the criteria that will be considered in deciding all applications for wind farms of different scales.

3. Table 1 of Scottish Planning Policy sets out the following 3 groups in the context of the spatial framework:

- Group 1: Areas where wind farms will not be acceptable - National Parks and National Scenic Areas.
- Group 2: Areas of significant protection – areas with national or international designations, other nationally important mapped environmental interests (wild land and carbon rich soils) and areas not exceeding 2km around settlement envelopes or edges.

- Group 3: Other areas where wind farms are likely to be acceptable subject to detailed consideration against identified policy criteria.

4. Comparison of this approach with that in the Proposed Moray Local Development Plan indicates that whilst the council has included spatial framework mapping this includes a finer grain of analysis and introduces local constraints:

- Different mapping is applied for turbines within three different height ranges- 35-50 metres, 50-80 metres and 80 metres and over to blade tip.
- The proposed spatial framework accounts for other constraints such as local natural heritage value, coastal protection zones and the findings of the Moray Wind Turbine Landscape Capacity Study.

5. The council justifies this locally tailored approach on the basis that it provides greater clarity in guiding development to the right places. In the council's view this enables a more open and transparent decision making process. It makes a distinction between the reference in paragraph 162 of Scottish Planning Policy to defining areas with greatest potential for wind farm development and the more strategic focus of table 1 which refers only to areas of potential. In this context I note that paragraph 161 on the spatial framework refers to "those areas that are likely to be most appropriate for on shore wind farms" whilst paragraph 162 refers to identifying "where there is strategic capacity for wind farms and areas with the greatest potential for wind development".

6. Scottish Natural Heritage's response of 5 March 2015 states that the current mapping in the proposed plan does not follow the spatial framework methodology. It suggests the existing maps could be referred to as "Policy Guidance Maps". The Scottish Mountaineering Council, the Park Authority and the Speyside Business Alliance consider the current finer grained mapping gives greater clarity and certainty. The Scottish Government Planning and Architecture Division produced a document "Onshore Wind Some Questions Answered December 2014". In answer to the question "Where does landscape capacity assessment fit into planning for onshore wind?" it states that this does not form part of the spatial framework.

7. Submissions from Scottish Natural Heritage refer to its recently published guidance "Spatial Planning for Wind Turbines - Natural Heritage Considerations March 2015". This has been published as a consultation draft so may be subject to change. However it refers to the role of landscape character assessments and capacity studies stating that whilst these should not form part of the spatial framework they could be referenced separately in the development plan or supplementary guidance with associated mapping. It also states that landscape capacity studies can support the requirements of paragraph 162 of Scottish Planning Policy. This gives some support to the council's view of paragraph 162 as set out in paragraph 5 above.

8. The council refers to the recommendations on the Dumfries and Galloway Local Development Plan Examination. These accept some elements of a locally tailored approach. However, this was set in the context of the emerging requirements of revised Scottish Planning Policy which was yet to be finalised. In the case of Moray there is a need to demonstrate consistency with Scottish Planning Policy as published in June 2014.

9. In any event, I do not consider that Scottish Planning Policy precludes a criteria based

development management policy which may rely on further guidance, including mapping, to assist in guiding developers to preferred locations. However, the flexibility which could be applied to the spatial framework is limited by the clear instruction in paragraph 163 that the approach set out in Scottish Planning Policy should be followed.

10. The council make a distinction between the use, as explained on page 3 paragraph (v) of Scottish Planning Policy, of “should” as opposed to “must” (which reflects a legislative requirement). However, the wording of paragraph 162 reflects Scottish Ministers expectations of an efficient and effective planning system. I find nothing sufficient to justify setting this aside.

11. In this context, I find that the proposed spatial framework does not follow the approach set out in Scottish Planning Policy. It introduces additional constraints which would conflict with the objective of achieving a consistent approach nationally.

12. To assist the hearing the council submitted mapping which it has prepared in line with the approach set out in Scottish Planning Policy. Submissions by other parties agreed that these maps, referenced as BD08A/01 and BD08a/02, are generally consistent with table 1 in identifying groups 1-3. The area relevant to the Moray Local Development Plan does not include any areas which would fall into Group 1. The Cairngorms National Park is within the same administrative area but is not part of this local development plan. The only identified differences are discussed in turn below:

- **The inclusion of rural groupings.** Table 1 of SPP refers to the identification of areas not exceeding 2km around settlements for inclusion as areas of significant protection within the spatial framework. It refers to cities, towns and villages in the local development plan which have an identified settlement envelope or edge. The Scottish Government Planning and Architecture Division’s document “Onshore Wind Some Questions Answered December 2014” states that planning authorities are best placed to define the community separation distance. However, it also states that settlements with no defined boundaries in the Local Development Plan should not be included.
- **The lack of inclusion of any mapping of carbon rich soils:** Table 1 of SPP includes carbon rich soils, deep peat and priority peat-land habitat within the Group 2: Area of Significant Protection. The council’s maps BD08a/01 and 02 do not include this. Draft mapping has been produced by Scottish Natural Heritage and is currently the subject of consultation. From the submissions, I understand the mapping is unlikely to be finalised for publication before June.

13. Rural groupings may introduce a slight variation but Policy H5 confirms these will have a defined boundary. This is to be identified as part of the development plan through supplementary guidance. This is a largely rural community and new housing in the countryside is to be directed to these groupings. The mapping identifies the nature of the constraint rather than any implied embargo. Consequently I am content that this approach is retained.

14. There was some discussion at the hearing around a recommendation through the examination which would enable the council to incorporate the peat mapping once it is finalised in June. However, the council have only 3 months from the examination to adopt the plan. To avoid an imprecise recommendation or one that would cause the council difficulties, if the presumed timing was delayed, I consider this matter is better

addressed through a policy statement and intention to incorporate this mapping in supplementary guidance.

15. From the above my conclusion is that the new mapping produced by the council, to assist the hearing, is generally consistent with Scottish Planning Policy. Consequently, my recommendation is to remove the existing spatial framework mapping and reference to the landscape character areas. These will then be replaced by the maps referenced as BD08a/01 and 02 and labelled accordingly. Given the timing of release of confirmed peat mapping my recommendations include a policy reference to this and an intention to include in supplementary guidance.

#### Policy ER1

16. Policy ER1 of the proposed plan has a section headed “On-shore wind turbines”. This refers to the areas of search included on the current spatial framework mapping. It also refers the reader to the council’s supplementary guidance on wind energy and its landscape capacity study. This is then followed by a section on biomass and one which applies environmental and other criteria to the consideration of all renewable energy proposals.

17. From the submissions and discussion at the hearing there was general agreement, including from the council, that the policy would be clearer if it was restructured. This would involve moving the section on all renewable energy proposals to the start of the policy followed by an expanded section on wind farms.

18. I address the proposed plan’s reliance on supplementary guidance and the landscape capacity study below in paragraphs 19-23. Paragraph 161 of Scottish Planning Policy states that development plans should set out the criteria that will be considered in deciding all application for wind farms. Paragraph 169 sets out the range of considerations which are likely to apply including the benefits of the proposal, its landscape and environmental impact, impact on tourism and recreation, transport and hydrology. My conclusion is that the policy would benefit from restructuring in order to improve its clarity and provide a more detailed framework within which wind farm proposals can be assessed. In addition, given my conclusion in paragraph 14 above, my recommendation includes text to link the policy to this spatial framework.

#### Supplementary Guidance

19. Circular 6/2013: Development Planning explains that it is for the local development plan to establish policy principles given that it is subject to scrutiny through examination. Supplementary Guidance should only cover topics which are specifically referenced for inclusion in the local development plan. Of particular relevance is the statement that there should be a sufficient “hook” in the Strategic of Local Development Plan to hang the supplementary guidance on in order to give it statutory weight.

20. All of this gives further weight to my conclusion that the policy on wind farms needs to include greater detail. I also consider that Policy ER1 should be clearer as to the detailed matters which are being left to supplementary guidance. The legislative context and the Scottish Government’s policy as set out in Circular 6/2013 would not support a policy requirement to comply with yet to be adopted supplementary guidance or with the council’s landscape capacity study. Rather these need to be placed in the context of providing further guidance or detail on the policy requirements of the proposed plan. My

recommendations reflect this.

21. At the hearing the council suggested both the strategic spatial framework mapping and the more detailed mapping currently in the proposed plan could be included. It was suggested that the current mapping could be retained as policy guidance. Others at the hearing suggested the detailed mapping had no place in the plan but could be included in the supplementary guidance so long as it was appropriately referenced. All agreed that a more detailed policy was required on which to hang the supplementary guidance and set out a clear intention as to what such guidance might address.

22. Some confusion undoubtedly arises given the potential status of supplementary guidance as part of the development plan. I understand that the guidance the council refers to has already been prepared and is a statement of council policy. However any intention to bring this forward, as statutory supplementary guidance, is a matter for the council and has a separate process towards adoption by Scottish Ministers. It will be for the council to ensure that its guidance is consistent with this local development plan prior to submitting it to Ministers. My recommendations focus on achieving a policy which includes reference to the revised spatial framework, the criteria which would apply to the assessment process and a clear remit for the proposed supplementary guidance.

23. The council refer to the approach adopted through the Dumfries and Galloway Local Development Plan. The draft policy revisions it provided to assist the hearing reflect this approach. In the interests of greater transparency I agree that the policy should establish the basis on which the acceptability of a proposal will be assessed. This should be based on the balance of considerations when weighed against the benefits of the proposal. Parties agreed at the hearing that reference to the “acceptability of any significant adverse impact” presented a more realistic reflection of the assessment process as it applies to wind farms.

#### Other Matters: Carbach

24. Given the Moray wide generic nature of the policy and spatial strategy I do not consider it would be appropriate or necessary to include reference to particular locations or areas such as Carbach.

#### Other matters: Cumulative Impact

25. The policy, including my recommended modification, includes reference to the assessment to cumulative impact. This is a matter that can be further detailed in supplementary guidance which can also reference information on recent consents.

26. Scottish Planning Policy is relatively prescriptive about the approach to the spatial framework and this would not extend to inclusion of detailed matters such as the location of existing and consented wind farms. I note that this information is updated monthly on the council’s web site. Paragraphs 163 and 169 of Scottish Planning Policy clarify that the consideration of cumulative impact falls to the more detailed and exacting development management process.

#### Other matters: Peat

27. With regard to SEPA’S concerns the policy, as recommended for modification, includes specific reference to peat land hydrology. My reference to the remit of the

proposed supplementary guidance refers to inclusion of the up to date peat mapping once this is finalised. I also note the protection provided by Policy ER7. Consequently I find this matter is sufficiently addressed.

Other matters: Environmental benefits, wild land and no go areas.

28. I agree with the council that its local development plan does not provide an appropriate forum to question the policy principles on which Scottish Planning Policy is based. Scottish Planning Policy reflects Scottish Ministers priorities for operation of the planning system and sets the national context for preparation of development plans.

29. There is no support through Scottish Planning Policy for buffer zones or additional areas of protection in relation to wild land areas in adjacent development plan areas. In any event, identification as wild land falls under group 2 of Table 1: Spatial Frameworks in Scottish Planning Policy. These are defined as areas of significant protection rather areas where wind farms would not be acceptable.

30. Whilst I appreciate the desire for certainty and the application of thresholds of acceptability an overly rigid policy can constrain the consideration of proposals on their merits. It may also raise expectations that no development will be allowed whilst this may not reflect the reality of the situation. Proposals are assessed against the development plan but other material considerations also carry weight in the decision making process.

Other matters - Typology

31. On the issue of typologies I understand that a variety of approaches could be used based on number, generating capacity or height. I appreciate it may not follow that higher turbines have a greater impact as fewer may be required to generate the same amount of energy. In any event, my recommendation to remove the existing spatial framework mapping and replace this with mapping consistent with Scottish Planning Policy removes any reference to different typologies in the spatial framework.

32. The body of work the council has undertaken to inform its detailed assessment of proposals is based on a height categorisation. This can at least provide an indication of landscape fit as a guide to developers. Consequently, in my recommendations I have retained reference to small, medium and large scale wind farms in the context of matters on which further guidance could be included in supplementary guidance.

33. The council's detailed mapping and other information applies to all wind turbines over 35 metres in height. I consider this should be applied as the minimum height to which the spatial framework applies. This reflects discussion at the hearing and meets the requirement of Scottish Planning Policy. Paragraph 161 states that development plans should indicate the minimum scale of wind farm that its spatial framework is intended to apply to. My recommended changes to Policy ER1 address this.

Other matters: Tourism and recreation

34. On the issue of potential impacts on tourist and recreation interests I consider the matters raised are sufficiently addressed by my recommendation to refer to the assessment of the acceptability of any significant adverse impact. Whilst the reference in the section on all renewable energy proposals is very general the criteria on wind farms is

more specific in referring to core paths, visitor centres, tourist trails and key scenic routes. There is scope for supplementary guidance to address this matter in further detail.

35. I agree that it would be more appropriate to refer to impacts or effects rather than use a range of terminology including reference to visual appearance. In the interests of consistency I have referred to impacts through the revised policy.

### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### Spatial Framework mapping

1. On the proposals map inset, delete the spatial framework mapping for small/medium, medium and large scale wind turbines and the associated text under the headings "Character type and development opportunities"

2. Replace the current spatial framework, on the proposals map inset, with:

Map BD08a/01 which shows areas where significant protection applies. The map should include a clear title "Wind Farm Spatial Framework- Areas of Significant Protection." The key should be re-formatted to list the groups separately so as to clarify the areas relevant to this local development plan where significant protection applies.

Map BD08a/02 which shows Group 3 areas. The map should include a clear title "Wind Farm Spatial Framework: Areas with potential for wind farm development."

3. Include a footnote to both maps to explain that the spatial framework applies to all turbines over 35 metre high to blade tip.

#### Policy ER1

4. Replace the policy as follows:

### **All Renewable Energy Proposals**

All renewable energy proposals will be considered favourably where they meet the following criteria:

i) They are compatible with policies to safeguard and enhance the built and natural environment

ii) They do not result in the permanent loss or damage of agricultural land

iii) They avoid or address any unacceptable significant adverse impacts including :

- Landscape and visual impacts
- Noise impacts
- Electromagnetic disturbance
- Impact on watercourse engineering
- Impact on peat land hydrology
- Electromagnetic disturbance
- Impact on watercourse engineering

- Traffic Impact
- Ecological Impact
- Impact on tourism and recreational interests

### **On-shore Wind Farms**

In addition to the assessment of impact outlined above the following considerations will apply:

#### **a) The Spatial Framework**

Areas of Significant Protection\* - where the council will apply significant protection and proposals will only be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential: where the council is likely to support proposals subject to detailed consideration.

\* This protection will also apply to areas with carbon rich soils, deep peat and priority peatland habitat. This constraint is not currently included on the spatial strategy mapping but will be addressed through Supplementary Guidance once the relevant data becomes available.

#### **b) Detailed Consideration**

The proposal will be determined through assessment of the details of the proposal, including its benefits, and the extent to which it avoids or mitigates any unacceptable significant adverse impact. Detailed assessment\*\* of impact will include consideration of the extent to which:

#### Landscape and visual impact:

- The proposal addresses the Guidance set out in the Moray Windfarm Landscape Capacity Study
- The landscape is capable of accommodating the development without significant detrimental impact on landscape character or visual amenity
- The proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

#### Cumulative Impact

- Any detrimental impact from two or more wind energy developments and the potential for mitigation is addressed.

#### Impact on local communities

- The proposal addresses any detrimental impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- The proposal addresses any impacts arising from location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- The proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity; forest and woodlands; and tourism and recreational interests- core paths, visitor centres, tourist trails and key scenic routes.
- The proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

\*\* Further detail on the above assessment process will be addressed through supplementary guidance to include:

- Peat mapping once this becomes available
- Detailed mapping of constraints
- Guidance on areas with greatest potential for small/medium and large scale wind farms.

(Include the remaining section on Biomass following the above and without modification).

Issue 8b	ER2 Carbon Emissions and PP2 Climate Change	
Development plan reference:	ER2 Carbon Emission Reductions, page 59 PP2 Climate Change, page 8	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>ER2 Carbon Emission Reductions</u></b> Scotia Homes Ltd (0480) The Ellis Group (0878) CJ and CHR Dunbar (Pitgaveny) (0908) Homes for Scotland (1035) Fred Olsen Renewables Ltd (1047)</p> <p><b><u>PP2 Climate Change</u></b> Springfield Properties Plc (0010) Elgin Community Council (0122) Elgin South Area Forum (0194) Royal Society for the Protection of Birds Scotland (0285) Forestry Commission Scotland (0307) Scotia Homes Ltd (0480) The Ellis Group (0878) Scottish Natural Heritage (1027) Homes for Scotland (1035) Network Rail Infrastructure Limited (1041) Dorenell Ltd (1044) Fred Olsen Renewables Ltd (1047) Scottish Environment Protection Agency (0569)</p>		
Provision of the development plan to which the issue relates:	Policies relating to addressing and adapting to the impacts of climate change and carbon emission reduction in new developments.	
Planning authority's summary of the representation(s):		
<p><b><u>ER2 Carbon Emission Reductions</u></b> <u>Scotia Homes Ltd (0480)</u> Object to policy as targets identified should not be included in planning policy and as a minimum should not be identified as a single solution to achieving carbon reduction. Policy would be incapable of being assessed properly through the planning process and should continue to be controlled through the Building Regulations. Support a broader approach focusing on a hierarchy of measures for encouraging fabric led energy efficiency measures through achieving highly insulated and air tight envelopes and avoid the need for low and zero carbon generating technologies.</p> <p><u>The Ellis Group (0878)</u> ER2 Technical Note gives some useful detail but for a developer it is still not fully clear as to what measures need to be installed on any particular site to ensure policy compliance. Uncertainty is not helpful.</p>		

**CJ and CHR Dunbar (Pitgaveny) (0908)**

Wording of policy must be amended to clarify that the statement on proposed technologies will be required in relation to a planning application for the development. The wording of the technical note should be amended in line with the requested change to the wording on ER2 in order to clarify that the statement on proposed technologies will be required in relation to a planning application for development.

The policy should not be prescriptive regarding low and zero carbon technologies as carbon reduction can be achieved best by high levels of design and build rather than through the use of renewable technologies. There are some sites where it is not possible to use renewable technologies.

**Homes for Scotland (1035)**

Carbon reduction targets are a matter for Building Standards and do not need repeated in the plan. Plan refers to successive proposed future standards and acknowledges that it is seeking reductions in excess of the proposed future standards which are unnecessary. It means the same house types may have to be adapted in different Council areas. It is inefficient for the builder, a cost implication on the customer and unnecessary given the very minor benefits that may accrue.

Planning policy should ensure that only the statutory requirements as set by the Building Standards are met.

**Fred Olsen Renewables Ltd (1047)**

Policy should make a note of the contribution that large scale renewable energy development makes towards achieving carbon emission reductions.

**PP2 Climate Change**

**Springfield Properties Plc ( 0010)**

Climate Change policy and SG add an additional layer of paperwork/assessment/statements to the planning process for a requirement which is more than adequately covered in the Building Regulations

**Elgin Community Council (0122), Elgin South Area Forum (0194)**

Safe off road routes should link into the road network. Priorities ensuring that roads are safe for all uses to minimise the need for off road routes. Wood stoves should be included throughout as an example of a key renewable technology.

**Royal Society for the Protection of Birds Scotland (0285)**

Need to explicitly state the need to seek opportunities for natural flood management, these are inherently more likely to benefit habitats. Support the use of SG on Climate Change.

**Forestry Commission Scotland (0307)**

Support 1<sup>st</sup> bullet point. Welcomes this statement.

**Scotia Homes Ltd (0480)**

Support policy with the exception of the requirement to install low and zero generating technologies in new development.

Support requirement for use of sustainable construction techniques and material for achieving energy efficiency through orientation and design of buildings. Achieving a

highly insulated and air tight envelope for the building would avoid the need for low and zero carbon generating technologies.

The Ellis Group (0878)

Not every development of over 10 houses will be able to deliver on all of these aspirations and the policies could helpfully set out the appropriate degree of flexibility for individual sites.

Scottish Natural Heritage (1027)

Lack of reference to carbon sinks and stores. Stronger if reference to peat, carbon rich soils and woodland are included in this primary policy for climate change.

Homes for Scotland (1035)

This is a complex area of technical and legislative issues many beyond the scope of planning. Essential that technical matters of construction and design are regulated by Building Standards rather than planning policy. Standards set out in Building Standards should not be arbitrarily exceeded by planning policy. Housebuilding industry is clear that such technologies are uneconomic not wanted by most customers, cause problems for funding, insurance and maintenance and do not contribute significant energy and carbon savings.

Network Rail Infrastructure Limited (1041)

Policy notes that development should be prevented from locating in areas susceptible to climate change. What about infrastructure (communication, utilities, roads and rail). For example works may be required outwith the railway corridor to protect it and this is not supported by the policy. This is partially acknowledged in ED6 Digital Communications where it states locational requirements will be recognised this concept does not translate to other essential infrastructure in the LDP

Dorenell Ltd (1044)

Support PP2 policy. The scope of PP2 is too narrow and does not address the implications of climate change mitigation and adaptation. The vital role of medium and large scale renewable energy technologies is not recognised. The current wording relates to carbon emissions from buildings and transport. These elements only represent a limited part of the challenge of tackling climate change. The explicit lack of support for medium and large scale renewable energy is inconsistent with the introductory text for Environmental Resources. PP2 is also inconsistent with Scottish Planning Policy that recognises that a wide range of actions are necessary to combat climate change.

Fred Olsen Renewables Ltd (1047)

Support PP2 policy, concerned that only covers carbon emission reductions for 10 or more and does not specifically address the contribution from the development of renewable energy sources.

Scottish Environment Protection Agency (0569)

Support aims of policy, particularly reference to preventing further development that would be at risk of flooding or coastal erosion. Welcome requirement of decentralised and local renewable or low carbon sources of heat and power to be addressed where practical.

**Modifications sought by those submitting representations:**

**ER2 Carbon Emission Reductions**

Scotia Homes Ltd (0480)

Policy should be reviewed and amended to remove the requirement for the installation of low and zero carbon generating technologies in new development. Policy should be developed to align with the Building Standards and not dictate a single restrictive policy approach that may not be achievable. Need for joined up flexible approach to meeting energy performance targets.

The Ellis Group (0878)

Clarify measures required to meet Policy ER2 Carbon Emissions.

CJ and CHR Dunbar (Pitgaveny) (0908)

The wording in ER2 paragraph 2 should be amended so as to clarify that the statement on proposed technologies will be required only in relation to a planning application. The wording should be amended to the following, "High levels of building design to reduce the requirements for use of energy will in many instances be appropriate rather than the use of renewable technologies.

Homes for Scotland (1035)

Delete this policy and the Technical Note.

Fred Olsen Renewables Ltd (1047)

Policy should make a note of the contribution that large scale renewable energy development makes towards achieving carbon emission reductions.

**PP2 Climate Change**

Springfield Properties Plc (0010)

Reconsider inclusion of this additional requirement as it seems to replicate Building Regulations.

Elgin Community Council (0122), Elgin South Area Forum (0194)

Add reference to wood burning stoves as a key renewable technology.

Royal Society for the Protection of Birds Scotland (0285)

Explicitly reference the need to seek opportunities for natural flood management.

Forestry Commission Scotland (0307)

Supportive comment.

Scotia Homes Ltd (0480)

5<sup>th</sup> bullet point is reviewed and amended to remove the requirement for the installation of low and zero carbon generating technologies. Replaced with a flexible planning policy approach which does not dictate a single restrictive and potentially unachievable policy approach.

The Ellis Group (0878)

Set out the appropriate degree of flexibility for individual sites.

Scottish Natural Heritage (1027)

Add additional bullet point. "Minimise disturbance to carbon rich soils and where it is

agreed that trees can be felled, incorporate compensatory tree planting.”

Homes for Scotland (1035)

Delete bullet point 5 and expand bullet point 4 “and low/zero carbon generating technologies where these can be shown to be effective and viable.”

Network Rail Infrastructure Limited (1041)

Recognise the need for essential infrastructure in areas susceptible to climate change.

Dorenell Ltd (1044)

PP2 should be substantially modified by expanding it to explicitly recognise the vital role of medium and large scale renewable energy technologies in climate change mitigation.

Fred Olsen Renewables Ltd (1047)

Amend to acknowledge the valuable contribution that renewable energy developments make towards reducing energy emissions.

Scottish Environment Protection Agency (0569)

Supportive comment.

**Summary of responses (including reasons) by planning authority:**

**ER2 Carbon Emission Reductions**

The policy is aimed at incorporating low and zero carbon generating technologies within new developments. The policy does not explicitly reference large scale renewable energy development as this will not always be the appropriate solution for smaller scale developments including individual houses and smaller commercial buildings. There is nothing stated within ER2 Carbon Emission Reductions that would preclude the use of large scale renewable energy technologies in the right circumstances. Reference to the contribution of large scale renewable energy technologies is set out within the Environmental Resources policy chapter within the plan.

There is no longer reference within Scottish Planning Policy to the need for a policy stating a specified and rising target for carbon emission reductions in new buildings from the installation of low and zero carbon generating technologies. Policy ER2 Carbon Emission Reductions was prepared to meet the requirements of the previous Scottish Planning Policy.

The Council accepts that there are other means of reducing carbon emissions without the installation of renewable technology, for example improving thermal performance, air tightness or addressing energy efficiency. It is also acknowledged that the implementation of the policy would overlap with the Building Standards and indeed does go beyond the current standards.

If the Reporter is so minded there is an opportunity to consider deleting policy ER2 and the associated Technical Note and replacing them with additional requirements within the Climate Change Supplementary Guidance that would better reflect the requirements set out in the current Scottish Planning Policy. The content would reflect the promotion of energy efficiency, heat recovery, district heating and heat networks.

If the Reporter is so minded to delete Policy ER2 the Council would not object and this would also necessitate a minor amendment to PP2 Climate Change to remove the requirement for the installation of low and zero carbon generating technologies and

instead make it optional. Reference to ER2 would also have to be removed from the Climate Change Supplementary Guidance.

### **PP2 Climate Change**

Support for the policy from Forestry Commission Scotland and Scottish Environment Protection Agency is noted. The policy pulls together interrelated issues that need to be taken into account to adapt to and mitigate the impacts of climate change. With the exception of the requirement to install low and zero generating technologies to meet ER2 Carbon Emission Reductions there is no additional repetition with Building Standards. There are suggested changes to PP2 to address this as a result of representations to ER2 Carbon Emissions which are set out above.

There should be no additional burden on developers as all the issues contained within the policy and supporting supplementary guidance should be considered at the early design stage and the checklist should evidence how climate change has been taken account of and influenced the design, layout and construction of the development. The Climate Change Supplementary Guidance sets out the information that is required to support planning applications. It states “In exceptional circumstances where the essential criteria cannot be met a reasoned justification for this should be set out. In these cases it should be demonstrated how this has been compensated for in other aspects of the development. For example where there is a deficiency in one area, a proposal could be designed to go beyond the essential criteria and meet desirable outcomes elsewhere. The Council intends to take a balanced view of the development of a site on the basis that it will have to be demonstrated that all efforts have been made to address climate change within the proposal”.

PP2 Climate Change is a primary policy and therefore does not set detailed criteria. The approach to safe off road routes and linkages to the roads network is set out in Policy T2 Access. This policy seeks to maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.

It is not considered necessary therefore to repeat this within PP2. Reference to wood burning stoves can be added into renewable/energy section of the Climate Change Supplementary Guidance and additional text could also be added explicitly referencing the need to seek opportunities for natural flood management and the inherent benefits to habitats associated with this approach.

Policy PP2 relates to development of 10 or more houses and developments in excess of 500 sq m and therefore the policy focuses on reducing emissions from buildings and associated travel. On this basis the requirements set out within it would not apply to proposals for infrastructure including those that may be necessary outwith the railway corridor. The policy does not explicitly reference large scale renewable energy development as this will not always be the appropriate solution in particular for smaller scale developments. There is nothing stated within PP2 that would preclude the use of large scale renewable energy technologies in the right circumstances. Reference to the contribution of large scale renewable energy technologies is set out within the Environmental Resources policy chapter within the plan and does not require to be repeated within PP2.

In terms of alignment with Scottish Planning Policy, PP2 is not a standalone policy and will be read in conjunction with other policies that together cover all aspect relating to

sustainable development.

If the Reporter is minded to accept the deletion of ER2 Carbon Emission Reductions this will necessitate an amendment to PP2. The bullet point relating to the installation of low and zero carbon generating technologies would be amended making the installation of low and zero carbon generating technologies optional as opposed to mandatory. Suggest wording “Where practical install low and zero carbon generating technologies”.

The flexible approach referred to above will be set out in the Climate Change SG and reflect the current Scottish Planning Policy.

If the Reporter is so minded the Council would not object to the inclusion of an additional bullet point in relating to soils proposed by Scottish Natural Heritage. “Minimise disturbance to carbon rich soils and where it is agreed that trees can be felled, incorporate compensatory tree planting.”

### **Reporter’s conclusions:**

#### Policy ER2 Carbon Emission Reductions

1. The matters of concern raised in representations lodged in respect of policy ER2 are quite varied. Nevertheless, in different ways the objectors point to the need for amendments to clarify the policy terms and make them more relevant to particular situations applying to specific forms and scales of development proposals at different locations across the plan area. The council’s response states at the outset that policy ER2 was drafted to meet the requirements of the previous Scottish Planning Policy. This was superseded by the new Scottish Planning Policy (SPP) issued in June 2014, which no longer requires local development plans to incorporate a policy setting out specified and rising targets for carbon emissions in new built developments.

2. I find that it is important in principle for the new plan – not only with regard to this policy but also in respect of all Environmental Resource policies - to reflect current national planning policy and associated guidance, including with regard to the matters summarised below. I note that the National Planning Framework (NPF3) requires planning to facilitate the transition to a low carbon economy. This and related principles and associated targets are taken forward in the new SPP – including with reference to targets set for 2020 concerning energy, heat and electricity demand from renewable resources.

3. More specifically the SPP now states that development plans should seek to ensure the area’s full potential for electricity and heat from renewable sources is achieved in line with the national climate change targets – giving due regard to relevant environmental, community and cumulative impact considerations. The SPP in paragraph 157 states that local development plans should support new built developments, infrastructure or retrofit schemes which deliver energy efficiency and recovery of energy that would otherwise be wasted in the specific development and the surrounding area – and should set out factors to be taken into account in considering proposals for energy developments. It goes on to set out in paragraph 169 particular considerations appropriate to different types and locations of development.

4. I note that the new SPP also has a section specifically addressing ‘Heat’. This states that local development plans should use heat mapping to identify the potential for co-

locating developments with high heat demand with sources of heat supply. It also requires those plans to support the development of heat networks where possible, even where they are initially reliant on carbon-based fuels if there is potential to convert them to run on renewable or low carbon sources of fuel in the future. Local development plans are also expected to identify where heat networks, heat storage and energy centres exist or would be appropriate and to include policies to support their implementation, including within new developments. It also states that where heat networks are not viable micro-generation and heat recovery technologies within individual properties should be encouraged.

5. Furthermore, with a view to delivering Scotland's Zero Waste Policy and associated targets, the SPP sets out a number of policy principles for the planning system, including development plans. One of these stated principles is to help deliver infrastructure at appropriate locations, prioritising development in line with the waste hierarchy: waste prevention, reuse, recycling, energy recovery and waste disposal.

6. It is in this context that I turn to address the matters raised in the representations. Firstly, I find that the council has correctly drawn attention to the fact that the contribution of larger scale renewable energy technologies is referred to in other policies of the Environmental Resources section of the proposed plan. In addition I note that the council recognises that there is scope for achieving reductions in carbon emissions, by introducing one or more efficiency measures, without installing new renewable technologies. The council also recognises the overlap of the policy with Building Standards - and acknowledges that in some regards the policy requirement exceeds those standards. These, however, are not sufficient reasons to modify the terms of the policy in my view.

7. More generally, however, I am concerned that policy ER2, as currently framed, does not accord with the principles or requirements set out in the new SPP, as summarised above. Accordingly, I am persuaded by the argument put forward by the council for deleting this policy and its Technical Note altogether and for the topics of relevance to be dealt with instead through a combination of an amendment to policy PP2 together with a fuller explanation of requirements in the Climate Change Supplementary Guidance. I conclude that this would be a more appropriate means of reflecting current national planning policy principles set out in the NPF3 and SPP – including those highlighted earlier. In my view this would also forego the need to consider more detailed possible changes to the wording of policy ER2 to address detailed concerns raised in the representations when the overall outcome would still be difficult to satisfactorily reconcile with the terms of the SPP.

8. Based on all of the above considerations, I conclude that policy ER2 should be deleted – along with the ER2 Technical Note and Justification section of the plan associated with it - when the plan is adopted and in its place appropriate adjustments should be made to policy PP2 and to the associated Supplementary Guidance.

#### Policy PP2 Climate Change

9. Once again this proposed policy has generated a significant number of representations expressing a range of views and concerns. Whilst many express broad support for the policy, others seek a flexible approach to the application of this policy as it covers a wide range of topics and criteria which they do not see as being all readily applicable to every type of development proposal covered by it.

10. In my view the national policy principles of NPF3 and the new SPP, summarised above in the context of policy ER2, are also of direct relevance to considerations of this policy and its wording. In broad terms I am satisfied that this policy is appropriate in outlining the range of important issues that need to be considered in order to effectively adapt to and mitigate the impacts of climate change when new building development proposals come forward of the type and scale listed. I am persuaded, however that there is logic and merit for the policy to incorporate an additional bullet point to indicate that developments covered by the policy should minimise disturbance to carbon rich soils – and, in cases where it is agreed that trees can be felled, to incorporate a requirement for compensatory tree planting.

11. I note that the policy is intended to be supported by Supplementary Guidance providing more detailed information and criteria to guide intending developers. Where one or more of the detailed requirements or criteria cannot be met the council has indicated that it can envisage situations whereby proposals could compensate effectively and satisfactorily for this by demonstrating that they are achieving higher than required effectiveness in addressing another criterion. I consider that this process of balancing the overall outcomes is a pragmatic and appropriate means of providing a degree of flexibility when the policy and Supplementary Guidance is being applied in circumstances or locations where not all the stated policy requirements can be readily or fully met for reasons that are justified to the satisfaction of the planning authority.

12. In summary, I am satisfied that as a ‘primary’ policy of the plan it is not necessary for policy PP2 to go into great detail in terms of criteria – particularly when the plan and its policies, many on specialist topics, are intended to be read as a whole and all taken into consideration, where relevant. Accordingly, I do not regard it as appropriate for detailed criteria set out elsewhere in the plan and in Supplementary Guidance to be repeated in policy PP2. Nevertheless, I am persuaded that the Justification section associated with this policy to make explicit the need to seek opportunities for natural flood management and the inherent benefits that this provides to habitats.

13. The council has provided helpful clarification that whilst policy PP2 does not explicitly refer to large-scale renewable energy development - as this may not be the most appropriate solution, particularly for smaller scale developments – the policy, quite properly, does not preclude the use of large scale renewable energy technologies where considered appropriate. I also note that the council has confirmed that the Supplementary Guidance on Climate Change, whilst endorsing a flexible approach along the lines outlined, will also reflect the policy principles set out in the new SPP.

14. Based on all of these considerations, in summary I conclude that there is merit in making some amendments to policy PP2 and to the associated Justification section – as outlined above.

#### **Reporter’s recommendations:**

Modify the proposed plan in the following terms:

1. Delete policy ER2, as well as the ‘ER 2 - Technical Note’ and the Justification section of the plan associated with it.
2. Make consequential numbering changes to the following policies of the plan – policy ER3 (becomes ER2); policy ER4 (becomes ER3); policy ER5 (becomes ER4), policy ER6

(becomes ER5); policy ER7 (becomes ER6).

3. Amend the 5<sup>th</sup> bullet point of policy PP2 by adding the words “where practical” at the beginning of this bullet point.

4. Add an additional (8<sup>th</sup>) bullet point to policy PP2 stating: “minimise disturbance to carbon rich soils – and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.”

5. In the Justification section associated with policy PP2, immediately prior to the last sentence, insert the following new sentence: “Opportunities should be sought for natural flood management, which will bring inherent benefits for local habitats.”

Issue 8c	Other Environmental Policies	
Development plan reference:	Environmental Resources Chapter, page 57-63 <ul style="list-style-type: none"><li>• ER3 Development in Woodlands, page 60</li><li>• ER4 Safeguarding Mineral Reserves, page 60</li><li>• ER5 Minerals, page 61</li><li>• ER7 Soil Resources, page 63</li></ul>	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<u>ER3 Development in Woodlands</u> C J and CRH Dunbar (Pitgaveny) (0908) Forestry Commission Scotland (0307) Scottish Environment Protection Agency (0569) West Coast Energy Ltd (0730) <u>ER4 Safeguarding Mineral Reserves</u> Burness Paul and Williamson LLP (0360) <u>ER5 Minerals</u> Burness Paul and Williamson LLP (0360) <u>ER7 Soil Resources</u> Scottish Environment Protection Agency (0569) Scottish Natural Heritage (1027 ) Dorenell Ltd (1044)		
Provision of the development plan to which the issue relates:	Policies relating to the sustainable use of environmental resources including woodlands, minerals and carbon rich soils.	
Planning authority's summary of the representation(s):		
<u>ER3 Development in Woodlands</u> C J and CRH Dunbar (Pitgaveny) (0908) Policy as worded places an embargo on the loss of any woodland. There may be situations where development within woodland can be acceptable where it is sensitive to its environment and of sufficient quality, where a robust long term management plan is put in place ensuring the remaining woodland is not at risk. A blanket prescription may create problems if otherwise positive proposals involved some woodland clearance. Build in flexibility for some woodland clearance in certain circumstances, using similar qualifying criteria as prescribed in the policies governing the historic and built environments.  Amend policy to reflect this. <u>Forestry Commission Scotland (0307)</u> Scottish Government's policy on the Control of Woodland Removal determines wood loss to be acceptable where there is significant net public benefit. Policy ER3 should mirror this sentiment.  <u>Scottish Environment Protection Agency (0569)</u> Consideration should be given to providing advice on biosecurity, including control and prevention of spreading tree diseases.		

**West Coast Energy Ltd (0730)**

Under Protected Woodlands it states there is a presumption against certain development. This suggests that exclusions to the presumption could exist.

**ER4 Safeguarding Mineral Reserves****Burness Paul and Williamson LLP (0360)**

Support inclusion of policy. Concern with the exception to safeguarding where “there are no alternative sites for development”. No guidance given in the justification section on how availability (or lack of) alternative sites will be tested. This may be used to circumvent the safeguarding of minerals.

Policy should be amended to make it clear that full justification will require to be submitted to demonstrate that there are no alternative sites, that there is a minimum 10 year land bank of permitted reserves for construction aggregated and that the reserves lost are not significant.

**ER5 Minerals****Burness Paul and Williamson LLP (0360)**

In maintaining a 10 year reserve of construction aggregates regard should also be given to the quality and make up of reserves and their usage. It is not appropriate to focus only on the overall aggregate figure. Proposed LDP should make provision for minerals audit to be updated on a regular basis and each type of aggregate identified.

**ER7 Soil Resources****Scottish Environment Protection Agency (0569)**

Recommend strengthening by including recognition that it should seek to protect and enhance soils (and their functions) to act as a buffer to protect water against pollution and protect the wider environment by reducing erosion, compaction and contamination.

3rd paragraph should refer to the same definition of deep peat as that now used by the Scottish Government.

**Scottish Natural Heritage (1027)**

Welcome new policy. Associated with soil resources is the issue of invasive non-native plant species attention should be drawn to best practice. Deep peat is defined as 1.5 m and does not accord with the definition of deep peat in peat survey issued in February 2014 which defines it as 1m.

**Dorenell Ltd (1044)**

Wording is inconsistent with SPP and revised draft SPP. SPP does not include presumption against development on carbon rich soils and does not include any requirement for development on peat or carbon rich soils to demonstrate that there are no alternatives to development. However, the LDP does not define what constitutes any potential detrimental effect on the environment.

Paragraph 3 requires applicants to demonstrate that major developments, minerals and large scale renewable energy proposals on undisturbed areas of peat will generate economic, social and/or environmental benefits which will outweigh any potential detrimental effect on the environment. The LDP does not define what constitutes any potential detrimental effect on the environment.

Paragraph 3 requires applicants to demonstrate there is no viable alternative. This introduces a sequential approach to the consideration of developments. Such an approach can only be justified in a very limited number of circumstances, of which undisturbed peat is clearly not one. The SPP and draft revised SPP state that circumstances where the use of the sequential approach is appropriate usually relate to the siting of retail and other high footfall developments to protect the viability of town centres. The introduction of a sequential approach is contrary to the established planning principle that planning applications should be determined on the basis of their individual merits.

3rd paragraph is inconsistent with the justification text.

### **Modifications sought by those submitting representations:**

#### **ER3 Development in Woodlands**

##### **C J and CRH Dunbar (Pitgaveny) (0908)**

Amended text “Development which involves the loss of woodland will be refused where the development would result in unacceptable adverse effect on the amenity, landscape, biodiversity or recreational value of the woodland to prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that there are no suitable alternative sites available, where the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.”

Suggest including following wording where appropriate;

Development within woodland can be acceptable where it is sensitive to its environment and of sufficient quality, and of a use where a robust long-management plan will be put in place ensuring that any remaining protected woodland is not at risk.

##### **Forestry Commission Scotland (0307)**

Amend 1<sup>st</sup> paragraph “Development proposals which involve the loss of woodland will be refused where there is no significant net public benefit, taking account of the current and future benefits/disbenefits of the existing woodland. Public benefits include social, economic and environmental benefits, with the latter including consideration on the impact of carbon emissions from any development proposal.

If the above recommendation is not adopted the word “unacceptable on line 3 of the first paragraph is subjective, and it should be removed to avoid ambiguity. Again, if first recommendation is not implemented it should be recognised that forests and woodlands are an economic resource, creating and sustaining rural jobs. Amend to read “adverse effect on the amenity, landscape, biodiversity, economic or recreational value of the woodland.”

##### **Scottish Environment Protection Agency (0569)**

Include reference to biosecurity, including control and prevention of spreading tree diseases.

##### **West Coast Energy Ltd (0730)**

Add text “unless such woodland removal can be justified and adequately mitigated.”

#### **ER4 Safeguarding Mineral Reserves**

Burness Paul and Williamson LLP (0360)

Amend policy to ensure that where there are no alternative sites for development, consent should only be granted where appropriate justification has been provided to demonstrate that there are no alternative sites for development, that there is a minimum 10 year landbank of permitted reserves and the mineral reserves lost are not significant.

#### **ER5 Minerals**

Burness Paul and Williamson LLP (0360)

Add provision that a mineral audit will be reviewed on a regular basis, to maintain a 10 year minerals supply at all times. Reserves of each different type of aggregate will be maintained and the audit should identify the reserves for each type of aggregate.

#### **ER7 Soil Resources**

Scottish Environment Protection Agency (0569)

3<sup>rd</sup> paragraph should refer to the same definition of deep peat as that now used by the Scottish Government. Recommend amendment “undisturbed areas of deep peat (defined as 1m or more).”

Scottish Natural Heritage (1027)

Amend last sentence of second paragraph. “Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.”

Amend text regarding deep peat to be defined as greater than 1.0m.

Dorenell Ltd (1044)

Policy should be deleted

#### **Summary of responses (including reasons) by planning authority:**

#### **ER3 Development in Woodlands**

If the Reporter is so minded the Council would not object to the following text replacing the first paragraph.

“Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.”

The proposed wording suggested by Forestry Commission Scotland (307) is considered difficult to implement and interpret, in particular the reference to current benefits and disbenefits. The wording set out above is considered to more clearly set out the policy requirements. Following further discussion the Forestry Commission Scotland has agreed the above wording. The Council recognises the concerns raised by the Forestry Commission Scotland in terms of the cumulative impact of woodland removal. The Council and the Forestry Commission have subsequently met and are putting in place the necessary procedures to secure developer contributions to achieve compensatory

planting.

The inclusion of reference to no suitable alternative sites suggested by C J and CRH Dunbar (Pitgaveny) (0908) is not considered appropriate in this context. A statement on the issues including bio-security and the spread of disease is not considered to contribute to the understanding or implementation of the policy.

The use of the phrase “there is a presumption against” is not intended to imply that there are exceptions to the policy. On this basis the additional text proposed elaborating on exceptions is not accepted.

If the Reporter is so minded the Council would not object to the inclusion of the following text to replace paragraph 2.

“Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported”.

#### **ER4 Safeguarding Mineral Reserves**

There is no need to add additional criteria justifying development in terms of impact on the 10 year minerals supply or loss of minerals reserves as the policy states these sites are safeguarded unless it can be demonstrated that there are no other sites for development, and the extraction of the mineral resources will be completed before development commences. On the basis that the minerals would have been extracted there should be no negative impact. Given the location of the minerals reserves across Moray development pressure is not expected in these locations. No modification is proposed.

#### **ER5 Minerals**

The requirement to keep an updated minerals audit and minerals consent monitoring to ensure an effective 10 year minerals supply is identified within the Action Programme that forms part of the Local Development Plan. An audit was undertaken in 2013 and established that there was in excess of a 10 year supply currently consented and the various aggregates were divided by category. There will also be an annual Monitoring Report produced for the Moray Local Development Plan reviewing implementation of the policy.

No modification is proposed.

#### **ER7 Soil Resources**

SPP states “Where peat and other carbon rich soils are present, applicants should assess the likely effects of development on carbon dioxide (CO<sub>2</sub>) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO<sub>2</sub> to the atmosphere. Developments should aim to minimise this release” (CD01 paragraph 205).

ER7 Soil Resources as currently worded is considered to meet the requirements of SPP as it seeks to minimise unnecessary disturbance to soils, peat and associated vegetation. The reference to potential detrimental effect on the environment relates to the release of carbon dioxide into the atmosphere, one of the greenhouse gases that contribute to climate change. A balanced judgement requires to be made regarding the loss of carbon stores against the benefits associated with the development.

A sequential approach is not being introduced instead developers are being asked to

demonstrate two key points. Firstly that the benefits of disturbing soils outweigh the potential negative impact on the environment. Secondly, that there are no viable alternative where peat and carbon rich soils are not disturbed. An example of this would be the redesigning of a scheme to avoid carbon rich soils within a site. Additional strengthening in terms of protecting the water environment and wider environment is not considered necessary.

If the Reporter is so minded the Council would not object to the suggested text seeking to change the definition of deep peat from 1.5 m to 1.0m and additional accompanying text on invasive non native species being added into the policy text as follows “Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.”

### **Reporter’s conclusions:**

#### Policy ER3 Development in Woodland

1. Amongst the representations lodged, some seek changes to the wording, scope or flexibility of policy ER3 - whilst others argue in favour of further controls to provide added protection to woodlands. I note that the council has acknowledged the merits of making some amendments to the policy.

2. Having considered the representations, in principle I agree that some modifications to policy ER3 would be beneficial to more clearly convey its terms and I recognise that the alterations now being put forward by the council would address many of the points raised by objectors. Most importantly, the aim of any changes to the policy wording should be to aid clarity and to ensure consistency with national planning policy including the Scottish Government’s Control of Woodland Policy and the Scottish Planning Policy (SPP). The former includes a presumption in favour of protecting woodland, stating that removal should only be permitted where it would achieve significant and clearly defined additional public benefits – and that compensatory planting will generally be expected in such cases.

3. The SPP, in paragraphs 216-218, stresses that ancient semi-natural woodland is an irreplaceable resource and along with other woodlands, hedgerows and individual trees, especially veteran trees of high nature conservation and landscape value, should be protected from adverse impacts. It also states that, where appropriate, planning authorities should seek opportunities to create new woodland and to plant native trees in association with development – as well as to identify and implement mitigation measures if a development would result in severance or impairment of connectivity between important woodland habitats.

4. Based on all of these considerations I conclude, firstly, that the council’s suggested re-wording of the first paragraph of policy ER3 would be appropriate and beneficial. This would state:

“Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or

economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.”

5. I also consider that it would be appropriate to amend the wording of the second paragraph of the policy in the following terms, as now advocated by the council:  
“Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported”.

6. In summary, I am persuaded by the arguments put forward by the council that the above re-working of the first two paragraphs of policy ER3 is preferable to the suggested alternatives put forward in representations. In my view those suggestions would not aid clarity and would lead to a more complex wording that is neither necessary nor appropriate to address the points of principle raised. I note that the council recognises the concerns raised by the Forestry Commission Scotland in terms of the cumulative impact of woodland removal and am satisfied that they are putting in place the necessary procedures to secure developer contributions to achieve compensatory planting, where appropriate.

#### Policy ER4 Safeguarding Mineral Reserves

7. I note that the only unresolved representation broadly supports policy ER4. Nevertheless the respondent raises concerns about potential uncertainty arising in certain circumstances – including cases where there was a lack of availability of sites. I am satisfied however that the wording of policy ER4 is already appropriately worded and robust enough to deal effectively with situations of the kind highlighted in the representation.

8. Furthermore, having had regard to the terms of the Scottish Planning Policy (SPP) – in particular the section starting at paragraph 234 and headed Promoting Responsible Extraction of Resources - I conclude that the council has provided sound and detailed justifications to merit retention of policy ER4 as drafted in the proposed plan, without modifications of the type being sought by the respondent.

#### Policy ER5 Minerals

9. The same respondent has made representations concerning the terms of policy ER5. They express concern with the policy wording - with a view to maintaining a 10 year ‘reserve’ of construction aggregates, when no reference is made to the quality and make-up of reserves in the plan area and their usage. In that context the representation argues for mention of a mineral audit being reviewed on a regular basis in order to ensure and maintain a 10 year supply of each different type of aggregates at all times.

10. Within the Action Programme, which forms part of the local development plan, reference is made to the requirement to keep an updated minerals audit and minerals consent monitoring to ensure an effective mineral supply. I also note that such an audit was carried out in 2013. This categorised different types of minerals and demonstrated that there was an excess of 10 years supply already consented in the plan area – and annual audits are programmed to review implementation of the policy. In this context, and having had regard to the relevant terms of the SPP section on Minerals referred to above, I conclude that there is no justification or merit in modifying the wording of policy ER5 to address the concerns highlighted in the representation.

**Policy ER7 Soil Resources**

11. Scottish Planning Policy (SPP) in the sub-section headed Development Management within the section 'Valuing the Natural Environment', states in paragraph 205 that where peat and other carbon rich soils are present, intending developers should assess the likely effects of the proposed development on carbon dioxide emissions – and should aim to minimise this release to the atmosphere. I also note that the definition now used by the Scottish Government to describe 'deep peat' is 1.0m depth or more – rather than the previous standard of 'more than 1.5m' as stated in the proposed policy.

12. In this context, I have considered the representations lodged. Firstly, I am satisfied that the terms of policy ER7 accord broadly with the SPP in seeking to minimise unnecessary disturbance to soils, peat and associated vegetation. The council has confirmed that the policy's reference in sub paragraph a) to any potential detrimental effects on the environment is intended to relate to the release of carbon dioxide into the atmosphere. For the avoidance of doubt I conclude that this should be made clear in the policy.

13. For the reasons outlined above, I also conclude that to ensure factual accuracy the bracketed phrase in the third paragraph of the policy should be updated to now refer to '1.0m or more' in respect of the deep peat. Furthermore, I conclude that the additional wording to the second paragraph of the policy - as put forward by one of the representations that is now endorsed by the council - should be incorporated with a view to preventing the spread of non-native species.

14. One of the representations expresses concern that the policy in effect introduces a "sequential test" – and argues that this would not be justified. I am satisfied that in response to this potential concern the council has provided a robust case for retention of the overall terms of the policy on the basis that it simply specifies two requirements - which in my opinion does not amount to a sequential test in the terms suggested in the representation. Accordingly, I conclude that there is insufficient justification for further detailed modifications to the policy or its wording beyond those outlined above.

**Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. Replace the first paragraph of policy ER3 with the following:

"Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority."

2. Replace the second paragraph of policy ER3 with the following:

"Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported".

3. Replace the last sentence of the second paragraph of policy ER7 to now read:

“Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.”

4. Replace the number ‘1.5m or more’ with ‘1.0m or more’ in the bracket of the third paragraph of policy ER7 – to clarify what is meant by deep peat.

5. Add a new phrase in brackets to the sub-paragraph a) of policy ER7 to now read:

a) the economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and

[For the avoidance of doubt the remainder of the sub-paragraph and indeed the rest of the policy text would all remain unaltered.]

<b>Issue 9</b>	<b>Transportation and Accessibility</b>	
<b>Development plan reference:</b>	<b>Transportation and Accessibility, page 68</b> <ul style="list-style-type: none"> <li>• <b>T1 Transport Infrastructure Improvements, page 70</b></li> <li>• <b>T2 Provision of Access, page 71-72</b></li> <li>• <b>T3 Roadside Facilities, page 72</b></li> <li>• <b>T4 Safeguarding Bus, Rail, and Harbour Facilities, page 73</b></li> <li>• <b>T5 Parking Standards, page 73</b></li> <li>• <b>T6 Traffic Management, page 74</b></li> <li>• <b>T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks, page 75</b></li> </ul>	<b>Reporter:</b> Allison Coard
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>T1 Transport Infrastructure Improvements</u></b>  Highland Council (0093)  Scotia Homes Ltd (0480)  Scottish Natural Heritage (1027)  Elgin Community Council (0122)  Elgin South Area Forum (0194)  Dufftown and District Community Council (0522)</p> <p><b><u>T2 Provision of Access</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)  CJ and CRH Dunbar (Pitgaveny) (0908)  Scottish Government (0490)  Network Rail Infrastructure Limited (1041)</p> <p><b><u>T3 Roadside Facilities</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)</p> <p><b><u>T4 Safeguarding Bus, Rail and Harbour Facilities</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)</p> <p><b><u>T5 Parking Standards</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)</p> <p><b><u>T6 Traffic Management</u></b>  CJ and CRH Dunbar (Pitgaveny) (0908)  Network Rail Infrastructure Limited (1041)</p> <p><b><u>T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks</u></b>  Highland Council (0093)  Access Manager, The Moray Council (0261)  Dufftown and District Community Council (0522)  Shirley Jackson (0631)  Cabrach Community Association (0674)  Mrs Jean Oliver (0996)  Dorenell Ltd (1044)</p>		

<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Policies T1 to T7 provide the framework for considering proposals in relation to transportation and accessibility for all modes. Policies aim to maintain the safe and efficient movement of traffic, enhance wider accessibility, ensure developments are accessible by walking, cycling and public transport, safeguard and enhance walking, cycling and equestrian routes and ensure provision of adequate car parking.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>T1 Transport Infrastructure Improvements</u></b>  <u>Highland Council (0093)</u>  This policy is consistent with the A9 and A96 dualling, improving the Inverness to Aberdeen railway for freight and passengers and it mentions improving access to Inverness airport. These inclusions are welcomed.</p> <p><u>Scotia Homes Ltd (0480)</u>  Supports criterion (g) of Policy T1 for improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.</p> <p><u>Scottish Natural Heritage (1027)</u>  The policy lists two non -trunk roads, the A941 and the A98. These should be assessed in terms of the Habitats Regulations Appraisal. The A941 runs adjacent to Loch Spynie SPA and crosses the River Spey SAC. There is a potential likely significant effect on Loch Spynie of improvement works through impact on hydrology, construction run-off, pollution, and disturbance to qualifying interest (geese). This is recognised in the HRA record (page 86-87). To conclude that there would be no adverse effect on the integrity of this site, a policy caveat requires to be inserted rather than reliance on appraisal at the project level. Harbour improvements could affect the Moray Firth SAC through disturbance to bottlenose dolphins and through dredging and disposal operations on sub tidal sandbanks. This is recognised in the HRA Record of the plan (pages 66-67) but no mitigation is set out for inclusion in the plan. A caveat needs to be added to policy to protect the Moray Firth SAC.</p> <p><u>Elgin Community Council (0122), Elgin South Area Forum (0194)</u>  Disappointed Policy T1 does not refer to any Active Travel improvements which suggest this is not a priority for the Council. Appreciate identification of Long sites as this shows a constraint and avoids a bypass bisecting the city. Not showing a route preference is appropriate given limited details available.</p> <p><u>Dufftown and District Community Council (0522)</u>  Could the Keith Dufftown Railway be linked to the network at Keith for improved public/freight transport?</p> <p><b><u>T2 Provision of Access</u></b>  <u>CJ and CRH Dunbar (Pitgaveny) (0908)</u></p> <ul style="list-style-type: none"> <li>• The title "Provision of Access" implies primarily vehicular access while the policy content deals with all modes of transport. The title should be changed to "Accessibility".</li> <li>• Policy is clear on its objective to maximise cycle and pedestrian links but it is less clear on vehicle connections. The text "Provide appropriate vehicle connections to the development, including appropriate number and type of junctions" does not align</li> </ul>	

strongly with national policy which states "Permeability of places is a crucial component in good street design. Internal permeability is important but any area should also be properly connected with adjacent street networks". Development should be designed with multiple access points that connect with the existing street network and reflect their context and traditional street pattern to allow choice, ease of movement and a flexible masterplan.

- Designing Streets is a national policy document and it should always be considered a material consideration in determining applications.
- There should be further clarity on when a Transport Assessment or Travel Plan will be requested. If this is linked to the size or type of development these thresholds should be included within the policy to highlight to developers/landowners when this will be required to accompany a planning application.
- The text in bullet point 5 is unclear in its intention and is at odds with the remainder of the policy and paragraph 169 of Scottish Planning Policy which prioritises travel modes. By seeking to provide "appropriate mitigation" the implication is that those travelling by private car will still have a degree of priority afforded to them.

#### Scottish Government (0490)

Policy T2 embeds national policy very well into a local context.

#### Network Rail Infrastructure Limited (1041)

Suggest amendments to Policy T2 to recognise that Transport Assessments are mainly concerned with road and related transport, but the impact of a development on the wider railway network, including level crossings should also be taken into account. Whilst local authorities readily make the link between new development and the capacity of the local road network, there is less consideration in terms of the capacity of station facilities (i.e. parking, cycle shelters) and on level crossings.

#### Elgin Community Council (0122), Elgin South Area Forum (0194)

Add text to Policy T2 that routes for cyclists should also link to the road network as cycling rarely takes place solely on designated cycle paths.

### **T3 Roadside Facilities**

#### Elgin Community Council (0122), Elgin South Area Forum (0194)

Reference should be made in Policy T3 to the need for intermodal provision e.g. cycle parking at bus stops.

### **T4 Safeguarding Bus, Rail and Harbour Facilities**

#### Elgin Community Council (0122), Elgin South Area Forum (0194)

The plan is weak on the subject of rail. Full cognisance should be given to Elgin Community Council's paper on Rail Enhancements. A separate rail policy would support the vision for Moray. The paper supports a modal shift from road to rail and extends active travel opportunities. Rail reduces carbon emissions. The Vision, Policies, Settlement Statement and Supplementary Guidance should be changed and the full text of Elgin Community Council's paper (included with their response) added to the plan as a guidance document.

### **T5 Parking Standards**

#### Elgin Community Council (0122), Elgin South Area Forum (0194)

Policy T5 is not adequate in relation to the current situation. Reference should be made in the plan to short term on street parking in Elgin town centre. Short term spaces are difficult to find and provision should be planned. Consideration of a park and ride system

could be undertaken as part of this work as well as relocation of the lorry park. The plan should mention the lack of traffic warden provision and what the Council will do about this. Object to reference within Action Programme to "update if necessary" as this shows complete disregard for what the public have to endure in Elgin i.e. having to pay for 1-2 hours parking.

### **T6 Traffic Management**

#### **CJ and CRH Dunbar (Pitgaveny) (0908)**

The presumption, at paragraph two of the policy, against direct access onto the A941 and A98 is too onerous - these routes serve large areas of ground and are the only routes available to connect into in many instances.

#### **Network Rail Infrastructure Limited (1041)**

Policy T6 should also contain a similar presumption against any new level crossing and that development proposals that involve the removal (or facilitate the removal of) an at-grade level crossing will be supported.

### **T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks**

#### **Shirley Jackson (0631)**

Queries why the south of Elgin lacks cycle routes.

#### **Highland Council (0093)**

Policy T7 could benefit from referring to future developments such as Sustran's aim of linking National Cycle Route 7 in Badenoch and Strathspey with the National Cycle Route 1 by a route along the Spey. This would be a great tourism resource. Given the Scottish Government's ambition for a Scottish coastal path and Highland Council's work on creating an Inverness to Nairn coastal path it would make sense to link this with Moray's own developments of a Moray coastal path.

#### **Access Manager, Moray Council (0261)**

This is a good policy which provides robust protection for all paths in Moray whilst promoting their improvement. For accuracy and clarity it is suggested that the long distance routes The Dava Way and The Moray Coast Trail should be added to the justification. Also add Rights of Way after the Core Paths reference.

#### **Dufftown and District Community Council (0522)**

A safe off-road cycle route and path is necessary between Dufftown and Cabrach. Walkers are unable to access Cabrach from Dufftown. A941 is unable to cope with traffic as there are insufficient passing places, road markings and snow poles, crash barriers are required at dangerous bends.

#### **Cabrach Community Association (0674), Mrs Jean Oliver (0996)**

The ancient drove roads have the potential to provide long distance recreational routes linking the whole of Moray. (Speyside is strategically placed, linking as it does the coast to The Cabrach), to Aberdeenshire and the Cairngorms National Park paths network. A safe off road cycle route is necessary between Dufftown and The Cabrach.

#### **Dorenell Ltd (1044)**

The justification text which accompanies Policy T7 states that the policy aims to "ensure that existing public access is protected and future development does not restrict future opportunities for the extension of the public access network". The wording of this sentence regarding future developments and future opportunities for network extensions

is unclear and requires clarification.

**Modifications sought by those submitting representations:**

**T1 Transport Infrastructure Improvements**

Highland Council (0093), Scotia Homes Ltd (0480)

Supportive comments. No change.

Scottish Natural Heritage (1027)

Amend part c) of Policy T1 to – “Improving A941 (Lossiemouth to Elgin to Craigellachie) subject to no adverse effect on the integrity of Loch Spynie SPA through hydrological and water quality impact on habitat or disturbance to species, and A98 (Fochabers to Cullen) routes”. Add to part e) of policy T1 – “Harbour improvement works must avoid adverse impacts on the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations”.

Elgin Community Council (0122), Elgin South Area Forum (0192)

Refer to active travel improvements in policy.

Dufftown and District Community Council (0522)

Add as an improvement connection of Keith/Dufftown railway to the network at Keith.

**T2 Provision of Access**

CJ and CRH Dunbar (Pitgaveny) (0908)

- The title of the Policy should be changed from "Provision of Access" to "Accessibility."
- The policy wording in Bullet Point 3 should be amended to include the term "maximising connections" in place of the term "appropriate" (which should be deleted) in order to ensure that Designing Streets is given proper emphasis.
- The justification text should be amended to "The street design guidance within Designing Streets should always be used as a material consideration in determining applications."
- The wording of the policy should be amended to provide clarity as to the circumstances when a Transport Assessment or Travel Plan might be required to accompany development proposals.
- The wording of the policy at bullet point 5 should be deleted and replaced with the following text: "The nationally established hierarchy of travel modes should be considered in provision of any mitigating travel measures that may arise from new development. Mitigation measures may include but would not be limited to, the following - e.g. passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs".

Scottish Government (0490)

Supportive comments. No change.

Network Rail Infrastructure Limited (1041)

Change text within policy T2 to "Access proposals that have a significant adverse impact on the surrounding landscape and environment, including the transport network that cannot be mitigated will be refused."

Elgin Community Council (0122), Elgin South Area Forum (0192)

Add text stating routes for cyclist should connect to the road network.

### **T3 Roadside Facilities**

Elgin Community Council (0122), Elgin South Area Forum (0192)

Amend to refer to need for intermodal provision.

### **T4 Safeguarding Bus, Rail and Harbour Facilities**

Elgin Community Council (0122), Elgin South Area Forum (0194)

1. Remove rail from Policy T4 Safeguarding Bus, Rail and Harbour Facilities.
2. Add a new policy T8 Enhance Economic, Environmental and Service Benefits of Rail with the following text "Upgrade rail as a long term objective to ensure the North East and the North are efficient functional and inclusive parts of the Scottish Rail network. Better connectivity with Perth, Dundee, the Central Belt and beyond will serve the people of Elgin, Moray, the North East and the North." 3.The Vision at 2.3 bullet point 6 should be amended to "Good efficient transport links to the rest of the country, with the encouragement of active travel and enhancement of rail as alternatives to journey by car and truck."4.Space should be provided in settlement plans for future rail network improvements. 5.Neighbouring Councils should be asked to make appropriate allowances in their development plans.

### **T5 Parking Standards**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Refer to short term parking in Elgin town centre within the plan and mention the lack of traffic warden provision and what the Council will do about this. Update parking standards now.

### **T6 Traffic Management**

CJ and CRH Dunbar (Pitgaveny) (0908)

The policy should be deleted or, if retained, the wording of the policy should be amended to include the following text: "This policy will not apply where access to an allocated site is required".

Network Rail Infrastructure Limited (1041)

Policy T6 should also contain a similar presumption against any new level crossing and that development proposals that involve the removal (or facilitate the removal of) at-grade level crossings will be supported.

### **T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks**

Shirley Jackson (0631)

Implied change to add cycle routes in Elgin south.

Highland Council (0093)

Add reference to the Sustran's aim of linking National Cycle Route 7 in Badenoch & Strathspey with National Cycle Route 1 between Inverness and Aberdeen by a route along the Spey.

Access Manager, Moray Council (0261)

Refer to Dava Way and Moray Coastal Trail in justification. Add Rights of Way after Core Path reference.

Dufftown and District Community Council (0522)

Implied amendment to show/provide a path between Dufftown and Cabrach.

Cabrach Community Association (0674), Mrs Jean Oliver (0996)

Implied amendment to identify historic drove roads as recreational links and provide an off road cycle route between Dufftown and Cabrach.

Dorenell Ltd (1044)

To improve clarity it is recommended that the word "planned" should be inserted into the fourth paragraph of the justification text which accompanies Policy T7, prior to the words "extension of the public access network".

**Summary of responses (including reasons) by planning authority:**

**T1 Transport Infrastructure Improvements**

The support for policy T1 is noted. The comments regarding the A96 dualling and "bypass" route are noted.

Scottish Natural Heritage's comments are noted. There are no specific detailed proposals on the location of improvements to the A941 or harbours, therefore it is difficult to assess likely impacts. If the Reporter is so minded the Council would not object to adding a caveat to policy T1 to ensure there are no adverse impacts on Loch Spynie SPA or to the Moray Firth SAC. For part C the following amended wording is considered appropriate "Improving A941 (Lossiemouth to Elgin to Craigellachie) subject to no adverse effect on the integrity of Loch Spynie SPA through hydrological and water quality impact on habitat or disturbance to species, and A98 (Fochabers to Cullen) routes". For part e the following sentence should be added to the end of the text—"Harbour improvement works must avoid adverse impacts on the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations".

Reference is made to Active Travel Audits within Policy T2 Provision of Access. The implementation of priorities within Active Travel Audits is action EI22 within the proposed Action Programme (CD03 page 12). Active travel is also embedded within many other policies such as PP2 Climate Change, PP3 Placemaking, Policy ED1 Development of New Employment Land, T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks, R2 Out of Centre Development of Retail, Leisure and Commercial Proposals and IMP1 Developer Requirements. This demonstrates the Council's commitment to Active Travel provision and specific reference in policy T1 is not required due to the specific reference to Active Travel audits in policy T2 and this being embedded throughout the plan.

The Council would have no objection if the Reporter were minded to make the modifications to the policy text highlighted above in respect of Loch Spynie SPA and the Moray Firth SPA.

**T2 Provision of Access**

Support for policy is welcomed.

Disagree that title implies vehicle access and note that in the Moray Local Plan 2008 (CD10 page 33) the corresponding policy is "Provision of Road Access". The policy sits within chapter "Transport and Accessibility" and the policy context clearly relates to

access for all modes. No change to the policy title is proposed.

Policy T2 states “New developmental proposals should enhance permeability and connectivity...” Creating well connected neighbourhoods is a requirement of policy PP3 Placemaking which states that the key principles of the Council’s Supplementary Guidance on Urban Design should be incorporated into proposals. The Supplementary Guidance on pg 4 includes a section on movement which aims to promote development that is integrated and connected to the surrounding area and within itself. One of the key principles is for development to be “well connected internally and externally with the adjacent streets and footpath networks”. There is no need for policy T2 to be amended.

The wording used within the justification regarding materiality is the same as stated within the policies of Designing Streets (CD30) which states on page 7 that “Street design guidance, as set out in this document, can be a material consideration in determining planning applications and appeals.” There is no justification to add “always” to this.

The requirement for a Transport Assessment is usually identified in designation text. For windfall or other development proposals the Council may request a Transport Assessment when the type of development creates substantial traffic or the road network is sensitive to additional traffic. This is in line with Scottish Planning Policy (CD01) paragraph 286 which states where new development “is likely to generate a significant increase in the number of trips, a transport assessment should be carried out.” No thresholds are promoted within Scottish Planning Policy (CD01). Establishing thresholds could encourage applications just below the threshold to avoid preparing a Transport Assessment and would not take into account location sensitivity or pressurised areas. The Council Transportation section will clarify the need for a Transport Assessment on request. No amendment to the policy is required.

Mitigation of impacts cuts across all travel modes. Provision of enhanced footpaths does not remove the need for modification to a road layout where additional vehicle traffic is substantial. The policy wording does not suggest car travel has priority as the policy considers all modes of transport. Bullet point five should be read in the context of the whole policy and no amendment to the policy is required.

Note comments from Network Rail. The Transport Assessment process is highlighted in Scottish Planning Policy (CD01) and also PAN75 Planning for Transport (BD/09/01) and Transport Assessment and Implementation: A Guide (BD/09/02). Whilst these documents focus on roads infrastructure they do not exclude other transport networks being considered and the principles for assessment can be applied to consideration of railway infrastructure. The issue is also discussed under Issue 11b. The wording change proposed by Network Rail is already implied within bullet point five which covers transport networks, not solely roads. However, should the Reporter be minded the Council would not object to the wording proposed by Network Rail being included within the policy. The replacement of the last sentence of the policy with the following wording is considered acceptable “Access proposals that have a significant adverse impact on the surrounding landscape and environment, including the transport network that cannot be mitigated will be refused.”

Policy T2 requires proposals to maximise connections and routes for pedestrians and cyclists. This does not state this should solely be by dedicated foot or cycle paths. The policy requires developments to provide safe entry and exit for all road users not just vehicles. No modification to the text is proposed.

The Council would have no objection if the Reporter were minded to make the modifications to the policy text highlighted above in respect of adverse impacts on the transport network.

### **T3 Roadside Facilities**

Policy T3 supports in principle roadside facilities where access standards are met. Therefore, any proposals would be expected to meet the provisions of policy T2 Provision of Access and provision for access by all modes would require to be considered. No change to policy is required.

No modification is proposed.

### **T4 Safeguarding Bus, Rail and Harbour Facilities**

Moray Council has no authority to upgrade rail networks. Scottish Government has the authority to set rail strategy and specify where resources are targeted by Network Rail. It would not be possible for Moray Council to implement the policy proposed by Elgin Community Council and Elgin South Area Forum or the modifications to the rail network they suggest. The comments would be better directed to the bodies who prepare the National Transport Strategy or Regional Transport Strategy. If the suggestions are taken forward within these documents there would be a firmer basis for their inclusion within the Local Development Plan. Policy T4 is appropriate and sufficient to safeguard rail facilities and it is noted that Policy T1 Transport Infrastructure Improvements promotes improvement to the rail service between Aberdeen and Inverness.

No modification is proposed. See below Policy T6 Traffic Management which includes a suggested amendment to Policy T4.

### **T5 Parking Standards**

The plan cannot influence parking regulations nor the enforcement of these. The provision of on street parking bays in Elgin is an operational matter managed by the Traffic section within the Council Transportation service. Waiting restrictions and parking bays are normally covered by Road Traffic Regulation Orders and there is a statutory procedure when changes are proposed. The parking standards referred to in policy T5 relate to the provision of parking for new development and not to charging regimes. The policy allows for parking standards to be reviewed during the currency of the plan if this is considered appropriate.

There is no evidence of demand or commitment to delivery of a park and ride. It is therefore not appropriate to identify a site. A park and ride in Elgin was previously considered by consultants working for Hitrans who concluded this was not currently viable in Elgin due to the disconnection of the four main route corridors into the city.

No modification is proposed.

### **T6 Traffic Management**

Whilst there is a presumption against new access onto the A941 and A98, exceptions may be justified where development would support significant regional economic growth benefits. This would include development of large allocated sites as these are necessary to achieve growth. No change to policy is required.

Scottish Planning Policy (CD01) does not include a presumption against new level crossings and the Council would not support inclusion of this within policy T6. However, it

is recognised that new development can impact on the safety and efficiency of the transport network including railway infrastructure. New development has the potential to increase vehicle and pedestrian traffic utilising level crossings which could impact upon safety and service provision. It is noted that paragraph 290 of Scottish Planning Policy (CD01) requires “Development Proposals that have the potential to affect the performance or safety of the strategic transport network need to be fully assessed to determine their impact.” The Council would therefore not object to wording to ensure impact on the rail network from new development is assessed. It is considered that this would be best placed within Policy T4 Safeguarding Bus, Rail and Harbour Facilities rather than policy T6. Adding the following wording to Policy T4 is considered appropriate “Where proposals have the potential to impact on the rail network this should be assessed and adverse impacts mitigated”. It is also noted that the amendment proposed to the wording for Policy T2, as set out above, would allow proposals that have a significant adverse impact on the rail network which cannot be mitigated to be refused.

The Council would have no objection if the Reporter were minded to make the modifications to the text for Policy T4 as highlighted above in respect of the rail network.

### **T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks**

There are several cycle routes in south Elgin. These are identified on an Urban Freedom plan of cycling and walking routes in Elgin (BD/09/03). Urban Freedom was a joint EU, Sustrans and Moray Council project to create more opportunities for residents to undertake journeys by active or sustainable means. Moray Council is now leading similar projects in Buckie, Keith, and Forres having already delivered benefits in Elgin.

The long distance routes mentioned in the policy are just two examples and not an exhaustive list. The routes suggested by respondents therefore do not require to be added to the policy to achieve the aims sought. However, if the Reporter was so minded the Council would not object to the insertion of the Moray Coastal Trail and Dava Way to the justification text so these important routes are referenced within the plan. The following wording is considered acceptable “There are several long distance routes cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.”

Policy would support the creation of new walking or cycle routes if suitable routes and willing landowners can be identified. As noted in the policy priority will be given to long distance routes which would include the suggested connection between cycle routes, connection between coastal trails and a route between Dufftown and the Cabrach. There is no need to specifically reference these within the policy but when specific projects are identified these could be included within the Action Programme (CD03) and the relevant delivery partners identified.

The reference to future development and future extension opportunities is to explain that existing access rights/routes are protected to prevent these being blocked or stopped up and prevent the opportunity for connections to be made to other parts of the network being lost. No amendment to the justification is necessary.

The Council would have no objection if the Reporter were minded to make the modifications to the justification text highlighted above in respect of long distance routes.

**Reporter's conclusions:**T1 Transport Infrastructure Improvements

1. I note the supportive comments of Highland Council and Scotia Homes Ltd. In response to the matters raised by Scottish Natural Heritage I have carefully considered the likely significant effect of the proposals for the A941 and A98 on the integrity of the Loch Spynie Special Protection Area and the River Spey Special Area of Conservation. Matrix 1 on page 14 of the Habitats Regulation Appraisal (HRA) identifies a likely significant effect on the integrity of these designations.
2. Page 53 of the HRA refers to effects on the qualifying interests of the River Spey SAC which include Sea Lamprey, Atlantic Salmon and Otters. The required mitigation relies on the Environmental Assessment of any large scale projects. However, I consider a policy caveat requires to be inserted rather than reliance on appraisal at the project level to ensure that any matters relating to loss of habitat, disturbance to mussel, silt or gravel spawning beds and changes to water quality/sedimentation are addressed.
3. For the Moray Firth SAC the affected qualifying interest are the sub-tidal sandbanks and bottle nose dolphins.
4. For Loch Spynie SPA any road works would have to address direct or indirect disturbance to habitat. Significant works to this route could impact on the hydrology of the site and there would be the risk of construction run off, pollution and disturbance to Greylag Geese. Early consultation and an EA to assess the impacts to enable methods to be proposed that do not impact on the site should ensure that it will not adversely impact on site integrity.
5. Consequently, the required mitigation should be referenced through Policy T1 so that any improvement works to the A941 road address adverse effects on the integrity of Loch Spynie SPA through hydrological impact on habitat or disturbance to species.
6. I find that specific reference to the required mitigation should be included in the policy rather than relying on the general protection afforded to these designations through Policy E1 and any subsequent project level assessment. Subject to inclusion of this mitigation, I am content that the protection of the integrity of these sites is appropriately addressed at this stage in the planning process.
7. Active Travel Audits are referenced within Policy T2 Provision of Access and the implementation of priorities within these are listed as action EI22 within the proposed Action Programme (CD03 page 12). There is also some relevant linkage with policy PP2 on Climate Change, PP3 Placemaking, Policy ED1 Development of New Employment Land, T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks, R2 Out of Centre Development of Retail, Leisure and Commercial Proposals and IMP1 Developer Requirements.
8. Consequently I am content that Active Travel provision is sufficiently addressed in the plan without the need for an additional reference in Policy T1.
9. Policy T1 refers to improving the Aberdeen to Inverness Railway and the supporting justification text on page 70 refers to improvements to the rail network as part of the Strategic Transport Projects Review. In the absence of any further detail or commitment

to delivery I do not consider it would be appropriate to include reference to a potential link between the Keith/Dufftown Railway and the network at Keith.

## T2 Provision of Access

10. I consider that the policy title can refer to all forms of access. Consequently, I do not agree that it need be changed to refer to accessibility.

11. It is important to give appropriate emphasis to the guidance set out in “Designing Streets”. However, this is addressed through the statements on permeability and connectivity. This policy should also be read alongside Policy PP3:Placemaking. This refers to the need for places to be well connected and easy to move around. Further detail of these design principles is to be set out in Supplementary Guidance. Consequently, I consider that this matter is sufficiently addressed without the need for further detailed references.

12. The justification supports the policy and need not exhaustively list all material considerations. In any event “Designing Streets” would only be a consideration if relevant to the determination of any particular proposal. Consequently, I do not consider that inclusion of “always” would be a helpful addition.

13. Scottish Planning Policy through paragraph 286 advises that assessment should be carried out where development is “likely to generate a significant increase in the number of trips”. The need for assessment or a travel plan is often predicated on the location of any proposal in relation to areas with known sensitivities or constraints. I appreciate the desire for greater certainty as to when such assessment is required. However, I am not convinced that this matter can be addressed through Policy T2. Proposals on unallocated sites will fall to be assessed on their own merits. However, the proposed plan can highlight likely requirements on allocated sites and help to inform the scoping process. I am content that the council’s current approach, in setting out requirements for its allocated sites, reflects this without the need for further change.

14. I do not consider that inclusion of the suggested text at bullet point 5 would add any further clarification to the clearly expressed commitment to mitigation and to maximising connections for pedestrians and cyclists. When read as a whole, the policy makes appropriate reference to all travel modes and an implied hierarchy without the need for an additional reference which may not be widely understood to “the nationally established hierarchy of travel modes.”

15. Network Rail’s representation requests due consideration of railway infrastructure as part of the transport assessment process. I have also addressed this matter under Issue 11b. The reference to transport networks could be read to include the rail network. However, I consider that a more specific reference will clarify this matter and ensure that it is considered from the outset. I agree with the council that this matter is more appropriately referenced under Policy T4 which applies specifically to rail facilities. My conclusion is that the council’s suggested change to Policy T4 should be accepted.

16. Whilst the first bullet point of Policy T2 refers to maximising connections and routes for pedestrians and cyclists it does not state that these need be dedicated routes. The emphasis is on a safe and realistic choice of access and this would apply to all road users. Consequently I consider the policy is sufficient in this respect.

17. Given the wording of Policy T2 I consider that it is implicit that proposals which do not meet these requirements would fall contrary to the development plan. The fifth bullet point covers impact of new development on the transport network. I find this should be more clearly expressed by replacing the word “ensure” with “address”. I agree that access proposals may have a significant landscape and/or environmental impact and that this is a relevant consideration. However, I consider this is a separate issue best addressed through another bullet point as another relevant criterion. My recommendations reflect these conclusions.

### T3 Roadside Facilities

18. Given that Policy T2 covers provision of access and policy T3 refers to access standards being met I do not consider any change to this policy is required to address this representation.

### T4 Safeguarding Bus, Rail and Harbour Facilities

19. Upgrading or additions to the rail network are strategic matters which are addressed through other strategies and plans in consultation with Transport Scotland and Network Rail. Consequently, it would not be appropriate for the proposed plan to reference projects which have not been through this due process. This could raise unrealistic expectations and create uncertainty. Policy T1 refers to improvements to the Aberdeen to Inverness line and to a rail station at Dalcross. Policy T4 safeguards bus rail and harbour facilities including a commitment to their improvement.

### T5 Parking Standards

20. In a similar vein to my conclusions on policy T4 it would not be appropriate for the council to commit to proposals which lack any certainty or proven viability. There will inevitably be some overlap between this land use plan and matters which fall under other legislation or areas of council responsibility. Parking regulation falls to the management of the council’s transport service and there is a statutory process for Road Traffic Regulation Orders. The role of this policy is restricted to setting appropriate standards for the provision of parking in new development. Consequently, my conclusion is that no change is required.

### T6 Traffic Management

21. The presumption against access onto trunk roads applies at a national level. The council through Policy T6 have also applied this presumption to the A941 and A98 which it classes as strategic routes. The issue raised in representation is for clarification that this presumption would not apply where access to an allocated site is required. I consider this matter could be addressed by addition of the words “where required to support the provisions of the development plan” as this gives greater certainty to developers as to the exceptions which might apply.

22. My conclusions and recommendation in relation to representations by Network Rail enable consideration of impacts on the rail network. Policy T6 has a focus on the strategic road network. Consequently, I agree with the council that this matter has a more direct bearing on Policy T4 as this safeguards bus, rail and harbour facilities. Consequently, my conclusion is to include the suggested wording within Policy T4.

**T7 Safeguarding and Promotion of Walking, Cycling, and Equestrian Networks**

23. This is a general policy. Consequently I agree with the council that it need not include an exhaustive list of all long distance routes. That said, as the Moray Coastal Trail and the Dava Way are an important local and tourist resource I consider they should be referenced in the policy. I find the council's suggested wording appropriate in this respect.

24. This is a generally supportive policy expressing a commitment to the improvement of these networks. A particular emphasis is placed on core paths, the wider paths network, the National Cycle Route and the Speyside Way. I find this provides a policy framework which will support suitable additional routes as and when these come forward as firm proposals. I agree that it may be helpful to include such proposals in future action programmes where delivery partners can be identified. I consider this is an appropriate approach and that no modification is required.

**Reporter's recommendations:**

Modify the proposed plan as follows:

**Policy T1**

1. Amend criterion c) to read:

Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.

2. Add the following to criterion e):

Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.

**Policy T2**

3. In the 5th bullet point remove "ensure" from the first sentence and replace with "address"

4. Add additional bullet point to read:

"Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts."

**Policy T4**

5. Add the following wording to Policy T4 after the first paragraph:

"Where proposals have the potential to impact on the rail network this should be assessed and adverse impacts mitigated".

Policy T6

6. Add the words “except where required to support the provisions of the development plan” at the end of the first sentence of the second paragraph.

Policy T7

7. In the first section of the policy delete the words “and to long distance routes and Aberdeen to Inverness National Cycle Route and the Speyside Way”. Add the following sentence:

“There are several long distance routes cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.”

Issue 10	Retail and Commercial Development	
Development plan reference:	<b>Retail and Commercial Development, page 76</b> <ul style="list-style-type: none"><li>• <b>R2 Out of Centre Development of Retail, Commercial and Leisure Proposals, page 80-81</b></li><li>• <b>R3 Neighbourhood and Local Shops, Ancillary Retailing, and Recreation or Tourist Related Retailing, page 82</b></li></ul>	<b>Reporter:</b> Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<b><u>R2 Out of Centre Development of Retail, Commercial and Leisure Proposals</u></b> British Land Properties Limited (0074) Asda Stores Ltd (0206) <b><u>R3 Neighbourhood and Local Shops, Ancillary Retailing and Recreation or Tourist Related Retailing</u></b> CJ And CRH Dunbar (Pitgaveny) (0908)		
Provision of the development plan to which the issue relates:	Policies R1 to R3 provide the framework for considering retail, leisure and commercial proposals. Policies aim to ensure that town centres continue to be a focus for a mix of uses; to safeguard the vitality and viability of town centres; and support the most appropriate scale of development in the most appropriate locations.	
Planning authority's summary of the representation(s):		
<b><u>R2 Out of Centre Development of Retail, Commercial and Leisure Proposals</u></b> <u>British Land Properties Limited (0074)</u> Support is given to the identification of Springfield Retail Park as a Commercial Centre. Springfield Retail Park forms the role of a commercial centre and forms part of a wider network of centres. <ul style="list-style-type: none"><li>• Reference should be added to R2 to support proposals for retail and/or leisure development in Commercial Centres where their function complements that of other centres within the network, having particular care not to undermine town centres.</li><li>• Policy R2 should be amended to support investment in Commercial Centres and acknowledge the benefits this will bring such as employment, investment, retention of expenditure and town centre prospects.</li><li>• Policy should be amended to allow for retail floorspace to be developed outwith the town centre where its operation ordinarily requires. Retail development of less than 1,000 sqm should be acknowledged as potentially being appropriate and justifiable in out of centre retail locations.</li><li>• Table 1, as it relates to Commercial Centres, should also include reference to these being an appropriate location for leisure related development where there are no sites available, either suitable or available, within the town centre or edge of centre sites.</li></ul> <u>Asda Stores Ltd (0206)</u> The word "town" should be removed from criteria b) in respect of the requirement to		

demonstrate no unacceptable individual or cumulative impact on vitality and viability of the network of centres. In line with Scottish Planning Policy the sequential approach should include awareness of the commercial centres listed in the hierarchy. Removal of the word “town” will make it clear the sequential approach covers local and commercial centres. Support is given to the recognition of Edgar Road Retail Park as an established retail area and its identification as a Commercial Centre in Table 1. The Edgar Road Retail Park is an established area for the ASDA store and the adjacent retail warehousing acknowledges that this retail provision is complementary to the Town Centre. As such the role of Edgar Road Retail Park reflects the definition of Commercial Centre set out in Scottish Planning Policy. Support is given to maintaining and strengthening the retail hierarchy for Elgin by recognising the role Edgar Road Retail Park plays in the shopping habits of the local community through the retention of the retail allocation and its identification as a Commercial Centre.

### **R3 Neighbourhood and Local Shops, Ancillary Retailing and Recreation or Tourist Related Retailing**

#### **CJ and CRH Dunbar (Pitgaveny) (0908)**

- The policy should reflect that ancillary uses are not always identical in scale. The policy should be amended to allow flexibility to determine the circumstance in which ancillary use is appropriate and not include reference to a finite area or percentage of floorspace. Part b) of the policy should be amended to remove the definition of ancillary retailing comprising 10% of gross floor space up to a maximum of 1,000 square metres.
- There should be greater clarity as to the circumstances in which it will be required to demonstrate there will be no adverse impact on vitality and viability on the identified network of centres and what format this should be.
- The justification states that specialist retailing "must" be linked to a tourist or recreational facility. This should only be an aspiration and not a requirement as there are specialist retailers that are not directly related to either tourism or recreation and in some cases tourism or recreation may occur as a spin-off of the primary use.

### **Modifications sought by those submitting representations:**

#### **R2 Out of Centre Development of Retail, Commercial and Leisure Proposals**

##### **British Land Properties Limited (0074)**

- Add text to R2 to support proposals for retail and/or leisure where their function complements other centres in the network and does not undermine town centres.
- Amend R2 so this supports investment in Commercial Centres and acknowledges benefits of this.
- Amend R2 to allow retail floorspace to be developed outwith the town centre where its operation ordinarily requires this.
- Amend R2 to acknowledge that retail development of less than 1,000 sqm is potentially appropriate and justifiable out of centre.
- Amend Table 1 to refer to Commercial Centres as being appropriate locations for leisure related development where there are no sites available within the town centre or edge of centre.

##### **Asda Stores Ltd (0206)**

Remove word “town”, from policy criteria b).

**R3 Neighbourhood and Local Shops, Ancillary Retailing and Recreation or Tourist Related Retailing**

CJ and CRH Dunbar (Pitgaveny) (0908)

- Part b) of Policy R3 amended to remove the definition of ancillary retailing comprising a maximum of 10% of gross floorspace up to a maximum of 1,000 square meters gross total of retail floorspace, such that the policy reads as follows: "b) ancillary retail operations to an industrial or commercial business, where the retail operation is directly linked to the industrial or commercial production and where the goods are produced on the same premises."
- The justification for Policy R3 is amended to read "Developers should aspire to link specialist retailing to a tourist or recreational facility".

**Summary of responses (including reasons) by planning authority:**

**R2 Out of Centre Development of Retail, Commercial and Leisure Proposals**

Amending policy R2 to explicitly support leisure and/or retail within Commercial Centres would not be reflective of the town centre first approach within Scottish Planning Policy (CD01 paragraph 60). In line with Scottish Planning Policy the focus of policy is to support town centres and policy R2 sets out in what circumstances exceptions to this approach may be supported. The Commercial Centre in the table at Edgar Road does not have the characteristics of a town centre and has a specific retail focus rather than the mixed use functions the High Street /town centre performs. Support for retail and/or leisure in Commercial Centre is conditional upon the sequential approach being met and there being no unacceptable impact on vitality and viability. The amendment requested is not required.

The contribution the Commercial Centre at Edgar Road makes is acknowledged within the Elgin settlement statement and reference is made to this area helping to maintain Elgin's competitiveness with Aberdeen and Inverness. It is considered that by identifying an area as a Commercial Centre support is given to appropriate investment and this does not require to be explicitly stated. There is no statement regarding the employment benefits of retail and leisure within the town centre text and no justification for this to be added for Commercial Centres. No amendment to the policy is required.

As required in Scottish Planning Policy (CD01 paragraph 69) and as noted within the justification flexibility and realism by all parties in the application of the sequential approach is expected. However, it should be up to the developer to demonstrate that a proposal cannot reasonably be altered or reduced in scale to allow it to be accommodated in a sequentially preferable location.

Policy R3 gives support to limited exceptions to the sequential approach for specific types of retail that may ordinarily be expected to be located out of centre. There is no justification for the policy R2 text to be amended to allow this more generally for "operational reasons" as this could undermine town centres. If such instances occur these should be justified by developers when applying the sequential approach to proposals with all parties applying flexibility and realism to proposals. No modification is proposed.

Policy R3 supports "neighbourhood" retail proposals and rather than having an area based threshold it is considered more appropriate to look at the function of proposals. Therefore, support can be given to proposals that clearly serve the convenience needs of a local neighbourhood. A square metre threshold encourages applications just below this threshold and does not consider the function of such shops which could potentially

undermine town centres. It is considered that Policy R3 provides sufficient scope for acceptable out of centre retail proposals and no modification is proposed.

The comments regarding adding text to the Commercial Centre section of Table 1 to include leisure uses is noted. There is some merit to the suggestion as, in principle, policy R2 would support leisure uses at Commercial Centres where town centre or edge of centres sites were not available as demonstrated by the sequential approach. Therefore the addition of leisure to the existing wording would not alter the sequential approach taken within the policy. This is excluded from the table in the Proposed Plan to emphasise that the strong preference is for leisure uses to be located within town centres reflecting the town centre first approach within Scottish Planning Policy (CD01 paragraph 60) and Elgin City for the Future (CD29). If the Reporter is minded to amend this then similar provision should be made to “Other Town Centres” and “Local Centres”. The text in the third column of Table 1 “Retail Centres and Roles” would therefore read

- Other Town Centres “Preferred location for retail and leisure development where the market/catchment is the town or area but not regional”
- Local Centres “Preferred location for convenience shops and local leisure facilities where the market is the town or hinterland.”
- Commercial Centres “Preferred location for bulky goods, comparison outlets and leisure if town centre and edge of centre sites are not available.”

The comments from ASDA are noted and it is acknowledged that reference to “town” centres in criteria b) could give the impression that Commercial Centres are not included. The intention was to ensure no unacceptable impacts on the network of centres identified in Table 1 “Retail Centres and Roles”. If the Reporter is so minded, the Council would not object to the replacement of the word “town” with the word “retail” in part b of the policy to reflect the title of Table 1 “Retail Centres and Roles”.

The Council would have no objection if the Reporter were minded to amend the policy to refer to “retail centres” in part b of the policy as highlighted above.

### **R3 Neighbourhood and Local Shops, Ancillary Retailing and Recreation or Tourist Related Retailing**

It is noted that the respondent is seeking less prescription and greater flexibility in relation to the definition of ancillary but more clarity about when an assessment of impacts on vitality and viability will be requested.

It is considered that the amendment proposed to the definition of ancillary would introduce too much flexibility and not sufficiently support Town Centres as required by Scottish Planning Policy (CD01). This proposal could allow premises to be predominantly retail. The policy criteria of 10% of floorspace ensures retail remains the subordinate use. 1,000 sqm is generous and comparable to some of the units at Edgar Road Commercial Centre. It is reasonable to expect proposals beyond this to comply with the sequential approach within Policy R2 and it is up to the developer to demonstrate that the proposal cannot be altered to be accommodated at a sequentially preferable location. No modification is proposed.

Proposals will be assessed on a case by case basis in terms of likely impacts on vitality and viability. Given the breadth of potential proposals considered by policy R3, applying criteria or thresholds for when retail impacts will be assessed is problematic. Paragraph 71 of Scottish Planning Policy (CD01) allows authorities to request an impact assessment

for small retail and leisure proposals which may have a significant impact on vitality and viability.

The tourism link is the justification for specialist retailing to potentially be acceptable out of centre and not require application of the sequential test. Tourism uses generally have a locational need to be in a specific location, e.g. a historic site, or natural heritage feature which justifies an out of centre location. This minimises impacts on existing town centre retail and ensures retail is targeted to sustainable locations. There is no justification generally for all specialist retail to be exempt from the sequential approach and the policy should not be amended.

No modification is proposed.

### **Reporter's conclusions:**

#### R2 Out of Centre Development of Retail, Commercial and Leisure Proposals

1. I agree that commercial centres have a particular role and function and that they offer economic and employment opportunities. The centre at Edgar Road displays the characteristics associated with out of town retail parks - namely larger units selling a more restricted range of generally bulky goods. In comparison, the traditional town centre of Elgin is the focus for a wide range of goods and services reflecting its position at the top of the retail hierarchy. Scottish Planning Policy places emphasis on maintaining the vitality and viability of such town centres in applying a town centre first policy (paragraph 60). There is a clear role for development plans in supporting successful town centres. This reflects their important role as a focus not only for shopping but also for a range of other services and recreational opportunities.

2. Consequently, I consider it is sufficient that the role and function of other centres within the retail hierarchy is recognised as shown in Table 1 on page 81 of the plan. Paragraph 68 of Scottish Planning Policy explains a sequential town centre first approach with a hierarchy which reflects that set out in the proposed plan. Commercial leisure development can support the town centre by generating footfall so town centres should be considered first. The policy in applying a town centre first approach allows for consideration of leisure uses where there are no sites available within the town centre or edge of centre. However, I agree that the sequential approach as it applies to Commercial Centres could be clarified through reference to leisure in table 1. This would clarify that Commercial Centres are the preferred location for bulky goods, comparison outlets and leisure if town centre and edge of centre sites are not available. I have restricted this change to apply only to Commercial Centres as this is the only matter raised in the representation.

3. I do not consider that the policy should undermine the viability of the Edgar Road Centre given its established role in the retail hierarchy. A reference to operational justification would prove difficult to define. I consider that such matters are more appropriately considered on their merits in assessing compliance with the sequential approach. Any further policy support to a wider mix of uses could undermine this approach. I do not consider removal of the word "town" from b) is justified as this would undermine the proper focus placed on the protection of the vitality and viability of town centres. For these reasons, I find Policy R2 should be retained with the exception of the slight modification to table 1 as referenced above.

### R3 Neighbourhood and Local Shops, Ancillary Retailing and Recreation or Tourist Related Retailing

4. The thresholds of 10% and 1000 square metres have no direct reference in Scottish Planning Policy. However I consider that these thresholds provide a degree of flexibility in the town centre first approach recognising that some commercial operations may wish to operate an on-site retail outlet. I consider this reflects the flexibility expressed in paragraph 69 of Scottish Planning Policy. The policy threshold does not rule out larger scale proposals being considered on a case by case basis in the context of Policy R2. Consequently, I do not consider this policy requires modification.

5. In the interests of clarity and a succinct approach it is not possible for policies to cover every eventuality. I consider that greater flexibility in Policy R3 could undermine its objective to maintain the emphasis on the town centre in accordance with Scottish Planning Policy. The policy recognises that specialist tourism retailing may justify an out of town location. However, the focus is placed on retailing which supports/is ancillary to the main tourism use. I am content the policy is sufficient bearing in mind that each proposal is considered on its own merits and other material considerations can also be taken into account. Consequently, no change is recommended.

#### **Reporter's recommendations:**

Modify the proposed plan as follows:

1. Amend the wording in the third column of Table 1 on Commercial Centres to read:

Preferred location for bulky goods, comparison outlets and leisure if town centre and edge of centre sites are not available.

Issue 11a	Developer Obligations	
Development plan reference:	Policies page 7-86: Section on Implementation, page 83-86 <ul style="list-style-type: none"><li>IMP3, Developer Obligations, page 86</li></ul>	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>IMP3 Developer Obligations</u></b></p> <p>Highland Council (0093) NHS Grampian (0300) Scotia Homes Ltd (0480) Scottish Government (0490) Dufftown &amp; District Community Council (0522) The Ellis Group (0878) CJ &amp; CRH Dunbar (Pitgaveny) (0908) Homes for Scotland (1035) Network Rail Infrastructure Ltd (1041) Fred Olsen Renewables Ltd (1047)</p>		
Provision of the development plan to which the issue relates:	Provides policy context for developer obligations which reflects Scottish Government policy and Circular 3/2012 on Planning Obligations and Good Neighbour Agreements.	
Planning authority's summary of the representation(s):		
<p><b><u>IMP3 Developer Obligations</u></b></p> <p><u>Highland Council (0093)</u> Amend policy to reflect Circular 3/2012 in that there are five not four tests an obligation must meet, and that the obligation must be related to the development (as well as scale and kind).</p> <p><u>NHS Grampian (0300)</u> Objects to the exclusion of healthcare as infrastructure provision. Considers healthcare facilities to be key element of community infrastructure. For high standards of healthcare to be maintained greater emphasis should be placed on healthcare delivery through developer contributions with regards to infrastructure. Healthcare needs to be specifically addressed within forthcoming Supplementary Guidance on Developer Contributions.</p> <p><u>Scotia Homes Ltd (0480)</u> Seeks amendment to clarify requirements within policy rather than justification. Comments on policy H8 Affordable Housing are also relevant to IMP3.</p> <p><u>Scottish Government (0490)</u> Supplementary Guidance explaining how policy will be implemented should comply with tests set out in Circular 3/2012.</p> <p><u>Dufftown &amp; District Community Council (0522)</u> Queries strategy for increased supporting infrastructure and services to meet increasing population. Specifically references the need to increase size of school, cemetery, leisure facilities and improve public transport.</p>		

The Ellis Group (0878)

Seeks that the full detail of the specific requirements of IMP3 are set out in the Plan so that the proposed provisions can be tested in order that there is absolute transparency in the adopted Plan.

CJ & CRH Dunbar (Pitgaveny) (0908)

Object to reduction in affordable housing threshold from 10 to 4 units. Seek further clarification as there is insufficient justification given in IMP3 and policy H8. Consider reduced threshold does not reflect regional diversity and challenges to bringing forward new housing developments in current economic climate or other financial obligations linked to developments. Suggest threshold should be no less than 10 units and individual housing provision is based on requirements of each Housing Market Area.

Homes for Scotland (1035)

Supplementary Guidance should be published alongside Plan for scrutiny and to provide as much certainty as possible over likely costs and contributions. Suggest plan should contain at least identification by settlement of likely mitigations that will be required of developers.

Network Rail Infrastructure Ltd (1041)

Consider that Network Rail should be excluded from making developer contributions as profits are reinvested in the railway given Network Rail is a not-for-profit infrastructure provider. Infrastructure projects and station developments support regeneration, increase attractiveness of settlements and benefit communities and are as such 'social' infrastructure which is exempt in some development plans from making contributions.

Fred Olsen Renewables Ltd (1047)

Considers policy should explicitly note that community benefits associated with renewable energy developments are separate from Developer Contributions to avoid confusion.

**Modifications sought by those submitting representations:**

**IMP3 Developer Obligations**

Highland Council (0093)

Amend policy text to reflect Circular 3/2012 on Planning Obligations and Good Neighbour Agreements.

NHS Grampian (0300)

Include healthcare provision as community infrastructure and address specifically within forthcoming Supplementary Guidance on Developer Contributions.

Scotia Homes Ltd (0480)

Amend policy to include clarification that requirements will be sought in accordance with policy tests of Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

Scottish Government (0490)

Suggests Supplementary Guidance must comply with texts set out in Circular 3/2012.

Dufftown & District Community Council (0522)

Infers need to seek compensatory measures for impact of development on community infrastructure.

The Ellis Group (0878)

Amend policy to set out full detail of requirements so proposed provisions can be tested and adopted Plan provides absolute transparency.

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend policy to increase threshold to 10 units or more. Establish an individual affordable housing provision based on the requirements of each Housing Market Area.

Homes for Scotland (1035)

Publish Supplementary Guidance and allow reasonable time for representations.

Network Rail Infrastructure Ltd (1041)

Within Plan and Supplementary Guidance include statement that Network Rail is exempt from developer contributions.

Fred Olsen Renewables Ltd (1047)

Suggests policy explicitly states difference between community benefits and developer contributions.

**Summary of responses (including reasons) by planning authority:**

**IMP3 Developer Obligations**

**Circular 3/2012 Planning Obligations & Good Neighbour Agreements (CD36)**

It is accepted that greater clarity and certainty may be provided where the tests set out in Circular 3/2012 (CD36) are included within the policy rather than the justification. The policy should refer to five rather than four tests set out in Circular 3/2012 (CD36).

The Council would have no objection if the Reporter were to make a modification as outlined above whereby the revised text would state “The Council will use the five tests set out in Circular 3/2012 on Planning Obligations to secure developer contributions. These are:

- Be necessary to make the proposed development acceptable in Planning terms;
- Serve a planning purpose, and relate to development plans;
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
- Relate in scale and kind to the proposed development; and,
- Be reasonable.”

**Healthcare Provision**

The policy refers to the impact upon existing infrastructure, community facilities or amenity. Infrastructure includes amongst other things, health provision. Supplementary Guidance on Developer Obligations will be prepared shortly and this will provide further clarity on contributions sought for community infrastructure including healthcare provision. Dialogue is ongoing with NHS Grampian regarding their input to the Supplementary Guidance on which they will be a consultee.

No modification is proposed.

**Impact on Infrastructure**

The policy refers to the impact upon existing infrastructure, community facilities or amenity. Infrastructure includes amongst other things, schools, leisure facilities, public transport provision and cemeteries. The developer will be required to mitigate through

contributions any measureable adverse or negative impact their development has on these facilities to reduce, eliminate or compensate for that impact. The forthcoming Supplementary Guidance Developer Obligations will provide further clarity on this matter.

No modification is proposed.

### **Rail Infrastructure**

Where appropriate, the Council will seek developer contributions from Network Rail as these are required to offset the impact from development. The contributions will be sought in accord with the tests set out in Circular 3/2012 (CD36). Developer contributions relate to the impact of the development rather than the organisation or person. If the contributions are not secured then the infrastructure providers will be liable for these costs.

No modification is proposed.

### **Supplementary Guidance/Proposed Plan Detail**

The Proposed Plan provides adequate detail on anticipated developer contributions for development in each town or village through a specific section in settlement statements. In addition, relevant policies are explicit in their requirements (i.e. Policy H8 Affordable Housing and E5 Open Spaces). Therefore, it is considered that the requirements for developer obligations set out within the Plan are sufficiently transparent to provide certainty to the development industry, and consultation alongside the Plan on Supplementary Guidance is not essential.

Further detail on developer obligations including their calculation will be provided in the forthcoming Supplementary Guidance Developer Obligations anticipated to be presented to the Planning & Regulatory Services Committee in late 2014 with adoption proposed for early 2015.

At all times, the developer can obtain a detailed Developer Obligations Assessment Report from the Council.

No modification is proposed.

### **Affordable Housing**

Representations submitted for Policy IMP3 Developer Obligations raising affordable housing are addressed in Schedule 4 Issue 4c Policy H8 Affordable Housing.

No modification is proposed.

### **Community Benefits**

The forthcoming Supplementary Guidance Developer Obligations will provide further clarity on the clear distinction between developer obligations and community benefits. Whilst it is not considered appropriate to include reference to community benefits within policy IMP3 the Council is amenable to the inclusion of the following text within the policy justification to make the distinction between developer obligation and community benefits clear "Developer obligations differ to community benefits in that they are legal rather than voluntary obligations", should the Reporter be so minded.

Reference to community benefits is provided in Supplementary Guidance The Moray Onshore Wind Energy Policy Guidance 2013 (CD24) as they have generally been

associated with the development of onshore wind turbines where developers offer local communities a financial benefit usually related to the capacity of the windfarm. The Moray Council would like to see community benefits being promoted across all renewable technologies and a report is being presented to a meeting of the Policy and Resources Committee on 7<sup>th</sup> October 2014 to give further consideration to the processes and procedures that will be applicable to other onshore renewable technologies.

If the Reporter is so minded, the Council would have no objection to the inclusion of the text outlined above.

### **Reporter's conclusions:**

#### IMP3 Developer Obligations

1. I agree that the five tests set out in Circular 3/2012 (CD36) will apply to the application of the policy. However I find there is no need to rehearse the terms of the circular given that it should be implicit in the terms of the policy. Inclusion would run contrary to the aim of achieving a succinct plan. Given that it is a matter of detail which provides a context to the policy and its application I consider the detail of the tests can be left to supplementary guidance. My recommendation reflects this.

#### Healthcare Provision

2. I consider that the policy can include health care as it could fall within the definition of infrastructure or as a community facility. There is scope for further detail on this matter to be addressed through supplementary guidance in consultation with NHS Grampian. I consider this matter is sufficiently addressed.

#### Impact on Infrastructure

3. I agree that appropriate provision of infrastructure is an important consideration to meet the needs and an increasing population. Some of this provision falls to other agencies but the planning system has a role in managing the impacts of new development. This can be addressed through financial or other contributions to deliver road improvements, play facilities, classroom extensions, new schools, community and other facilities. However, any such provision is limited to addressing these planning impacts in accordance with the guidance set out in Government Circular 3/2012. Policy IMP3 sets an appropriate context within which the council can address such matters through developer obligations. The policy includes a commitment to address these matters further through Supplementary Guidance. My conclusion is that no change is required.

#### Rail Infrastructure

4. It would be difficult and in my view inappropriate to apply an exception to certain developers over others. The implementation of the policy and the detail of the supplementary guidance is guided by the terms of Circular 3/2012. I am satisfied that this provides appropriate flexibility for each proposal to be considered on its merits. Consequently, I do not recommend any change in this respect.

Supplementary Guidance/Proposed Plan Detail

5. I consider that it is important to be as specific as possible about the likely requirements to be placed on developers so that these costs can be factored into the development appraisal process. Transparency in the process is also an important consideration. I note that the developer requirements for particular sites refer to some of the likely infrastructure expectations. However, further detail is required to address the extent and nature of other provision including healthcare and education as referred to elsewhere in submissions to the examination. In the absence of further detail in this policy I consider it is sufficient that there is a clear commitment to prepare Supplementary Guidance. This should explain how the approach will be implemented in accordance with Circular 3/2012 and provide detail of the necessary facilities and infrastructure and the likely scale of any required contributions.

Affordable Housing

6. These matters are addressed through Issue 4c on affordable housing. However I accept that financial viability is a relevant consideration if various requirements including affordable housing and other infrastructure are to be addressed. Consequently, my conclusion below regarding the importance of clarifying from the outset what additional developer requirements might apply is relevant. Consultation on the proposed Supplementary Guidance should enable input from the development industry on the implications of any proposed requirements. In addition the plan makes it clear that such obligations will be applied in the context of Circular 6/2013.

Community Benefits

7. There is a clear distinction between developer contributions in the context of this policy and community benefits given that the latter have no role in the decision making process. As such I consider it could prove confusing to include a reference to these in the policy or its associated justification. I agree that it is a detailed matter which could be clarified in the Supplementary Guidance. However, my conclusion is that reference to community benefits need not be included in this policy.

**Reporter's recommendations:**

Modify the proposed plan as follows:

1. Delete the third paragraph of Policy IMP3 and replace with:

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

2. Retain the reference to Circular 3/2012 in the justification section of Policy IMP3 but delete the final sentence and the four bullet points below.

Issue 11b	Other Implementation Policies	
Development plan reference:	<p>Policies page 7-86: Section on Implementation, page 83-86</p> <ul style="list-style-type: none"><li>• IMP1, Developer Requirements, page 84</li><li>• IMP2, Development Impact Assessments, page 85</li><li>• IMP4, Development Plan Monitoring, page 86</li></ul>	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>IMP1 Developer Requirements</u></b> Scottish Natural Heritage (1027) Fred Olsen Renewables Ltd (1047) RSPB Scotland (0285) Scotia Homes Ltd (0480) Scottish Environment Protection Agency (0569) The Ellis Group (0878) CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p> <p><b><u>IMP2 Developer Impact Assessments</u></b> CJ &amp; CRH Dunbar (Pitgaveny) (0908) Network Rail Infrastructure Ltd (1041)</p> <p><b><u>IMP4 Development Plan Monitoring</u></b> Scottish Government (0490)</p>		
Provision of the development plan to which the issue relates:	Implementation policies that provide a collective summary of main policy requirements stated elsewhere in Local Development Plan.	
Planning authority's summary of the representation(s):		
<p><b><u>IMP1 Developer Requirements</u></b> <u>Scottish Natural Heritage (1027)</u> Considers criterion (h) should refer to enhancement as well as conservation of biodiversity. This is in accord with Scottish Planning Policy and the 2020 Challenge for Scotland's Biodiversity.</p> <p><u>Fred Olsen Renewables Ltd (1047)</u> Request Council act 'reasonably' if applying this policy as basis of a condition on planning consents.</p> <p><u>RSPB Scotland (0285)</u> Considers that Council should make it clear to developers the need for compensation as well as mitigation for any natural features that may be lost to development. This is necessary for the Council to fulfil its biodiversity duties under the Nature Conservation (Scotland) Act 2004.</p> <p><u>Scotia Homes Ltd (0480)</u> Seeks amendment to policy to include clarification that requirements will be sought in accordance with policy tests contained in Circular 3/2012: Planning Obligations and Good</p>		

**Neighbour Agreements.****Scottish Environment Protection Agency (0569)**

Supports inclusion in criterion (m) of requirement to make acceptable arrangements for waste management.

**The Ellis Group (0878)**

Considers that full detail of specific requirements of IMP1 should be set out in the Plan so that proposed provisions can be tested and that the adopted Plan is absolutely transparent.

**CJ & CRH Dunbar (Pitgaveny) (0908)**

Seeks amendment to policy criterion (e) to set out parameters or thresholds as to what is an 'appropriate scale' and whether this applies to all new developments or a specific type of development, i.e. residential; policy criterion (f) to clarify whether expectation for additional areas of open space is in addition to policy E5 requirements and if not, then reworded to set out that level of open space provision expected is to be in accordance with policy E5; policy criterion (h) should be reworded to reflect that the conservation of the natural and built environment cannot always be achieved and that remedial measures can be put in place to mitigate impact; policy criterion (i) should be amended to replace 'flood protection measures' with 'flood alleviation measures' or 'flood mitigation measures'; policy criterion (j) should be amended to replace 'do not involve' with 'mitigate in accordance with recognised pollution prevention and control measures'; and, policy criterion (l) should be clarified as to the location of the preferred areas of forestry planting and appended to the Plan as part of the Supplementary Guidance on Trees and Development.

**IMP2 Developer Impact Assessments****CJ & CRH Dunbar (Pitgaveny) (0908)**

Seeks amendment to criterion (c) to clarify the circumstances the Council consider it 'appropriate' to request a Retail Impact Assessment. Examples provided include the details of minimum floorspace areas. Requests removal of requirement for Retail Impact Assessments to be carried out for neighbourhood shops and ancillary retailing on the basis that they are small scale and unlikely to have a significant impact on town centre retailing or its vitality and viability.

**Network Rail Infrastructure Ltd (1041)**

Considers that Transport Assessments should take account of impact on rail network including level crossings and capacity of station facilities (i.e. parking, cycle shelters). Transport Assessments and developer contributions policy must ensure infrastructure risks are identified and mitigation secured. Considers that the Plan should provide strategic guidance to avoid planning developments that are required to use existing level crossings.

**IMP4 Development Plan Monitoring****Scottish Government (0490)**

Considers that policy justification could reflect that regular monitoring will be used to support the delivery of the spatial strategy and drive progress of the plan. This should be reflected in the Action Programme.

Modifications sought by those submitting representations:
<p><b><u>IMP1 Developer Requirements</u></b></p> <p><u>Scottish Natural Heritage (1027)</u> Amend criterion (h) to “Conservation and where possible enhancement of natural and built environmental resources must be achieved ...”.</p> <p><u>Fred Olsen Renewables Ltd (1047)</u> Infer reference to Council acting ‘reasonably’ in application of policy is included within text.</p> <p><u>RSPB Scotland (0285)</u> Amend text of policy to make clear to developers the need for compensation through targeting management at other areas off site.</p> <p><u>Scotia Homes Ltd (0480)</u> Amend policy to include clarification that requirements will be sought in accordance with policy tests contained in Circular 3/2012: Planning Obligations and Good Neighbour Agreements.</p> <p><u>Scottish Environment Protection Agency (0569)</u> Support noted.</p> <p><u>The Ellis Group (0878)</u> Amend policy to set out full detail of specific requirements of IMP1.</p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u> Amend criterion (e) to indicate parameters or thresholds of an ‘appropriate scale’ and whether this applies to new or a specific type of development. Amend criterion (f) to clarify whether level of open space provision is expected to be in accord with policy E5. Amend criterion (h) to “Conservation of the natural and built environmental resources should be achieved, including details of any impacts arising from the disturbance of carbon rich soil”. Amend criterion (i) from ‘flood protection measures’ to ‘flood alleviation measures’ or ‘flood mitigation measures’. Amend criterion (j) to replace ‘do not involve’ with ‘mitigate in accordance with recognised pollution prevention and control measures’. Amend criterion (l) to indicate where location of ‘preferred areas for forestry planting’ or include information in Supplementary Guidance referenced through Plan by Environmental Designations insert or individual insert.</p> <p><b><u>IMP2 Development Impact Assessments</u></b></p> <p><u>CJ &amp; CRH Dunbar (Pitgaveny) (0908)</u> Amend criterion (c) to clarify circumstances Council considers it ‘appropriate’ to request that a Retail Impact Assessment is required, e.g. detail of minimum floorspace areas.</p> <p><u>Network Rail Infrastructure Ltd (1041)</u> Add text to policy “Transport Assessments should assess the effects the development will have on railway infrastructure; including stations and any crossings (noting that any new at-grade crossings will not be supported).</p> <p><b><u>IMP4 Development Plan Monitoring</u></b></p> <p><u>Scottish Government (0490)</u> Amend justification to reflect that regular monitoring will be used to support the delivery of</p>

the spatial strategy and drive progress of the Plan. This should be reflected in the Action Programme.

**Summary of responses (including reasons) by planning authority:**

**IMP1 Developer Requirements**

**Biodiversity**

Should the Reporter be so minded, the Council would support the insertion of the words 'and where possible enhancement' after the word 'Conservation' within policy criterion h). It is accepted that conservation and enhancement of natural and built environmental resources may not always be achievable and that mitigation and compensatory measures should be put in place for any features that may be lost to development.

The Council would have no objection if the Reporter were to make the modification outlined above.

**Developer Obligations**

The requirement to meet the five tests set out in Circular 3/2012 Planning Agreements (CD36) is addressed in the justification of Policy IMP3 Developer Obligations.

No modification is proposed.

**Renewable Energy**

The purpose of the policy is to ensure that key aspects of the proposal are addressed through the planning application process. Criterion e) reflects primary Policy PP2 Climate Change which sets out the parameters or thresholds as to what is an 'appropriate scale' of development to incorporate renewable energy systems.

No modification is proposed.

**Open Space**

Policy ER5 Open Spaces only sets out standards for residential, industrial and business developments. Flexibility within criterion f) is necessary to permit application to all development proposals.

No modification is proposed.

**Flooding**

Should the Reporter be so minded, the Council is agreeable to the replacement of 'flood protection measures' with 'flood alleviation measures'.

Should the Reporter be so minded, the Council would not object to the modification as outlined above.

**Pollution**

The Council is amenable to the replacement of "Do not involve any aspects which would involve pollution, including groundwater contamination" with "Mitigate in accordance with recognised pollution and prevention measures any aspects which would involve pollution", should the Reporter be so minded.

Should the Reporter be so minded, the Council would have no objection to the modification outlined above.

### **Forestry**

The Council's Forestry Strategy is out of date. Therefore, should the Reporter be so minded, the Council would support the rewording of criterion l) to read "Does not sterilise significant workable reserves of minerals or prime quality agricultural land."

Should the Reporter be so minded, the Council would have no objection to the modification outlined above.

### **IMP2 Developer Impact Assessments**

#### **Retail**

Policy R1 Town Centre Development and R2 Out of Centre Development of Retail, Commercial and Leisure Proposals set out the appropriate circumstances in which to request a Retail Impact Assessment. Given the Plan is read as a whole, the repetition of this information is unnecessary in policy IMP2.

No modification is proposed.

#### **Rail Infrastructure**

Network Rail is a national agency akin to Transport Scotland and similarly will be consulted on specific planning applications. Whilst Transport Assessments focus on road infrastructure they do not exclude other transport networks being considered. The Transport Proposals (TSP's) within the Proposed Plan cover road network locations and some railway infrastructure. Should the Reporter be so minded, the Council would support the insertion of the sentence "Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings" after the word 'addressed' in criterion b). This highlights the need for Transport Scotland (Trunk Roads) and Network Rail (Railway) to be consulted on the scoping of Transport Assessments.

If the Reporter is so minded, the Council would have no objection to the modification outlined above.

### **IMP4 Development Plan Monitoring**

#### **Action Programme**

Should the Reporter be so minded, the Council would support the addition of a sentence at the end of the current text in the 'Justification' section of IMP4 which reads "This will support the delivery of the Spatial Strategy and drive progress of the Plan". The Action Programme cites support for the delivery of the Moray Local Development Plan (and spatial strategy) and sets out the necessary actions and monitoring for progress.

Should the Reporter be so minded, the Council would have no objection to the modification outlined above.

### **Reporter's conclusions:**

#### **IMP1 Developer Requirements**

1. Criterion h) currently refers to the conservation of the natural and built environment. Scottish Planning Policy in paragraph 194 refers to the protection and enhancement/improvement of protected sites and species, the water environment and ancient semi-natural woodland. It also refers to seeking benefits for biodiversity. "The 2020 Challenge for Scotland's Biodiversity" is referenced as a key document.

2. By its nature development is likely to impact on conservation interests. Other policies in the natural environment chapter of the plan contain more specific provisions in line with the relevant requirements of the Nature Conservation (Scotland) Act 2004 and The Conservation (Natural Habitats etc Regulations). These policies set protection in the context of avoiding adverse effects and securing appropriate mitigation. I consider that a general policy commitment through IMP1 can appropriately refer to “conservation and where possible enhancement” as this reflects the overall policy principles as set out in Scottish Planning Policy. Consequently, I have accepted the change as proposed by Scottish Natural Heritage and as agreed by the council.

3. Circular 3/2012 is relevant in the consideration of developer contributions and planning agreements. Given that the plan should be read as a whole I am content that this matter is sufficiently addressed through Policy IMP3 which includes reference to the circular. This policy is considered through Issue 11a and includes some consequent modification.

4. Policy IMP1 sets out general requirements for all development and is basically a checklist of the relevant considerations at the planning application stage. Further detail on most of the criteria can be found in the subject specific policies contained elsewhere in the proposed plan such as Policy E5 and Policy PP2. Inclusion of cross- referencing to all the relevant subject specific policies, whilst undoubtedly helpful, would prove difficult and unwieldy. The plan should be read as a whole. I am satisfied that the policy is sufficient in setting out the general development management considerations without lengthier explanation or the need to include reference to the relevant detailed policies included elsewhere in the plan.

5. With regard to the reference to flooding Scottish Planning Policy focuses on flood risk management and avoidance. Consequently, I consider criterion f) would better reflect this emphasis if it referred to avoiding areas at risk of flooding and where necessary carrying out flood management measures. My recommendation reflects this change.

6. The control of pollution will generally be the responsibility of other regulatory bodies and the requirements of the Water Framework Directive are particularly relevant in this respect. Scottish Planning Policy refers to promoting the protection and improvement of the water environment so I consider it is important to retain reference to groundwater contamination. However, I agree with the representation that reference to appropriate mitigation is a more realistic reference than the current wording which implies that development could not involve any aspects which would involve pollution. My recommended wording reflects this conclusion.

7. From the submissions I understand the reference to preferred areas for forestry relates to areas identified through the council’s Forestry Strategy. I note the council considers that this strategy is now out of date and states no current intention to update this. To avoid reference to a document without current status and given that protection of the woodland resource would be covered in criterion g) I agree that this reference should be removed. My recommendation reflects this.

#### IMP2 Development Impact Assessments: Retail

8. In a similar vein to IMP1 this policy sets out the requirements to submit supporting assessments to enable proper consideration of the environmental, transport and retail impact of any relevant proposal. Again this is a general development management

policy and the plan should be read as a whole. In this context, I am content that policies R1 and R2 detail the relevant circumstances where a retail impact assessment would be required. I consider the policy is sufficient in this respect.

#### IMP2 Developer Impact Assessments: Rail Infrastructure

9. Transport assessments have a wide remit and can apply to consideration of the transport network as a whole. Consequently I consider that criterion b) can helpfully include reference to the railway infrastructure and point to appropriate consultation with Network Rail and Transport Scotland. I have recommended the inclusion of the council's suggested wording in this respect.

#### IMP4 Development Plan Monitoring

10. Policy IMP4 refers to the action plan and the need for monitoring. However, I consider that the link between these actions could be clarified. The action programme sets out the steps required to achieve the strategy and appropriate monitoring. This should enable progress to be tracked and managed in order to secure effective implementation. The wording suggested by the council clarifies this link and I consider this is a useful addition to retain the required focus on project delivery and implementation.

#### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### Policy IMP1: Developer Requirements

1. Insert the words "and where possible enhancement" after the word "Conservation" within policy criterion h)

2. Amend criterion i) to read:

Avoid areas at risk of flooding and where necessary carry out flood management measures.

3. Amend criterion j) to read:

Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

4. Amend criterion l) to read:

Does not sterilise significant workable reserves of minerals or prime quality agricultural land.

#### Policy IMP2: Development Impact Assessments

5. Add the following after the word 'addressed' in criterion b):

Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland

(Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments.

Policy IMP4: Development Plan Monitoring

6. At the end of the text in the 'Justification' section add:

This will support the delivery of the Spatial Strategy and drive progress of the Plan.

<b>Issue 12a</b>	<b>Buckie Local Housing Market Area</b>	
<b>Development plan reference:</b>	<p><b>Buckie settlement statement, page 103-109</b></p> <ul style="list-style-type: none"> <li>• <b>R4 Steinbeck Road Pg 104</b></li> <li>• <b>R5 Rathburn (N) Pg 104</b></li> <li>• <b>R9 High Street (E) Pg 105</b></li> <li>• <b>R10 High Street (W) Pg105</b></li> <li>• <b>R11 Barhill Road (S) Pg 105-106</b></li> </ul> <p><b>Cullen Settlement Statement, pages 130-134</b></p> <ul style="list-style-type: none"> <li>• <b>R1 Seafield Place, page 130</b></li> <li>• <b>General</b></li> </ul> <p><b>Findochty Settlement Statement, pages 181-183</b></p> <ul style="list-style-type: none"> <li>• <b>R1 Morven Crescent, page 181</b></li> <li>• <b>R2 West of Primary School, page 182</b></li> <li>• <b>Not Taken Forward</b></li> </ul> <p><b>Portgordon settlement statement Pg 257-258</b></p> <ul style="list-style-type: none"> <li>• <b>R1 West of Reid Terrace Pg 258</b></li> <li>• <b>R2 Crown Street Pg 259</b></li> </ul>	<b>Reporter:</b> Richard Bowden
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>Buckie</u></b>  <b><u>R4 Steinbeck Road</u></b>  Sandra Clark (0745)  <b><u>R5 Rathburn (N)</u></b>  Douglas McNeil (0725)  <b><u>R9 High Street (E)</u></b>  Scottish Natural Heritage (1027)  <b><u>R10 High Street (W)</u></b>  Scottish Natural Heritage (1027)  <b><u>R11 Barhill Road (S)</u></b>  Springfield Properties Plc (0010)  Phil And Marian Williams (0978)  <b><u>Cullen</u></b>  <b><u>R1 Seafield Place</u></b>  Ms Sally Anderson (0863)  <b><u>General</u></b>  Cullen &amp; Deskford Community Council (0134)  <b><u>Findochty</u></b>  <b><u>R1 Morven Crescent</u></b>  Scottish Environment Protection Agency (0569)  Mr Alex M Sutherland (0584)  Mrs Isabella G Taylor (0679)  <b><u>R2 West of Primary School</u></b>  Scottish Environment Protection Agency (0569)  Mr &amp; Mrs David Flett (0945)  <b><u>Not Taken Forward</u></b>  Strathlene Buckie Golf Club (1031)</p>		

<p><b><u>Portgordon</u></b>  <b><u>R1 West of Reid Terrace</u></b>  Mrs Julie Cormack (1037)  <b><u>R2 Crown Street</u></b>  David Palmer (0723)  Crown Estates (0861)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Identifies the sites for residential development to meet the housing land requirements for the Buckie Local Housing Market Area.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Buckie</u></b>  <b><u>R4 Steinbeck Road</u></b>  <u>Sandra Clark (0745)</u>  Development to the rear of property will be imposing and overshadow existing housing. Construction will cause dust and noise for years. The path behind garden should remain so that any future property is not back to back and properties should be single storey. Should be given the opportunity to purchase land to extend the garden.</p> <p><b><u>R5 Rathburn (N)</u></b>  <u>Douglas McNeil (0725)</u>  The field is wet in winter and spring. Water floods from the north west end of the site onto the footpath heading north. The scale of housing has not been defined but should be single storey. If single storey is adopted then 60 houses would be impossible to fit onto the site.</p> <p><b><u>R9 High Street (E)</u></b>  <u>Scottish Natural Heritage (1027)</u>  Text should refer to the need for a badger survey and protection plan.</p> <p><b><u>R10 High Street (W)</u></b>  <u>Scottish Natural Heritage (1027)</u>  Text refers to Phase 1 Habitat Survey and National Vegetation Community Assessment. References elsewhere are to a habitats and species survey, to avoid confusion also state this here.</p> <p><b><u>R11 Barhill Road (S)</u></b>  <u>Springfield Properties plc (0010)</u>  Seek removal of requirement for two points of access unless a Transport Assessment demonstrates that this is required. Large triangular area of structural planting in southern corner should be removed and a statement made requiring an appropriate landscape scheme taking account of the edge of settlement location.</p> <p><u>Phil and Marian Williams (0978)</u>  Housing will take away the majority of the skyline when viewed from our property. The houses will be close to our property causing overlooking. Development is unnecessary, several sites from the 2008 plan have yet to be developed, these should be utilised first before any further expansion is identified. Building work on site will cause our property to flood and water will be displaced.</p>	

## **Cullen**

### **R1 Seafield Place**

Ms Sally Anderson (0863)

Path leading around land is extensively used by residents and at highest point there is one of the best views in the area that extends from Crannoch Wood, past Bin of Cullen, then over the town and viaduct, the Bay of Cullen and out to sea. Concern that development will block off sight of Bin of Cullen. Considers this would be a significant loss of visual amenity and should be protected.

## **General**

Cullen & Deskford Community Council (0134)

Desire to see plans appropriate to Cullen implemented and will keep watching brief.

## **Findochty**

### **R1 Morven Crescent**

Scottish Environment Protection Agency (0569)

Investigations suggest site R1 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

Mr Alex M Sutherland (0584)

Object to designation as it will substantially devalue property and seek compensation for that loss. Consider development would adversely change the outlook and compromise privacy.

Mrs Isabella G Taylor (0679)

Concern about loss of privacy, adverse impact on property value, loss of view and implementation of social housing.

## **R2 West of Primary School**

Scottish Environment Protection Agency (0569)

Investigations suggest site R2 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

Mr & Mrs David Flett (0945)

Concern that site is frequently affected by flooding. Weight limit restriction would need to be imposed on drainage ditch pipe under front of 16 Seafield Street. Concern that sewer pipe at Seafield/Burnside Street would not be able cope with additional housing as the pipe is slow running and cleared periodically. Concern about access issues given parked cars at entrance to track during school pick up and drop off times. Seafield and Mid Street would struggle to cope with additional traffic from development and during construction. Concern for safety of children. Considers access should be on western boundary and not onto Burnside/Seafield Street.

## **Not Taken Forward**

Strathlene Buckie Golf Club (1031)

Seek allocation of housing site. A plan showing the location of the proposed site is attached (BD/12a/01). Proposal was not supported at Main Issues Report stage however, the number of units has been reduced from 10 to 7 and the built area will now

reflect the extent of existing housing to the south of Strathlene Road with the remainder proposed as an 'environmental' designation to safeguard the attractive entrance to Findochty. This addresses the concerns raised in the Main Issues Report. Sites R1 and R2 are constrained by road infrastructure, flooding and programming. They have not been promoted for inclusion by the landowners in the Plan. No planned housing developments have been realised in Findochty within the last plan period and development has been driven by single brownfield 'windfall' sites representing a piecemeal rather than planned approach to development which is contrary to the Council's objectives. The proposed site is realisable, provides an opportunity for house building sectors significantly under-represented in land identified in the Proposed Plan and does not affect the operational requirements of the golf course.

### **Portgordon**

#### **R1 West of Reid Terrace**

Mrs Julie Cormack (1037)

Development of 40 houses will have a huge impact, peace, quiet and uninterrupted views will be lost. Adjacent field suffers windblows 1-2 months per year, a major health hazard.

#### **R2 Crown Street**

David Palmer (0723)

There is a high pressure gas main to the east of the A990, tree lined avenue and provision of footpaths and roads will all impact on the underground gas main. Don't build or plant anything near it.

The area of land is very wet and prone to flooding, nearby houses have been affected by water run-off from the field behind. The land is not suitable and gardens end up like the wetland, drainage and soakaways are of little use.

Crown Estates (0861)

Clarification needed on the capacity of the site as there is reference to 55 and 45 houses in the text. Support the allocation to be confirmed as 55units.

### **Modifications sought by those submitting representations:**

#### **Buckie**

##### **R4 Steinbeck Road**

Sandra Clark (0745)

Requirements specified in terms of retention of footpath to rear of existing properties and scale of dwellings.

##### **R5 Rathburn (N)**

Douglas McNeil (0725)

A flood risk assessment should be required to support ant proposal and this may impact on the developable area of the site. Reduce the number of houses from 60 to 20.

##### **R9 High Street (E)**

Scottish Natural Heritage (1027)

Add following text. A badger survey will require to be carried out to confirm the presence of badgers on site, with mitigation as appropriate.

**R10 High Street (W)**

Scottish Natural Heritage (1027)

Amend sentence. To the west of this site is a known wetland and there is a requirement for a habitats and species survey.

**R11 Barhill Road (S)**

Springfield Properties Plc (0010)

Remove requirement for two points of access and structural planting.

Phil And Marian Williams (0978)

Delete designation.

**Cullen**

**R1 Seafield Place**

Ms Sally Anderson (0863)

Amend policy R1 to include "New houses will need to be sited to ensure the view from land at ENV5 towards the Bin of Cullen is not interrupted".

**General**

Cullen & Deskford Community Council (0134)

Comments noted.

**Findochty**

**R1 Morven Crescent**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr Alex M Sutherland (0584), Mrs Isabella G Taylor (0679)

Suggest removal of site R1 Morven Crescent.

**R2 West of Primary School**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr & Mrs David Flett (0945)

Road access should be on the western boundary and not onto Burnside/Seafield Street.

**Not Taken Forward**

Strathlene Buckie Golf Club (1031)

Allocate the proposed site for housing development in Findochty in addition to the two existing sites designated in the settlement.

**Portgordon**

**R1 West of Reid Terrace**

Mrs Julie Cormack (1037)

Delete site and build opposite the other site to the south of the village, better access and less disruption.

**R2 Crown Street**

David Palmer (0723)

No footpath on my property. Do not use the land for more houses as there are other alternatives without wetland/drainage issues. SUDS report to give guarantee that no excess water will enter the wetlands at the rear of Crown Street.

Crown Estates (0861)

Indicative capacity confirmed at 55.

**Summary of responses (including reasons) by planning authority:**

**Buckie**

**R4 Steinbeck Road**

There is an extant planning consent on this site dating from the 1970's. There is no footway to the rear of the properties that have already been built shown on the approved plan. Impact on amenity, privacy sunlight and daylight would have been assessed as part of the original planning application. Any issues with noise and dust during the construction would be directed to the Council's Environmental Health section.

No modification is proposed.

**R5 Rathburn (N)**

The proposed capacity of 60 units is intended to be indicative. The site area is 2.44 hectares which equates to 25 houses per hectare this is a relatively low density development consistent with surrounding developments in this town setting. The capacity of the site will be informed by the characteristics of the site, any mitigation required in terms of noise issues and the scale and tenure of the proposed development will also dictate density on the site. Both Scottish Environment Protection Agency and the Council's Flood Team have been consulted on the content of the Proposed Plan and have made no comments in respect of flooding on this site.

No modification is proposed.

**R9 High Street (E)**

If the Reporter is so minded the Council would not object to the additional text requiring a badger survey and protection plan.

**R10 High Street (W)**

If the Reporter is so minded the Council would not object to the additional text by the respondent seeking reference to a habitats and species survey to be added to the designation text.

**R11 Barhill Road (S)**

Scottish Planning Policy (SPP) requires Local Development Plans to identify a generous supply of land. The plan has allocated a range of sites which are effective or capable of becoming effective. The level of housing proposed in Buckie has been determined through a Main Issues Report: Housing Land + Capacity Analysis (CD04 ), consideration of the settlement hierarchy, previous completion rates, environmental issues, technical constraints, existing land supply and other relevant considerations. On this basis of delivering an effective supply new sites are introduced to meet local housing demand.

Two points of access are anticipated for vehicular traffic for the scale of development proposed (105 units) in order to satisfy Policy T2 – Access which aims to maximise connections. This approach is supported by Designing Streets (CD30) and The Council's Urban Design Supplementary Guidance (Pg 4 Movement). Connection to the adjacent site R7- Barhill Road (E) would reduce the need for two points of access onto Barhill Road. In the absence this connection, the proposed scale of development will require two vehicular accesses to Barhill Road.

The proposed advanced planting is an essential requirement in the Council's rationale for promoting the site to be released for housing. The need for planting was informed by the Integration of New Developments into the Landscape Final Report for Buckie prepared in May 2005 and undertaken by Alison Grant and Carol Anderson on behalf of the Council. (CD32) The landscape report stated that this site was constrained due to the increased elevation of the slopes which currently create containment for the town from the south. The purpose of the advanced structural planting is to create containment for the town and create a robust edge to this approach to Buckie. The planting also ensures that development is not on the higher areas of the site in order to minimise visual impact of development. The large triangular area of planting shown is indicative of the principle of establishing significant settlement edge planting. Any landscape scheme submitted to accompany a planning application will have to address this requirement.

The scale, design and layout of the proposed development will be considered at the planning application stage. Consideration will be given to impact on neighbouring properties to ensure there is no significant impact on amenity including privacy. Within the designation text there is a requirement to provide a Flood Risk Assessment (FRA). As part of the FRA it should be demonstrated that the proposed development would not materially increase the possibility of flooding elsewhere.

No modification is proposed.

### **Cullen**

#### **R1 Seafield Place**

To take account of the site's elevated position, the Plan stipulates that new houses will need to be situated well back from the ridge line to reduce their impact. This will, to some degree, protect views from the highest point of the site. Whilst this area provides an attractive outlook it is not a public viewing point.

No modification is proposed.

### **Findochty**

#### **R1 Morven Crescent**

##### **Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands".

Should the Reporter be so minded, the Council would not object to the inclusion of text as outlined above.

**Residential Amenity**

Matters such as privacy and the integration of affordable housing will be dealt with at the detailed planning application stage. Devaluation of property and loss of private view/outlook are not material considerations.

No modification is proposed.

**R2 West of Primary School****Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text “It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands”.

Should the Reporter be so minded, the Council would not object to the inclusion of the text outlined above.

**Flooding and Drainage**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. In addition, the Plan acknowledges that the site may be at risk of fluvial and pluvial flooding and as such, a Flood Risk Assessment and Drainage Impact Assessment are required. Impact on the existing foul drainage system and any necessary mitigation measures will be dealt with at the planning application stage through Policy EP10 Foul Drainage.

No modification is proposed.

**Transportation**

The Proposed Moray Local Development Plan states that the site can be accessed via Burnside Road subject to road improvements, incorporating traffic calming measures where the road passes the school. Development will need to comply with Policy T5 Parking Standards alleviating on-street parking concerns.

No modification is proposed.

**Not Taken Forward**

Despite the reduction from 10 to 7 units the concerns raised at the Main Issues Report stage are still relevant. Development to the north of the road will puncture a strong settlement boundary and adversely impact on the setting and character of the village, particularly on approach from the west. The issues raised with sites R1 and R2 are not insurmountable. Given these allocations provide a choice of sites and a generous supply of land within a third tier settlement it is not considered necessary to allocate additional land for housing.

No modification is proposed.

**Portgordon****R1 West of Reid Terrace**

A range of sites have been identified within Portgordon to meet local demand and this site is considered suitable for accommodating new housing development. When a detailed layout for the site has been prepared as part of the required planning application the impact on the amenity of adjacent neighbouring properties in terms of privacy and

amenity will be taken into account. In designing a layout the developer will have to take account of site conditions including issues such as prevailing wind and design the development to minimise any adverse impacts.

No modification is proposed.

### **R2 Crown Street**

There is a drafting error within the Proposed Plan as the designation text states two indicative capacities on the site. 55 is the correct indicative capacity and reference to 45 should be deleted and replaced with 55. The designation text acknowledges that the area adjacent to Crown Street is an existing wetland and it is to be retained as such. There is a requirement to provide a sustainable drainage system designed and sized to accommodate all phases of development and the submission of construction phase surface water management plans. Developments of 10 or more houses also necessitate the submission of a drainage assessment. The stipulation of these requirements demonstrates that drainage and surface water needs to be addressed and the developer must provide evidence that there will be no adverse impact to surrounding properties as result of developing the site.

The design of the road layout, footpath provision and creation of the tree lined avenue will be influenced by site conditions. Private landownership issues would have to be resolved between the relevant parties. The Council has no record of a high pressure gas pipeline running alongside the A990, diverting the gas pipeline to accommodate necessary roads infrastructure would be a matter for the developer to address.

Minor modification to plan to correct a typographical error. Indicative capacity to be changed to 55 within designation text.

### **Reporter's conclusions:**

#### **Buckie**

#### **R4 Steinbeck Road**

1. The site is a flat, undeveloped wedge of open ground. This is situated between houses at the west end of Steinbeck Road and the Burn of Buckie river corridor to the south-west. Running parallel with and immediately to the rear of the gardens of the houses along Steinbeck Road is a corridor of land that is grassed. I note, firstly, that the council states that this grassed area is not designated as a footpath – and I have no substantive evidence to the contrary.
2. When I made my site visit I noted that there is an existing vehicular access point located along the south side of Steinbeck Road that could readily serve the site concerned. The site is flat and appeared free of other physical constraints and none have been drawn to my attention.
3. I am satisfied that the layout and other design details of any scheme, including the height and relationships with other existing developments, are most appropriately resolved through the development management process, at which time the safeguarding of the amenity and privacy of existing and new residents would be a material consideration. Other requirements, for example regarding drainage, vehicular and pedestrian access, would also need to be satisfactorily addressed at that stage, including with regard to the relevant policies of the plan that apply. In summary, I conclude that

there are no compelling reasons why in principle this proposed allocation should not be confirmed in the new plan.

#### R5 Rathburn

4. A representation draws attention to local drainage problems affecting the site in question and seeks a single-storey height limit on any development here. The objector argues that such constraints would make it impossible to provide 60 new units on the land concerned, as suggested in the proposed plan.

5. I note that housing allocations in the new plan are intended to be indicative only in terms of the numbers of units likely to be provided on each site. The actual number of units and so the overall density of development will vary on a site-by-site basis, for a number of reasons. These include, amongst other matters, reference to the site characteristics and ground conditions as well as the local context – along with other factors highlighted by the council in its response.

6. Accordingly, whilst I note the concerns raised I am not persuaded that there is any justification for substituting another figure to replace the 60 units nominally indicated for this particular site – which would equate to a reasonably low density given the area of the site, which extends to 2.44 hectares. I am also satisfied that this density of housing development would be broadly consistent with the density of existing housing in that neighbourhood.

7. I noted on my site visit that the land in question, whilst of poor quality and generally unutilised, accommodates local and more strategic footpath routes across its relatively flat terrain. These routes were in good condition and readily navigable when I made my site visit. Indeed they were being well used by local walkers despite the prevailing winter conditions at the time. I note the concerns expressed regarding drainage and flooding issues. Nevertheless, I note that the council's own flood assessment team and the Scottish Environment Protection Agency (SEPA), when consulted on the proposed allocation of the site for housing, raised no such concerns. Accordingly, based on my own site visit and the available information, I am satisfied that there are insufficient reasons to amend or delete the allocation proposed for the new plan. I also conclude that detailed layout and design matters are most appropriately dealt with through the development management process. At that stage other detailed considerations, such as drainage, would also be addressed in detail to ensure that any proposed scheme is appropriately detailed and implemented satisfactorily in its local context.

#### R9 High Street (E)

8. Scottish Natural Heritage (SNH) are seeking the text associated with this allocation to incorporate additional wording, specifically requiring a badger survey to be carried out with a view to mitigation measures ensuing, if appropriate. I note that the standard wording they are suggesting – and which has been agreed with the council – is already included for those other residential allocations in Buckie in the proposed plan, where badgers are likely to be present.

9. I conclude that for consistency there is a justifiable case for inserting the wording proposed in the representation: "A badger survey will require to be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate." I consider that this would be most appropriately placed at the end of the first paragraph under the

heading R9 High Street (E).

#### R10 High Street (W)

10. Scottish Natural Heritage (SNH) are seeking that the wording in the first paragraph be amended from: “To the west of the site is a known wetland and there is a requirement for a Phase 1 Habitat survey and potentially any National Vegetation Community assessments” to read instead: “To the west of this site is a known wetland and there is a requirement for a habitats and species survey.” I note that the council is agreeable to both this proposed change and to the suggested wording.

11. I am persuaded that to ensure consistency across the new plan there should be a standard proposed change to the wording to reflect the agreement reached between SNH and the council for this allocation when the plan is adopted.

#### R11 Barhill Road (S)

12. The site in question is a large, broadly triangular agricultural field on the south-western edge of the built-up area of Buckie. The site is separated from existing housing to the north by a vehicular track leading eastwards off Barhill Road and its western boundary is marked by Barhill Road. I noted on my site visit that the site’s southern boundary is marked by a simple wire fence separating it from the neighbouring agricultural fields that extend southwards and eastwards.

13. Those occupying a neighbouring house are concerned that housing on this site would be detrimental to the skyline views they currently enjoy, and would cause flood risks for their own property, through displacement. They cite flooding incidents in the local area in recent years following new developments and argue that this allocation is unnecessary as several sites identified in the existing local plan have yet to be developed.

14. Another representation whilst generally supportive of the R11 allocation is concerned about the stipulations regarding 2 major accesses and structural planting, as set out in a Key Design Principles Diagram for the site that is included in the proposed plan. Their view is that appropriate solutions for the site should not be pre-judged or imposed at the plan allocation stage but should emerge from a Transport Assessment and an approved landscape scheme, respectively - both of which would be lodged in association with any planning application.

15. Elsewhere in this report it has been concluded that in principle the allocations set out in the proposed plan are required in order to meet the requirement to provide a generous supply of land and a choice of effective housing sites to meet the needs identified in the local development plan at all stages of the plan period - as well as satisfying the terms of Scottish Planning Policy on strategic housing land provision.

16. I am satisfied that the requirement for a flood risk assessment (FRA) specified in the R11 allocation will ensure that prior to any development for the R11 site being consented and implemented, the developer will have demonstrated to the satisfaction of the relevant authorities that the approved scheme would not materially increase the risk of flooding elsewhere.

17. In general, I endorse the principle of the scale, design and layout of the proposed

development of sites being finalised through the development management process when a planning application is lodged and is being determined. Nevertheless, based on the available evidence and my own site visit I find that the site in question is particularly sensitive in landscape and visual amenity terms. The council highlights its own concerns in this regard, informed by specialist landscape assessments undertaken.

18. I also place importance on the need for any development here to have regard to the elevation of the local slopes, which accentuate the visibility of the site from the south. Most importantly, I consider that this highlights the need to ensure that the development being allocated includes sufficient advance structural planting on its southern side to achieve both screening of the new development to minimise its visual impact, as well as providing longer term containment for the town with a clearly defined southern edge marked by structural planting. I note the contrary arguments put forward by those making representations but do not find these persuasive based on the available evidence and my own site visit. In summary, I find that the council's Key Design Principles Diagram provides a very useful set of guidelines with this in mind. It also sets out design principles for the interfaces of the new development with both the existing housing to the north and Barrhill Road to the west, including having regard to visual amenity considerations.

19. Accordingly, I conclude that the R11 site allocation should neither be deleted nor modified to remove or reduce the structural planting being sought by the council. I am not persuaded, however that the Key Design Principles Diagram should specify 2 major accesses off Barrhill Road. Instead I consider that the location, number and form of vehicular access or accesses to best serve the site are matters that are most appropriately addressed through a Transport Assessment at the time when a planning application is lodged and then assessed by the planning authority. I do, however, find logic in making provision for a future roundabout at a junction to the development off Barrhill Road.

### **Cullen**

#### **R1 Seafield Place**

20. The key concerns that have been expressed with regard to the allocation R1 relate to the paths around the site and the views from these and from the adjoining ENV5 site – in particular the views across to Bin of Cullen, a prominent hill and landmark feature to the south-west of the settlement. At my site visit I was able to confirm the local topography, with site R1 rising well above the rest of the settlement, including in relation to the lower lying playing fields on site ENV5 immediately to the north. I also followed the signposted footpath leading up the ridge between these two sites, which connects to a network of other paths beyond.

21. I note that the opening sentence of the R1 allocation makes specific reference to the site's elevation and then states quite clearly that this means that the design, materials, layout and landscape as well as the boundary planting will all be "important factors in ensuring satisfactory skyline treatment results. New houses will need to be situated well back from the ridge line to reduce their impact." The allocation goes on to state that the site contours and planting requirements will restrict the site capacity.

22. Based on all of these considerations, I conclude that the council through the wording of this allocation is quite properly endeavouring to protect as far as possible local views – including the ones of particular concern to the respondent. I conclude, therefore, that the existing wording provides sufficient safeguards to guide and limit intending developers.

23. Whilst noting the general comments made by the local community council in seeking the plans appropriate to Cullen to be implemented, I see no justification to amend the plan to specifically address those aspirations.

### **Findochty**

#### **R1 Morven Crescent**

24. The representations from neighbouring householders express concerns about the perceived loss of privacy as well the loss of their views or outlook if the proposal was implemented. The Scottish Environment Protection Agency (SEPA), whilst not objecting to the allocation this representation, seeks the inclusion of additional text to ensure that any planning application is required to provide a walkover and photographic survey of habitats to assess the presence of potential wetlands. The council has indicated its willingness to accommodate this particular request and has suggested a possible amendment to the allocation wording to specifically address this.

25. Based on the available evidence and my own site visit, I see insufficient justification to delete the proposed allocation on the basis of potential loss of privacy or visual amenity for neighbouring residents. This is because I am satisfied that these and related matters can be addressed through appropriate layout and design. Indeed I would expect these to be among the detailed considerations to be dealt with through the development management process when any proposal is brought forward as a planning application – and prior to any planning permission being granted for the R1 site. The concerns expressed about proximity of social housing provision and potential loss of property values are not relevant considerations and so would not represent possible reasons for deleting the proposed allocation.

26. I find that the concerns expressed by SEPA can be satisfactorily addressed through a survey. However, in my view this would not be most appropriately dealt with by a recommendation in the text, as put forward in the draft wording suggested by the council, as that could be ignored. Instead I conclude that this would be most effectively addressed by making the walkover and photographic survey a requirement. For consistency on such matters across the plan area I have adopted a standard form of wording to address this in my recommendation.

#### **R2 West of Primary School**

27. I note the concerns expressed about drainage matters – including flood risks and sewerage system capacity issues in the locality of the site in question – as highlighted by neighbouring residents. They are also draw attention to perceived local roads capacity and road safety issues – and on that basis suggest that road access to the site should be taken from the west, not the east.

28. The Scottish Environment Protection Agency (SEPA), whilst not objecting to the allocation, expresses concerns about the potential effects on local ecosystems. In particular SEPA seeks the inclusion of additional text in the allocation to ensure that any planning application is required to provide a walkover and photographic survey of habitats to assess the presence of potential wetlands. The council has indicated its willingness to accommodate this request and has suggested a possible amendment to the allocation wording to specifically address this.

29. I am satisfied, for the following reasons, that the concerns expressed by the

neighbouring residents regarding drainage and access matters do not merit modifications to the proposed plan. Firstly, the wording of the R2 allocation is already explicit in highlighting the possible risk of fluvial and pluvial flooding and states a requirement for a flood risk assessment and drainage impact assessment here. In addition, the proposed plan includes Policy EP7 that deals specifically with developments in flood risk areas by ensuring that satisfactory mitigation measures are put in place as part of any planning permission being granted, on the basis of those detailed assessments made as part of the Development Management process. Similarly, Policy EP10 Foul Drainage requires all developments to connect to the public sewerage system wherever possible. Furthermore, in cases where there are capacity issues, developments will only be permitted where Scottish Water has confirmed investment programmes and funding to address any such constraint. Based on all of these considerations I conclude that these matters would be satisfactorily addressed through the development management process prior to any proposal being granted planning approval and implemented.

30. With regard to access and road safety matters, I note that the R2 allocation makes specific reference to various road improvements being required in respect of Burnside Street, including traffic calming measures in the vicinity of the school there. In addition the allocation imposes a limitation on the number of houses to be built on the R2 site in view of the constrained road access. Furthermore, any proposed development on the site would be required to comply with the Policy T5 parking standards. I am satisfied that by these means the concerns expressed regarding access, road safety and on-street parking would be satisfactorily addressed through the development management process when a planning application is lodged.

31. I find that the concerns expressed by SEPA can be satisfactorily addressed through a survey. However, in my view this would not be most appropriately dealt with by a recommendation in the text, as put forward in the draft wording suggested by the council, as that could be ignored. Instead I conclude that this would be most effectively addressed by making the walkover and photographic survey a requirement. For consistency on such matters across the plan area I have adopted a standard form of wording to address this in my recommendation.

#### Non-allocated site proposed at Strathlene Road

32. Conclusions elsewhere in this report are relevant to my consideration of this additional site. Paragraphs 31-33 of Issue 4a support some additional land release but only where this would enable an enhanced output in the earlier years of the plan period. This would be justified in order to address uncertainties regarding maintenance of a continuous effective 5 year land supply capable of meeting the overall target. I note that the council states that all the land identified for the Buckie Housing Market Area is effective. It also points to the historically low completion rates in this area and the greater emphasis it places on the Elgin housing market area.

33. The site being put forward for allocation in this case is an elongated rectangular area of undeveloped ground running along the north side of Strathlene Road. The land concerned, which is largely covered by trees, bushes and other vegetation, adjoins a golf course owned by the golf club on whose behalf the representations are made. Operation of the golf course would remain unaffected by the proposal. This site was previously proposed for 10 houses but rejected at the Main Issues Report stage of the plan process. The proposers are now seeking its allocation for 7 rather than 10 units. Their supporting documentation seeks to demonstrate that this would reflect the extent of existing houses

on the opposite, south side of Strathlene Road – and contends that this would leave the rest of the land to remain as an environmentally attractive entrance to the main settlement of Findochty. It is argued that the revised proposals for the site address the concerns expressed at the Main Issues Report stage. Furthermore, it is contended that unlike the R1 and R2 sites proposed for allocation by the council in Findochty, the proposed Strathlene Road site is not constrained by access, flooding or other programming issues and instead is effective and ready to be developed.

34. Whilst I note the reduction from 10 to 7 units now proposed for the site, for a number of reasons I am not persuaded that this would provide sufficient justification to make the site appropriate for allocation. I do not need to address here the relative merits of sites R1 and R2 in Findochty and potential constraints on their delivery as each of those sites is considered in more detail elsewhere in this report. For the reasons outlined in those sections of the report neither the R1 nor the R2 allocations is recommended by me for deletion when the plan is adopted. In summary, I regard both of those allocated sites as being effective and appropriate for allocation in the plan.

35. In any event, even with a reduced capacity of 7 units, development of the land now in question raises a number of other important concerns – most notably, because it would still involve significant built development to the north of this important approach road to Findochty that currently forms a strong settlement boundary. In addition, I regard the northern side of this road as an important and attractive gateway feature for those approaching Findochty from the west, that is enhanced by it being generally free of built developments. In that context I am concerned that allocation of the site in question would set an unfortunate precedent. In my view that would also be likely to lead to pressure for further built developments to the north of Strathdene Road, which would then be harder to refuse. Based on all of these considerations I conclude that there is not sufficient reason to justify allocation of the site in question when the plan is adopted.

## **Portgordon**

### **R1 West of Reid Terrace**

36. I note that the R1 site was selected following detailed investigations and consultations at the Main Issues Report stage. Based on the available evidence lodged and my own site visit I conclude that the R1 site is a suitable location in principle for some housing development on the south-western edge of the existing built-up area of Portgordon. It comprises an area of relatively flat grazing paddocks that currently form part of a larger area of agricultural fields to the west and south.

37. My only potential concern is that the southern and western edges of the site are not well defined by any natural or other features. Nevertheless I am satisfied that a development proposal could address this by providing robust boundary treatment through appropriate landscape planting. I am also satisfied that this, along with measures to safeguard local residential amenity and privacy, can all be achieved through an appropriate layout and design of housing proposals for the site. This is a matter that would best be dealt with when a planning application is lodged and is being processed through the development management process, prior to any planning permission being granted.

38. During that process it would also be important that, prior to approval, the detailed layout and design should demonstrate, amongst other matters, that close regard had been had to the local site conditions - including the prevailing wind in order to minimise

the sand-blown issues referred to in the representation. Based on all of these considerations, I conclude that there is insufficient reason to delete this particular allocation which is intended to meet local need and affords an opportunity to do so in a suitable location adjoining local housing and within acceptable range of the core of the settlement.

## R2 Crown Street

39. On the factual point raised in one representation, the council has confirmed that 55 units is the correct figure and states that the apparent inconsistency with a reference to 45 houses was a drafting error. Based on the available evidence I am content to accept that the indicative capacity of the R2 site is 55 houses.

40. I note that a neighbouring resident raises concerns related to the ground conditions, drainage and flood risk and the proximity of a gas main. In this objector's view these factors individually and in combination make the land in question unsuitable in principle for allocation and development for housing – particularly when there are other more suitable sites available. He also raises detailed concerns about footpaths and vehicle access related to the site.

41. Having been alerted to the concerns about the possible presence of a high pressure gas main and its implications for development on the site in question, the council has responded by stating that it has no record of any such pipeline running alongside the A990 road that would potentially affect development of the R2 site. In any event, if it transpired that there was indeed such an impediment, the onus would be on the developer of the R2 site to ensure that whatever measures were necessary and appropriate – for example a diversion of the pipeline or perhaps adjustments to the layout of the roads serving the site – were designed, funded and implemented to the satisfaction of the authorities concerned.

42. I note that the supporting text in the draft plan, under the sub-heading R2 Crown Street, states at the outset that the land immediately adjoining Crown Street is a wetland and that this should be retained within the proposed development of this site. In addition, that text goes on to specify a requirement for a Surface Water Drainage Scheme (SUDS) and surface water management plans to be provided for any development of the site. I am satisfied that these statements and requirements demonstrate the awareness of the council to many of the issues raised by the neighbouring objector and indeed go on to ensure that those various concerns related to drainage would have to be fully addressed by a developer when putting forward a proposed development scheme here.

43. As for any development scheme, the design of the road layout, footpaths and any planting here would be influenced by site conditions. These would be amongst the matters dealt with through the development management process when a detailed scheme is put forward as a planning application and prior to any planning permission being granted. Any private landownership disputes would have to be resolved, if necessary by legal agreements, between the parties concerned.

44. Based on the available evidence and my own site visit, I conclude that none of the concerns raised in the representations, individually or in combination, is sufficient to warrant deletion of the proposed allocation. In summary, I am satisfied that in principle the site which is currently a mix of flat scrubland and part of an agricultural field adjoins existing houses on the southern edge of the settlement is suitable for phased housing

development. I note that the text wording in the plan provides an opportunity for potential future expansion further eastwards at a later date, beyond the plan period.
<b>Reporter's recommendations:</b>
<p>Modify the proposed plan in the following terms:</p> <ol style="list-style-type: none"> <li>1. In the <b>Buckie</b> section of the plan, at the end of the first paragraph under the heading R9 High Street (E) insert the following words:  <i>"A badger survey will require to be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate."</i></li> <li>2. In the <b>Buckie</b> section of the plan, under the heading R10 High Street (W) in the first paragraph replace the sentence that reads: <i>"To the west of the site is a known wetland and there is a requirement for a Phase 1 Habitat survey and potentially any National Vegetation Community assessments"</i> to now read instead: <i>"To the west of this site is a known wetland. Accordingly, to support any proposals a walkover and photographic survey is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems."</i></li> <li>3. In the <b>Buckie</b> section of the plan on the R11 Buckie Barhill Road (S) Key Design Principles diagram the two red arrows indicating major accesses should be removed from the map - and reference to them deleted also from the key. Furthermore, the first sentence in the third (last) paragraph of the text under the heading R11 Barrhill Road (S) should be amended to remove the introductory phrase "The site will require two points of access with suitable spacing and", as well as a modification of the last sentence to reflect this. Accordingly, that paragraph will now read: <i>"A Transport Assessment will be required to support any application. Safeguarding of land for a future roundabout will be required in association with an access junction to the site off Barrhill Road."</i></li> <li>4. In the <b>Findochty</b> section of the plan at the end of the text under the heading R1: Morven Crescent insert new wording as follows: <i>"To support any proposals a walkover and photographic survey of habitats will be required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems. "</i></li> <li>5. In the <b>Findochty</b> section of the plan at the end of the text under the heading R2: West of Primary School insert new wording as follows: <i>"To support any proposals a walkover and photographic survey of habitats will be required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems. "</i></li> <li>6. In the <b>Portgordon</b> section of the plan under the heading R2 Crown Street the first sentence should end with the phrase "...55 houses." (and not '45 houses' as written in the proposed plan document).</li> </ol>

Issue 12b	Buckie Employment Land	
Development plan reference:	<b>Buckie settlement statement, page 103-109</b> <ul style="list-style-type: none"><li>• <b>BP1 High Street, page 107</b></li><li>• <b>I3 March Road (SE), page 106</b></li><li>• <b>I5 The Harbour Area, page 106-107</b></li><li>• <b>OPP1 Highland Yards, page 107</b></li><li>• <b>OPP2 Blairdaff Street, page 107</b></li><li>• <b>OPP5 Former Jones Shipyard, page 108</b></li></ul>	<b>Reporter:</b> Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>BP1 High Street</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>I3 March Road (SE)</u></b> Scottish Natural Heritage (1027)</p> <p><b><u>I5 The Harbour Area</u></b> Scottish Natural Heritage (1027 )</p> <p><b><u>OPP1 Highland Yards</u></b> Robert Benzie (0639)</p> <p><b><u>OPP2 Blairdaff Street</u></b> Campbell (0735)</p> <p><b><u>OPP5 Former Jones Shipyard</u></b> Scottish Natural Heritage (1027)</p>		
Provision of the development plan to which the issue relates:	Identifies existing and proposed employment land sites and opportunity sites.	
Planning authority's summary of the representation(s):		
<p><b><u>BP1 High Street</u></b> <u>Scottish Environment Protection Agency (0569)</u> Object to site being included unless a developer requirement stipulating that a buffer strip of at least 6 m between the development and the watercourse is required is included. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>I3 March Road (SE)</u></b> <u>Scottish Natural Heritage (1027)</u>  Text should refer to need for badger survey and protection plan where badgers are likely.</p> <p><b><u>I5 The Harbour Area</u></b> <u>Scottish Natural Heritage (1027)</u> Potential for development to have an adverse impact on the integrity of the Moray Firth SAC through disturbance to bottlenose dolphins (noise and vibration from construction works and displacement from cumulative increased marine traffic) and through impact on subtidal sandbanks via dredging and disposal operations.</p>		

**OPP1 Highland Yards**

Robert Benzie (0639)

The site is included to promote sustainable development and encourage the use of previously used land which is now vacant or derelict. Highland garage has a 99 year lease on the land stated as vacant.

**OPP2 Blairdaff Street**

Campbell (0735)

The site is identified as vacant and derelict. It is being used in many ways for storage and as a business premises.

**OPP5 Former Jones Shipyard**

Scottish Natural Heritage (1027)

Stronger wording required to safeguard the Moray Firth Special Area of Conservation. Potential for redevelopment to have an adverse impact on the integrity of the Moray Firth SAC through disturbance to bottlenose dolphins (noise, vibration from construction and cumulative increase marine traffic) and sandbanks via dredging and disposal activities.

**Modifications sought by those submitting representations:**

**BP1 High Street**

Scottish Environment Protection Agency (0569)

Text stipulating "A buffer strip of at least 6 metres between development and the watercourse is required". It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I3 March Road (SE)**

Scottish Natural Heritage (1027)

Text stipulating "A badger survey will be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate".

**I5 The Harbour Area**

Scottish Natural Heritage (1027)

Text stating "Any harbour/marine improvement or diversification works must avoid adverse impact on the Moray Firth Special Area of Conservation through noise or vibration or cumulative boat movement increase disturbance to bottlenose dolphins, or through disposal operations.

**OPP1 Highland Yards**

Robert Benzie (0639)

Remove from plan.

**OPP2 Blairdaff Street**

Campbell (0735)

Remove from plan.

**OPP5 Former Jones Shipyard**

Scottish Natural Heritage (1027)

Add text "Any redevelopment works must avoid adverse impacts on the Moray Firth SAC through noise vibration or cumulative boat movement increase of disturbance to bottlenose dolphins, or through dredging and disposal operations.

**Summary of responses (including reasons) by planning authority:**

**BP1 High Street**

If the Reporter is so minded the additional text suggested by Scottish Environment Protection Agency should be added into the site designation text. The following wording is considered suitable “buffer strip of at least 6m between development and the watercourse is required.”

If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

**I3 March Road (SE)**

If the Reporter is so minded the Council would not object to the inclusion of the text “A badger survey will be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate”.

In commenting on the SEA Environmental Report (CD33) Scottish Natural Heritage made reference to the addition of text referencing the requirement for structural planting. If the Reporter is so minded the Council would not object to the inclusion of the following text. “This site is on the edge of Buckie and offers the opportunity to create an enhanced and robust settlement boundary through the provision of substantial structural planting.”

**I5 The Harbour Area**

If the Reporter is so minded the Council would not object to the inclusion of the text “Any harbour/marine improvement or diversification works must avoid adverse impact on the Moray Firth Special Area of Conservation through noise or vibration or cumulative boat movement increase disturbance to bottlenose dolphins, or through disposal operations.”

**OPP1 Highland Yards**

The site has been identified as an opportunity site as a large portion of it remains vacant and there is a current planning consent for 32 houses and 8 flats on site. There is potential scope for development of the land and therefore it is highlighted as an opportunity site.

No modification is proposed.

**OPP2 Blairdaff Street**

Despite the site being currently utilised by businesses it is considered that it could be further utilised beyond being used for storage and redeveloped for an alternative use. The former factory would be suitable for a number of uses that are compatible with the primarily residential character of the surrounding area.

No modification is proposed.

**OPP5 Former Jones Shipyard**

If the Reporter is so minded the Council would not object to the inclusion of the text “Any harbour/marine improvement or diversification works must avoid adverse impact on the Moray Firth Special Area of Conservation through noise or vibration or cumulative boat movement increase disturbance to bottlenose dolphins, or through disposal operations.”

**Reporter's conclusions:**BP1 High Street

1. The Scottish Environment Protection Agency (SEPA) seeks provision to be made within the allocation for a buffer strip of at least 6 metres between the development and the adjoining watercourse - together with the text wording also being amended to address SEPA's concerns about wetlands. The council has indicated its willingness to accommodate this particular request and has suggested a possible amendment to the allocation wording to specifically address this.

2. I am persuaded that the concerns expressed by SEPA are well founded and am satisfied that these can be readily addressed through the text accompanying the allocation to make appropriate reference to the incorporation of a buffer strip as well as to the required surveys – all as now agreed by the council. However, in my view the survey request would not be most appropriately dealt with by a recommendation in the text, as put forward in the draft wording suggested by the council, as that could be ignored. Instead I conclude that this would be most effectively addressed by making the walkover and photographic survey a requirement.

I3 March Road (SE)

3. Scottish Natural Heritage (SNH) argue that the text associated with this allocation should incorporate additional wording, specifically requiring a badger survey to be carried out with a view to mitigation measures ensuing if appropriate. I note that the standard wording they are suggesting – and which has been agreed with the council – is already included for other allocations in Buckie in the proposed plan, where badgers are likely to be present.

4. I conclude that for consistency there is a justifiable case for inserting the wording proposed in the representation: "A badger survey will require to be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate." I consider that this would be most appropriately placed at the end of the first paragraph under the heading I3 March Road (SE).

5. The council has reported the comment made by Scottish Natural Heritage regarding the Strategic Environment Assessment (SEA). Nevertheless, as this was not a representation to the proposed plan it falls outwith the scope of this Examination. Instead it is a matter for the council itself to consider.

I5 The Harbour Area

6. Scottish Natural Heritage (SNH) is seeking the text associated with this allocation to incorporate additional wording. This is specifically intended to ensure that there is no adverse impact on the integrity of the Moray Firth Special Area of Conservation – in particular through increased disturbance to bottlenose dolphins - as a result of any additional noise, vibration or cumulative boat movements associated with harbour or marine improvement or diversification works.

7. Having had regard to the council's Habitats Regulations Appraisal (HRA) I conclude that this is a matter that can and should be appropriately addressed at this stage in the planning process. Furthermore, I am in agreement that the safeguards sought by SNH

are merited and conclude that an appropriate form of words is required to address this specifically in respect of I5 - for consideration alongside all the relevant environmental policies of the plan, including policy E1. Nevertheless, given the terms of the HRA, I am concerned that the suggested wording agreed between the council and SNH to amend the I5 allocation is not sufficiently well phrased. Accordingly, I am recommending a slight variation on their proposed drafts with a view to aiding clarity with regard to both their intentions and the associated requirements being imposed on developers. These matters would be material considerations at the planning application stage when any development proposal is being assessed.

#### OPP1 Highland Yards

8. The operator of this site seeks removal of this allocation from the plan on the basis that the vacant or derelict land here is the subject of a 999 year lease to him. This waterfront site is located close to the core of the town centre.

9. I note from my site visit that this allocation covers a large area, of which a large part remains vacant or derelict. The council also points out that there is an existing planning permission for 32 houses and 8 flats on this particular site. Based on all of these considerations, I do not regard the existence of a long lease on the site as being relevant and certainly not sufficient reason to justify deletion of this sizeable, under-utilised site in the heart of Buckie as an Opportunity Site in the plan. In summary, I conclude that it is reasonable for the site in question to remain highlighted in the plan, where attention is drawn to the particular local context and its constraints with regard to future access arrangements to serve this Opportunity Site.

#### OPP2 Blairdaff Street

10. Whilst the OPP2 site is described in the proposed plan as being vacant and derelict, the representation argues that the land and property here is being actively used by local organisations for storage and as business premises. In my view on-going uses on parts of the site in question do not provide sufficient justification for deleting this as an Opportunity Site in the plan. Indeed I consider it remains important for the plan to highlight this whole former factory site as a redevelopment opportunity – that would be subject to any proposed new uses being compatible with the immediate locality, which is now primarily residential in character.

#### OPP5 Former Jones Shipyard

11. Scottish Natural Heritage (SNH) are seeking the text associated with this allocation to incorporate additional wording. This is specifically intended to ensure that there is no adverse impact on the integrity of the Moray Firth Special Area of Conservation – in particular through increased disturbance to bottlenose dolphins - as a result of any additional noise, vibration or cumulative boat movements associated with harbour or marine improvement or diversification works.

12. Having had regard to the council's Habitats Regulations Appraisal (HRA) I conclude that this is a matter that can and should be appropriately addressed at this stage in the planning process. Furthermore, I am in agreement that the safeguards sought by SNH are merited and conclude that an appropriate form of words is required to address this specifically in respect of OPP5 - for consideration alongside all the relevant environmental policies of the plan, including policy E1. Nevertheless, given the terms of the HRA, I am

concerned that the suggested wording agreed between the council and SNH to amend the OPP5 allocation is not sufficiently well phrased. Accordingly, I am recommending a slight variation on their proposed drafts with a view to aiding clarity with regard to both their intentions and the associated requirements being imposed on developers. These matters would be material considerations at the planning application stage when any development proposal is being assessed.

#### Reporter's recommendations:

Modify the proposed plan in the following terms:

1. In the **Buckie** section of the plan, under the sub-heading BP1 High Street, between the first and second paragraphs insert the following new paragraph:

“Between the development and the watercourse a buffer strip, with a minimum 6 metres width, will be required. To support any proposals a walkover and photographic survey of habitats will be required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.”

2. In the **Buckie** section of the plan, under the sub-heading I3 March Road (SE) at the end of the first paragraph insert the following words:

“A badger survey will require to be carried out to confirm the presence of badgers on site, with mitigation measures as appropriate.”

3. In the **Buckie** section of the plan, under the sub-heading I5 The Harbour Area, at the end of the first paragraph insert the following words:

“Any developments should ensure that there is no significant adverse impact on the integrity of the Moray Firth Special Area of Conservation – in particular through increased disturbance to bottlenose dolphins - as a result of any additional noise, vibration or cumulative boat movements associated with harbour or marine improvement or diversification works.”

4. In the **Buckie** section of the plan, under the sub-heading OPP5 Jones Shipyard, at the end of the second paragraph insert the following words:

“Any developments should ensure that there is no significant adverse impact on the integrity of the Moray Firth Special Area of Conservation – in particular through increased disturbance to bottlenose dolphins - as a result of any additional noise, vibration or cumulative boat movements associated with construction work or marine improvement or diversification works.”

Issue 12c	Other Buckie LHMA – Cullen, Findochty	
Development plan reference:	<b>Cullen Settlement Statement, page 130-134</b> <ul style="list-style-type: none"><li>• <b>OPP2 Seafield Road, page 131</b></li><li>• <b>T4 Coastal Footpath, page 131</b></li><li>• <b>Seafield Conservation Area, page 131</b></li><li>• <b>General</b></li></ul> <b>Findochty Settlement Statement, pages 181-183</b> <ul style="list-style-type: none"><li>• <b>OPP1 North Beach, page 182</b></li></ul>	<b>Reporter:</b> Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Cullen</u></b> <b><u>OPP2 Seafield Road</u></b> Ms Sally Anderson (0863) <b><u>T4 Coastal Footpath</u></b> S Slater (0588) <b><u>Seatown Conservation Area</u></b> S Slater (0588) <b><u>General</u></b> Cullen &amp; Deskford Community Council (0134) NHS Grampian (0300) <b><u>Findochty</u></b> <b><u>OPP1 North Beach</u></b> Mr John Trevor Wilson (0681) Mr Stewart Bradbury (0953)</p>		
Provision of the development plan to which the issue relates:	Statements showing sites proposed for development (other than housing), including descriptive texts outlining their purpose and design requirements, in the third tier settlements of Cullen and Findochty.	
Planning authority's summary of the representation(s):		
<p><b><u>Cullen</u></b> <b><u>OPP2 Seafield Road</u></b> Ms Sally Anderson (0863) Objects to designation as it is an important area of open space and should be re-designated as ENV1 Public Park. Considers that site is not underused and is essentially a village green being the only sizable open space in the centre of Cullen contributing to the settlement's character. Identifies the space as an important green pedestrian route and recommended route for school children. Concern that removal will lead to requirement of children to walk on Seafield Road pavement which is confined and narrow. OPP2 designation contradicts Local Development Plan objectives to promote and safeguard open spaces. Concern that no indication is given as to what constitutes acceptable uses now that site is no longer required for health centre. Considers there is no requirement for housing as two allocated sites meets needs, considerable commercial premises and shops are available and school has sufficient expansion land. Considers development would adversely impact on character and entrance will lose identity and views up Seafield Road through the conservation area from the viaduct will be affected.</p>		

Concern that access issues are not raised given that there are access difficulties and alternatives would impact on other junctions and remove open space and car parking.

**T4 Coastal Path**

S Slater (0588)

The Moray Coastal Trail needs to be re-routed or a replacement bridge across the burn provided as the existing bridge is cracked and unsafe.

**Seatown Conservation Area**

S Slater (0588)

Conservation area boundary should be redrawn to exclude new housing.

**General**

Cullen & Deskford Community Council (0134)

Desire to see plans appropriate to Cullen implemented and will keep watching brief.

NHS Grampian (0300)

The reuse of site R2 Seafield Road for residential development is welcomed now that a new health care centre is no longer required. However, it is unlikely that the existing health centre can be expanded on site to accommodate increased growth and therefore, developer contributions should be secured to aid the delivery and maintenance of healthcare facilities within Cullen.

**Findochty**

**OPP1 North Beach**

Mr John Trevor Wilson (0681)

Consider the site, apart from bakehouse, is unsuitable for development or any substantial buildings as the area is at a significant risk of flooding and buildings are at risk of storm damage. Photographs provided.

Mr Stewart Bradbury (0953)

Seeks exclusion of western area including the former industrial building from designation as this is scheduled for private domestic use. Considers that the site has a defined purpose for leisure and recreation and queries why it has been identified for development particularly given it is not vacant or derelict and is maintained

**Modifications sought by those submitting representations:**

**Cullen**

**OPP2 Seafield Road**

Ms Sally Anderson (0863)

Re-designate OPP2 to ENV1 Public Park.

**T4 Coastal Footpath**

S Slater (0588)

Replace the bridge or re-route the coastal trail path.

**Seatown Conservation Area**

S Slater (0588)

Redraw conservation area boundary to exclude new properties.

**General**

Cullen & Deskford Community Council (0134)

Comments noted.

NHS Grampian (0300)

Infers securing developer obligations to mitigate impact of new development on health provision.

**Findochty**

**OPP1 North Beach**

Mr John Trevor Wilson (0681)

Remove site OPP1.

Mr Stewart Bradbury (0953)

Exclude western part of site from OPP1 and redefine status from opportunity to recreation and leisure.

**Summary of responses (including reasons) by planning authority:**

**Cullen**

**OPP2 Seafeld Road**

Cullen has a number of green spaces capable of accommodating a variety of uses that are relatively evenly distributed throughout the village. Therefore, the loss of this space is not considered to adversely impact on the variety or access to green spaces. The design of proposals will be required to take account of the site's key location on the main thoroughfare and proximity to the conservation area. Policy PP3 Placemaking is a primary policy of the Plan requiring high standards of design in all new developments. Transportation matters will be addressed at the planning application stage. To provide clarity on the types of uses considered acceptable, the Council is amenable to the inclusion of the following text "The site is suitable for residential, commercial and small scale business uses" should the Reporter be so minded.

If the Reporter is so minded, the Council would have no objection to the modification outlined above.

**T4 Coastal Path**

The Moray Council Economic Development and Infrastructure Services Committee at its meeting on 5<sup>th</sup> August 2014 approved the construction of a replacement bridge upstream of the existing bridge (BD/12c/01). The replacement of the bridge is therefore being considered through that route and cannot be addressed through the Local Development Plan process. Re-routing the footpath onto the main A98 is not an option as the road (as it goes under the viaduct) is not wide enough to accommodate a new footpath. The bridge is inspected on a three monthly basis to monitor its condition.

No modification is proposed.

**Seatown Conservation Area**

A comprehensive appraisal of conservation areas is to be undertaken. The appraisals will identify amendments, where appropriate, to the conservation area boundary.

No modification is proposed.

**Health Provision**

Site R2 includes an area formerly identified for a new health centre which NHS Grampian has confirmed is no longer needed. Developer Obligations will be sought in accord with Policy IMP3 Developer Obligations and the five tests set out in Circular 3/2012 (CD36).

No modification is proposed.

**Findochty****OPP1 North Beach****Flooding**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary.

**Alternative Use**

It is accepted that the site has a recreational function and therefore it is proposed to include further clarity within the designation text as to what the acceptable uses for complementary development may be. Should the Reporter be so minded, it is suggested the designation text is amended to the following “The site at North Beach has retained its Opportunity Site status, in an attempt to promote the redevelopment of the site. The eastern area of the site has potential for leisure, recreational or tourism uses whilst the redundant building on the western part of the site is also suitable for residential use.” The former industrial building on the western edge of the site does not have planning consent for domestic use and therefore, it is appropriate to continue to include this area within the opportunity site.

If the Reporter is so minded, the Council would have no objection to the modification outlined above.

**Reporter's conclusions:****Cullen****OPP2 Seafield Road**

1. The site concerned is a gently sloping rectangular, walled area of green space. It is situated on the corner of Seafield Place and Seafield Road – the latter being part of the A98 road running through Cullen. Immediately to the north, the next section of Seafield Road accommodates the main commercial frontages of the village centre. The southern boundary of the site in question is occupied by what appears to be a former school building complex. This is now used as the Cullen Community and Residential Centre and public library, as well as Cullen Play Centre.

2. Whilst acknowledging that the OPP2 site is a key location along the main thoroughfare and in close proximity to the conservation area, the council considers that the loss of this particular parcel of land to built development would not be significant on the basis that there are other green spaces throughout the village. I do not find this argument persuasive as it fails to adequately acknowledge the local and strategic importance of this particular site. The principal reason for the council proposing its allocation as an Opportunity Site appears to be that this area of grass is presently underused and could be a development site. I find this an insufficient justification for building on this attractive area of open space that in my view forms an important part of the gateway leading northwards along the A98 road into the nearby village centre and its

conservation area. Similarly, I conclude that the council's intention to stress that high standards of design would be expected from any new development here does not justify the principle of new housing, commercial or business uses displacing the open space here.

3. Based on the available evidence and my own site visit, I find more persuasive the case made by the objector that this site represents a locally and strategically important area of open space that should be safeguarded. In my view the council has not effectively challenged the objector's contention that there is no need for this parcel of open space to be redeveloped for built uses such as houses or commercial expansion as there are sufficient sites already allocated for those purposes. I am also satisfied that the plan allocations elsewhere in Cullen for housing, commercial and business uses – as well as infill opportunities in and around the village core - in combination are sufficient to not require this small but important parcel of open space to be sacrificed, unnecessarily and irreversibly, for built development in the plan period.

4. I do not regard access constraints as being sufficient reason in principle to rule out development of the site. Nevertheless I am concerned that in townscape terms development of this site would detract from the character and appearance of the locality at this strategically important location adjoining the village core of Cullen and its conservation area.

5. Based on all these considerations I conclude that the site in question should not be designated as an Opportunity Site but instead should be re-designated as amenity greenspace when the plan is adopted. I find that this would also be compatible with the neighbouring land uses which are predominantly residential - and this would also complement the adjoining community centre, play and library facilities situated immediately to the south of it.

#### T4 Coastal Path

6. A representation seeks a re-routeing of the path or a replacement bridge in response to the unsafe condition of the existing bridge across the Burn of Cullen near its outlet into the Moray Firth at Cullen Bay. At my site visit I saw that the existing bridge was in a poor state of repair but remained useable with reasonable care.

7. The council has confirmed that the existing bridge is inspected regularly and approval has been given for a new replacement bridge to be constructed upstream of this one – so not requiring walkers on the coastal path to divert via the A98 road footway which runs parallel but further inland. I am content that the bridge-related measures that the council has already in process should enable the existing coastal path route to remain essentially unaltered at this location. On this basis I conclude that there is no justification for modifying the wording of the new plan in respect of the T4 coastal path description.

#### Seatown Conservation Area

8. A representation contends that the conservation area boundary – shown in purple on the settlement map for Cullen – should be re-drawn to exclude areas of new housing.

9. I note that the council is intending to undertake a comprehensive appraisal of conservation area boundaries that will lead to boundary changes, where appropriate, across the plan area. Meanwhile, I see no justification for modifying the plan at this time.

Cullen General Comments

10. The general comments made by the local community council are noted. Similarly, I note the comments from NHS Grampian in welcoming the R2 designation and health provision locally. I conclude that no modifications to the new plan are merited in response to either of those representations.

**Findochty**OPP1 North Beach

11. One representation contends that the site concerned is unsuitable for any form of built development because of significant risks of flooding and storm damage at this location. Another representation seeks to exclude the western part of the site from the designation on the basis that the former industrial building there is not vacant or derelict and is maintained with a view to its future private domestic use.

12. On my site visit I noted that the site, whilst adjoining to the Moray Firth waterfront, is mostly raised above the nearby cove beach. The marginally more elevated western part of the site currently accommodates a disused industrial building whilst the lower area is in recreational use as a grassed open space with picnic tables facing onto the adjoining shore area. I note that the OPP1 designation highlights opportunities for redevelopment of this site. In principle I think the council is justified in encouraging re-use of the disused industrial premises on part of this site and in outlining the potential for leisure, recreation or tourism uses on the eastern part. The council has put forward a suggested form of wording to clarify its position and intentions for these parcels and I conclude that this clarification would be beneficial in differentiating between the western and eastern portions of the site.

13. Whilst noting the concerns expressed in representations, I am satisfied that the flood risk could be assessed in more detail – including against policy EP7 of the plan - when any planning application is lodged. The council would need to be satisfied that appropriate mitigation measures were being put in place, and this could be controlled, perhaps through planning conditions if appropriate, when any planning permission is granted. That development management process would also be the appropriate time for all other detailed location and design matters to be considered, including with reference to the proximity to the waterfront and storm damage risks.

14. Based on all of these considerations, I conclude that there is insufficient justification to delete this designation. Nevertheless, I also conclude that the policy wording should be modified in the manner proposed by the council, with the western part of the site also being considered for residential use as a possible alternative to leisure, recreation or tourism uses.

**Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. In the **Cullen** section of the plan under the sub-heading Environment the site in question at the corner of Seafield Road should be redesignated ENV12 Amenity Open Space: Seafield Road/Seafield Place – and the designation listed as OPP 2 Seafield Road (together with the accompanying text currently under that sub-heading) should all be deleted.

2. In the **Findochty** section of the plan, under the sub-heading OPP1 the text in the draft plan should be deleted and replaced with the following:

“The site at North Beach has retained its Opportunity Site status in an attempt to promote redevelopment of the site. The eastern part of the site has potential for leisure, recreation or tourism uses whilst the redundant building on the western part of the site is also suitable for residential use, as a possible alternative to leisure, recreation or tourism uses.

<b>Issue 13a</b>	<b>Elgin Housing Issues</b>	
<b>Development plan reference:</b>	<b>Elgin Settlement Statement, page 152-175</b> <ul style="list-style-type: none"> <li>• <b>Hierarchy Status/Objectives/Issues, page 152</b></li> <li>• <b>R1 Bilbohall North, page 153</b></li> <li>• <b>R2/ENV3 Thornhill, page 153</b></li> <li>• <b>R3 Bilbohall South, page 153</b></li> <li>• <b>R4 South West of High School, page 153</b></li> <li>• <b>R6 Hattonhill, page 154</b></li> <li>• <b>R9 Driving Range, page 154</b></li> <li>• <b>R10 Linkwood Steading, page 154</b></li> <li>• <b>R11 Findrassie/Myreside, page 155</b></li> <li>• <b>R12 Knockmasting Wood, page 155</b></li> <li>• <b>R13 Fairway Avenue, page 155</b></li> <li>• <b>R14 Former Hamilton Drive School Site, page 155</b></li> </ul>	<b>Reporter:</b> Allison Coard
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<u><b>Hierarchy Status/Objectives/Issues</b></u> Scotia Homes Ltd (0480) <u><b>R1 Bilbohall</b></u> Mr William Stewart (0596) Westfields Residents Association (0597) <u><b>R2 Thornhill/ENV3</b></u> Springfield Properties Plc (0010) <u><b>R3 Bilbohall South</b></u> Mr William Stewart (0596) Westfields Residents Association (0597) <u><b>R4 South West of Elgin High School</b></u> Scotia Homes Ltd (0480) <u><b>R6 Hattonhill</b></u> Adeline Collins (0583) <u><b>R9 Driving Range</b></u> Springfield Properties Plc (0010) William Graham (0720) Isobel Graham (0721) <u><b>R10 Linkwood Steading</b></u> Springfield Properties Plc (0010) Mr Campbell McNeill (0862) <u><b>R11 Findrassie/Myreside</b></u> RSPB Scotland (0285) Scottish Environment Protection Agency (0569) CJ And CRH Dunbar (Pitgaveny) (0908) <u><b>R12 Knockmasting Wood</b></u> Scotia Homes Ltd (0480) Mr And Mrs David MacBeath(0866) <u><b>R13 Fairway Avenue</b></u> Elgin Community Council (0122) Elgin South Area Forum (0194)		

<p>J Russell (0342)  Mrs Joan Adams (0593)  Mr Michael Ralph (0599)  Mrs K J Wilcox (0601)  Mr John Adams (0602)  Mr Steven Milne (0604)  Brian Earle (0605)  Allan Watt (0608)  Ian Paterson (0609)  James Richardson (0610)  Margaret Richardson (0611)  Margaret Fletcher (0612)  Shirley Jackson (0631)  Patricia Smith (0661)  Neil McGregor (0662)  Alexander Forsyth (0675)  David Stewart (0677)  Margaret Rollo (0678)  David Sidebottom (0691)  Liz Johnston (0700)  Alistair Smillie (0717)  William Graham (0720)  Isobel Graham (0721)  Lisa Johnston (0722)  Graham Henderson (0726)  Mr Ian Cameron (0727)  Mrs Beryl Duncan (0739)  John and Linda Kelman (0867)  David Mason (0874)  John Taylor (0899)  Marian Evans (0900)  Mrs Nichola Hood (0907)  Betty Bremner (0928)  J Webster (0939)  Ian F Potter (0980)  Elgin Golf Club (1000)  George and Margaret Michie (1004)  Leslie and Sheena Henderson (1025)  <b><u>R14 Former Hamilton Drive School Site</u></b>  Calum McCallum (0972)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>The residential designations within the Elgin settlement statement identify the sites to meet the requirements set out in the strategic housing land requirements.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Hierarchy Status/Objectives/Issues</u></b>  <u>Scotia Homes Ltd (0480)</u>  Queries change in objectives between Committee and publication of the plan in terms of house numbers. This dropped from 1,540 to 1,290 houses. Queries if the reduction is due to 350 units brought forward at Findrassie R11 through the housing land audit. Clarification is sought on the asterisk note that suggests an oversupply of housing in</p>	

Elgin. A table should be included showing contributing sites. Confirmation is sought on the effectiveness of the 350 houses being brought forward at R11 and that this site has been agreed by Members for inclusion as a housing site to deliver the five year effective housing land supply.

### **R1 Bilbohall**

Mr William Stewart (0596), Westfields Resident's Association (0597)

Concerned development of R1 would result in Fairfields being used as a traffic shortcut and by construction traffic causing road safety issues. No more access was to be taken off the bridge.

### **R2 Thornhill/ENV3**

Springfield Properties plc (0010)

Seek removal of ENV3 at site R2. The area is part of the current R4 designation and historically has been included in residential zoning. Area is the subject of a live Planning application 14/00766/APP for the erection of 16 flats. Accept that the 20 and 25 metre setbacks required in the current plan will provide an attractive landscaped buffer and approach to Elgin, however there is no justification for the change to include other land.

### **R3 Bilbohall South**

Mr William Stewart (0596), Westfields Resident's Association (0597)

Concerned development of R3 would result in Fairfields being used as a traffic shortcut and by construction traffic causing road safety issues. No more access was to be taken off the bridge.

### **R4 South West of Elgin High School**

Scotia Homes Ltd (0480)

Support masterplanning process but object to the Key Design Principles (see Issue 17). Seek an increase in allocation to 100 and note R4 would assist in achieving an increase in the Strategic Housing Land Requirement (see Issue 4a). Refers to submissions made to the Main Issues Report and notes developer intends to progress sensitive development of the site through masterplan process.

### **R6 Hattonhill**

Adeline Collins (0583)

Objects to R6 on the grounds that roads and primary school do not have capacity to cope and development would ruin the area. Objects to the Western Link Road going through the site.

### **R9 Driving Range Site**

William Graham (0720), Isobel Graham (0721)

Object to development on the driving range as the Golf Club will lose a much needed facility particularly given R7 has now been developed on the Club's practice area; it will be a loss to visitors and will reduce "Green Areas" in and around Elgin.

Springfield Properties plc (0010)

Support the inclusion of additional housing at R9. Include site in current form in the Local Development Plan.

### **R10 Linkwood Steading Site**

Springfield Properties plc (0010)

Support the inclusion of additional housing and partial re-use at R10. A less prescriptive

approach should be taken to the additional planting required adjacent to Maggot Wood and the Reiket Park TPO. More emphasis should be given to the condition of existing trees and their future management.

**Mr Campbell McNeill (0862)**

Objects to R10 on grounds of loss of privacy; disruption during construction; increase of heavy traffic using Thornhill Road as a link road; road safety for children; lack of school capacity and lack of growth of amenities in line with development. Queries how access will be gained from R10 to Reiket Lane as this is already congested. The cycle path is not used by cyclists but by irresponsible dog walkers.

**R11 Findrassie/Myreside**

**Support for R11**

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Support identification of R11. It meets Council objectives and satisfies all the “effectiveness” criteria in PAN 2/2010. Support capacity of 1500 houses and note the early phase of 350 to meet shortfall in the Housing Land Audit. Submitted various documents in support of allocation (see supporting documents SD0980a/2/26a-m). A masterplan is being progressed for the site which will be reviewed by Architecture and Design Scotland.

**Key Design Principles**

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Objects to principle of having Key Design Principles within the Local Development Plan (see Issue 17).

**Settlement Map**

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Object to way R11 appears on settlement map as this prematurely determines the location of land uses such as open space, riparian woodland and ENV6. These should be determined through a process of design and engagement with the Council, key stakeholders and the community. The masterplan will determine the most appropriate location for these.

**I8 Newfield**

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Seek I8 Newfield to be included within R11 sites (see Issue 13b).

**Transport**

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Final paragraph of allocation pre-empt findings of future Transport Assessment. Text should be amended to state improvement will be required if demonstrated in an approved Transport Assessment. Also objects to lack of access shown onto Duffus Road (see Issue 13c)

**Loch Spynie**

**RSPB Scotland (0285)**

Share concerns in Habitats Regulation Assessment about potential impacts on Loch Spynie and a reduction in scale of development at R11 should be considered to reduce potential impacts.

**CJ And CRH Dunbar (Pitgaveny) (0908)**

Notes findings of SEA and comments that Spynie Loch is in same ownership as R11 and I8 and safeguarding the Loch is a priority for the landowner. Notes masterplan should consider appropriate provision of drainage.

**Biodiversity/Waterbodies**

**RSPB Scotland (0285)**

Welcomes development of a masterplan to mitigate and compensate for any impacts from development. Compensation for any natural features which may be lost should be a requirement if Moray Council is to fulfil its biodiversity duties under the Nature Conservation (Scotland) Act 2004. It should be made clear to developers the need for compensation through targeting management at other areas off site. Sustainable Urban Drainage Systems should maximise benefits to biodiversity. Natural flood management option should be explored.

**Scottish Environment Protection Agency (0569)**

The water body within R11 is at poor/moderate ecological status or at risk of being downgraded contrary to the Water Framework Directive. Object to site being included within the Plan unless a developer requirement stipulating that a "buffer strip of at least 6m between development and the watercourse is required", is included.

**Site R12 Knockmasting Wood**

**Scotia Homes Ltd (480)**

Support allocation and capacity identified. Support preparation of joint masterplan.

**Mr And Mrs David MacBeath (0866)**

Raise concern about road safety and traffic impacts from R12. Access should not conflict with traffic into Fairfield Avenue. Mayne Farm Bridge and Fairfield Avenue are not suitable access links. Fairfield Avenue should be closed off by bollards.

**R13 Fairway Avenue**

**George and Margaret Michie (1004)**

Object to R13.

**Impact on Golf Club and Economy**

Elgin Community Council (0122), Elgin South Area Forum (0194), J Russell (0342), Mr Michael Ralph (0599), Mrs Joan Adams (0593), Mrs KJ Wilcox (0601), Mr John Adams (0602), Mr Steven Milne (0604), Brian Earle (0605), Allan Watt (0608), Ian Paterson (0609), James Richardson (0610), Margaret Richardson (0611), Margaret Fletcher (0612), Shirley Jackson (0631), Patricia Smith (0661), Neil McGregor (0662), Alexander Forsyth (0675), David Stewart (0677), Margaret Rollo (0678), Liz Johnston (0700), Alistair Smillie (0717), William Graham (0720), Isobel Graham (0721), Lisa Johnston (0722), Mr Ian Cameron (0727), Mrs Beryl Duncan (0739), David Mason (0874), John Taylor (0899), Marian Evans (0900), Mrs Nichola Hood (907), Betty Bremner (0928), J Webster (0939), Ian Potter (0980), Elgin Golf Club (1000), Leslie and Sheena Henderson (1025)

Oppose developing R13 on some or all of the following grounds. Development will pose a health and safety risk to occupiers and their buildings as the area is currently an overspill area for golf balls and houses would be in the firing line of shots from the 11<sup>th</sup> tee. It is not feasible to erect a safety fence. Development will require the golf course to be significantly altered on safety grounds. The club would be forced to move the 11<sup>th</sup> tee from its elevated position shortening the hole and reducing the tariff to Par 3. Alterations to the golf course would damage the reputation and amenity of the course and diminish

its challenge and interest which would reduce visitors and their contribution to the local economy. This is contrary to the Economic Development priorities and conflicts with the Moray Economic Strategy. The course provides local employment.

Graham Henderson (0726), David Mason (0874), John Taylor (0899) Development would impact on the viability of the golf club. The golf course would have to be redesigned, at considerable expense placing a financial burden on the club.

Allan Watt (0608), Lisa Johnston (0722)

Elgin Golf Club is being disadvantaged to the advantage of other private interests in the form of private housing development.

Mr Michael Ralph (0599)

Proposal shows disregard for over 1000 golf club members.

Margaret Rollo (0678)

The area should be given to the golf course as countryside or practice area as R9 will result in the loss of the driving range.

Alistair Smillie (0717), John and Linda Kelman (0867), Ian F Potter (0980)

Course has already been adversely impacted upon by housing on R7 and loss of driving range at R9. A further restriction on practice facilities would be a significant loss to the Club and its viability.

Leslie and Sheena Henderson (1025)

Under CDM Regulations 2007 the Council should be responsible for taking into account the surrounding environment when developing.

Alistair Smillie (0717)

The development of R13 will adversely affect Moray Councils past investment in the club and would be a waste of public money.

### **Loss of Green/Open Space**

J Russell (0342), Mrs Joan Adams (0593), Mr Michael Ralph (0599), Mrs K J Wilcox (0601), Mr John Adams (0602), Mr Steven Milne (0604), Brian Earle (0605), James Richardson (0610), Margaret Richardson (0611), Margaret Fletcher (0612), Alexander Forsyth (0675), Margaret Rollo (0678), David Sidebottom (0691), Liz Johnston (0700), Alistair Smillie (0717), William Graham (0720), Isobel Graham (0721), Lisa Johnston (0722), Graham Henderson (0726), Mrs Beryl Duncan (0739), John and Linda Kelman (0867), Marian Evans (0900), Betty Bremner (0928), J Webster (0939), Ian F Potter (0980), Leslie and Sheena Henderson (1025)

Object to loss of open green space on some or all of the following grounds. The area is used by dog walkers and children, the area lacks such space and proposal will reduce this further. Green space should be preserved due to the volume of housing being built in the area. Proposal is contrary to objectives for Elgin to protect high quality green space. It will increase dog fouling. The proposal will discourage outdoor recreation and conflicts with the Scottish Government aim of increasing physical activity.

Elgin Community Council (0122), Elgin South Area Forum (0194), J Webster (0939), Ian F Potter (0980)

Issue of pedestrian rights of way would require to be resolved. R13 is a right of way and object to loss of access to Core Path or Rights of Way. (0122 and 0194 propose

additional wording in this respect)

Elgin Community Council (0122), Elgin South Area Forum (0194)

R13 could provide open space for R4 and R7, otherwise there is no accessible amenity green space.

Mrs KJ Wilcox (0601), Shirley Jackson (0631)

Loss of green/open space will discourage outdoor recreational activities and conflicts with aims of Scottish Government to increase physical activity.

David Stewart (0677), William Graham (0720), Isobel Graham (0721), David Mason (0874), Elgin Golf Club (1000)

Anything that impacts on the viability of the club would have a detrimental effect on the provision of social and leisure facilities in Elgin. Moray lacks quality sport and leisure facilities. Opportunity to encourage young people to participate in sport should not be sacrificed for 10 houses. The club encourages young people to take up golf and makes facilities available to non golfers.

Mr Ian Cameron (0727)

Development would mean loss of designated green belt which should be preserved.

Mrs K J Wilcox (0601), Betty Bremner (0928)

There is already too much development in west New Elgin and R13 would reduce greenfield/amenity area and further this gradual urbanisation.

Ian F Potter (0980)

The area is Countryside Around Towns and only proposal affecting it is the reservation for a bypass route. The site is owned by Moray Council and has been used for the benefits of citizens.

### **Impact on Views, Privacy and Property Value**

Mrs K J Wilcox (0601), Betty Bremner (0928)

Housing will lose selling features such as access to green/amenity space and proximity to golf course.

Mr Ian Cameron (0727)

Due to site being higher existing properties will be overlooked.

David Sidebottom (0691)

Development will intrude on privacy and add noise to a peaceful location.

Elgin Community Council (0122), Elgin South Area Forum (0194), Mrs Joan Adams (0593), Mr John Adams (0602), Betty Bremner (0928)

Development will disrupt views.

Mrs Joan Adams (593), Mr John Adams (0602), Mr Ian Cameron (0727), J Webster (0939)

Development will devalue property.

### **Transportation and Roads**

Mrs K J Wilcox (0601)

Development would impact on the already unpleasant approach to Elgin from the south.

David Sidebottom (0691), Mr Ian Cameron (0727), Leslie and Sheena Henderson (1025)

A new access road would be needed increasing traffic and parking congestion and causing road safety issues.

Mr Ian Cameron (0727), Leslie and Sheena Henderson (1025)

The road infrastructure was not designed to cope with construction traffic and properties will suffer noise and disturbance.

Leslie and Sheena Henderson (1025)

The junction at Springfield Road/High School Drive, High School Drive/Fairway Avenue and any proposed access into the site are unsuitable.

Mrs Beryl Duncan (0739)

Traffic increases on Fairway Avenue from development and during construction are not acceptable.

### **Need for development and Site Capacity**

Mrs Joan Adams (0593)

There is no shortage of housing and the site is only allocated for the Council to make money.

William Graham (0720), Isobel Graham (0721), Graham Henderson (0726), Ian F Potter (0980), Elgin Golf Club (1000)

Housing targets can be met without the need for R13. There is an oversupply of housing in Elgin.

Neil McGregor (0662)

Ten houses does not make a large impact on the housing need in the Elgin area.

Marian Evans (0900)

R13 is so small scale it will not add to the economic development of Elgin.

Alistair Smillie (0717)

Development planning should support local sport facilities and amenity areas as well as housing needs.

Elgin Community Council (0122), Elgin South Area Forum (0194), John and Linda Kelman (0867)

Only one house should be allowed in the gap site between existing houses providing an access path is retained.

Mrs Beryl Duncan (0739)

The site is too small for 10 houses, not enough space would be left for recreation.

J Webster (0939)

Gas pipeline runs through this area and should not be developed.

### **R14 Former Hamilton Drive School Site**

Calum McCallum (0972)

Development should ensure retention and maintenance of the stone walls, trees, hedges, and greenery currently within the R14 boundary. This liability should be met by the developers in perpetuity and a plan to achieve this liability submitted to the Moray Council

for approval and implementation. This obligation should be added to the allocation text. Work should not cause flooding or drainage problems for neighbours. Foul and surface flows should be separated. SUDS should be adopted and an explicit surface water plan should be submitted along with maintenance and monitoring scheme. More detail should be provided on house type and density, avoidance of overlooking and overshadowing, parking, light and noise pollution, screening, pedestrian and cycle connections and amenity areas.

**Modifications sought by those submitting representations:**

**Hierarchy Status/Objectives/Issues**

**Scotia Homes Ltd(0480)**

Table showing sites that contribute to supply and the housing proposed in the relevant periods to provide greater clarity. Clarification o housing numbers.

**R1 Bilbohall North**

**William Stewart (0596), Westfields Residents Association (0597)**

Reduce number of houses proposed, give more consideration to access road, more open space between developments and no through road from new developments or construction traffic through Fairfield.

**R2 Thornhill/ENV3**

**Springfield Properties plc (0010)**

Remove area of ENV3 at R2.

**R3 Bilbohall South**

**William Stewart (0596), Westfields Residents Association (0597)**

Reduce number of houses proposed, give more consideration to access road, more open space between developments and no through road from new developments or construction traffic through Fairfield.

**R4 South West of Elgin High School**

**Scotia Homes Ltd (0480)**

Amend wording to state "development proposals should have regard to the design principles set out in the accompanying map, however, the final design and form of development will be informed by a masterplanning process for the sites concerned, which will include consultation with the relevant interested parties." Or preferably remove the maps on 'Key Design Principles' from the LDP and instead produce development briefs for the sites concerned to allow a more detailed contextual analysis and consultation to be undertaken, rather than pre-empting the design requirements of the sites at this stage.

**R6 Hattonhill**

**Adeline Collins (0583)**

Remove R6 Hattonhill from the plan.

**R9 Driving Range Site**

**William Graham (0720), Isobel Graham (0721)**

Remove R9 from the plan.

**Springfield Properties plc (0010)**

Support allocation. No amendment sought, retain as shown.

### **R10 Linkwood Steading**

Springfield Properties plc (0010)

Remove area identified as cross hatching and include statement setting out that focus should be on future management and species mix of the mature woodland adjacent.

Mr Campbell McNeill (0862)

Provide a buffer zone with landscaping between Linkwood and R10 to ensure privacy. Remove link to Bain Road cycle way and keep estates separate. Upgrade Reiket lane to ensure traffic managed.

### **R11 Findrassie/Myreside**

Royal Society for Protection of Birds (0285)

Amend settlement statement to reflect comments. Reduce R11 to reduce impacts on Loch Spynie. Add requirement for compensatory provision for any natural features lost.

Scottish Environment Protection Agency (0569)

Add requirement to R11 text stipulating that a "buffer strip of at least 6m between development and the watercourse is required".

CJ and CRH Dunbar (Pitgaveny) (0908)

- The proposal should be amended to reflect the process of masterplanning for this site that will be undertaken in 2014 by landowner in partnership with Moray Council and key stakeholders. This should refer to the parallel process of review by Architecture & Design Scotland.
- The wording of the proposal should be amended to remove the requirement that the proposals for R11 Findrassie/Myreside 'must' incorporate the Key Design Principles as set out at page 173 of the Proposed Plan - the wording at para two of R11: Findrassie/ Myreside (pg 155) should instead be amended to read as follows:"A masterplan will be prepared for the site and the development phased to create a distinct identity. The design of the development will be largely guided by the masterplanning process that will identify a series of design principles which should be incorporated into any future proposals for development."
- The wording of the final paragraph of this proposal should be amended as follows:"A Transport Assessment must be submitted with proposals and early contact with Moray Council Transportation is essential. Off-site junction improvements will be required where this is demonstrated in an approved TA (see TSP's for guidance on this matter). Where possible, connection should be made with access arrangements for R7 and a new/upgraded junction onto the A941 is required. Widening and improvements required to Covesea Road and Myreside Road should be determined in the TA. Footway, cycleway and public transportation connections required."
- Include site I8 within the allocation of R11: Findrassie/ Myreside such that the text reads as follows:"Previously identified as a LONG site, this is now brought forward as the major new land release for Elgin. The site extends in excess of 100 hectares and has capacity for 1500 houses. In addition, employment land of between 10 and 12 hectares will be found within the R11 area as part of the masterplanning process. The employment land will be suitable for employment uses that can be undertaken in a residential area without detriment to amenity, therefore Class 5: Industrial Uses are specifically excluded. R11 is suited to a range of employment uses, particularly under Class 4: Business Use. Development of offices, research and development facilities and light industrial uses in Class 4 will be supported. All employment areas within R11 should have a high amenity setting and a landscape and planting scheme must be submitted with proposals. This must consider the context of the sites and future

development at LONG 1 as defined through the masterplanning process. Access to these employment sites within R11 should be considered as part of the masterplan for R11 and future connections to LONG 1. The need for Transport Assessments must be considered for each employment area proposed in R11 in consultation with the Local Authority."

### **R12 Knockmasting Wood**

Scotia Homes Ltd (0480)

Support. No change.

Mr and Mrs David MacBeath (0866)

Implied no access to be taken to R12 through R1/Fairfield Avenue.

### **R13 Fairway Avenue**

J Russell (0342), Mrs Joan Adams (0593), Mr Michael Ralph (0599), Mrs KJ Wilcox (0601), Mr John Adams (0602), Mr Steven Milne (0604), Allan Watt (0608), Ian Paterson (0609), James Richardson (0610), Margaret Richardson (0611), Margaret Fletcher (0612), Shirley Jackson (0631), Patricia Smith (0661), Neil McGregor (0662), Alexander Forsyth (0675), David Stewart (0677), David Sidebottom (0691), Liz Johnston (0700), Alistair Smillie (0717), William Graham (0720), Isobel Graham (0721), Mr Ian Cameron (0727), Mrs Beryl Duncan (0739), John Taylor (0899), Marian Evans (0900), Mrs Nichola Hood (0907), Betty Bremner (0928), J Webster (0939), Elgin Golf Club (1000), George and Margaret Michie (1004) Leslie and Sheena Henderson (1025)

Remove from plan and leave as open space.

Margaret Rollo (0678), David Mason (0874), Ian F Potter (0980)

Re-designate as Countryside Around Towns (CAT) to protect from house building.

Brian Earle (0605), Lisa Johnston (0722), Graham Henderson (0726)

Retain as amenity land.

Elgin Community Council (0122), Elgin South Area Forum (0194), John and Linda Kelman (0867)

Amend so R13 so it is only for one house in gap site.

### **R14 Former Hamilton Drive School**

Callum McCallum (0972)

Comments to be included in development plan and the development brief whenever required.

## **Summary of responses (including reasons) by planning authority:**

### **Hierarchy Status/Objectives/Issues**

The Elgin Housing Market Area housing land requirement has been calculated at 1,494. This is based on a calculation of a requirement of 996 plus an additional 50% flexibility, which gives the housing market area requirement of 1,494 new houses. This requirement is split between settlements within the housing market area and is not solely Elgin's requirement. This does not include the 350 houses released through the Housing Land Audit triggers at site R11 as these are within the existing effective supply.

The difference between committees was to correct an error and be consistent with other settlement statements. The 1,540 was all the new houses identified within Elgin rather

than what required to be identified. (Due to a miscalculation this in fact should have been 1,530.) All other settlement statements identify the strategic housing land requirements and Elgin was corrected to reflect this. In Elgin the requirement is for 1,290 new houses as detailed within the Strategic Housing Land Requirement Background Paper (CD21). The asterisk was included to indicate that more than 1,290 new houses are allocated within the plan. In Elgin 240 houses above the 1,290 requirement have been identified. This was to ensure a range and choice of sites with realistic site capacities was identified. It was not considered appropriate to reduce capacities solely to provide a figure that matched the housing land requirements and it was preferable to show indicative but realistic capacities within the allocations.

Settlement	Site	New Houses	Notes
Elgin	R4	40	Capacity increase
Elgin	R7/R8	20	
Elgin	R9	120	
Elgin	R10	85	
Elgin	R11	1150	Allocation less 350 already released through Housing Land Audit.
Elgin	R12	85	
Elgin	R13	10	
Elgin	R14	20	
<b>ELGIN SUB TOTAL</b>		<b>1530</b>	Requirement 1,290
Burghead	R4	20	
Fochabers	R2	50	
Fochabers	R3	30	
Garmouth	R1	10	
Hopeman	R1	25	
Mosstodloch	R2	60	
Urquhart	R1	10	
<b>TOTAL ELGIN HOUSING MARKET AREA</b>		<b>1735</b>	Housing land requirement 1,494

The 2013 Housing Land Audit was reported to Planning and Regulatory Services Committee on 6 June 2013. This identified a shortage of effective land within the Elgin Housing Market Area and the Committee agreed to the early release of 350 units from Findrassie LONG through previously agreed triggers. (See 6 June Planning and Regulatory Services Committee Report and Minute BD/13a/01&02). Within the approved 2014 Housing Land Audit 350 sites at Findrassie LONG/R11 are shown as effective (CD18 page 58). Site R11 and the 350 houses released early is considered to be effective and meets the test set out in PAN2/2010 (CD15 paragraph 55).

- Ownership – The owners are willing to release the land and are working collaboratively with the Council to develop a masterplan. The masterplan will include an early phase of 350 houses.
- Physical – The site is free from constraints including slope, aspect, flood risk, ground stability, and vehicle access subject to mitigation and junction design. The transmission lines are an issue but will be considered through the masterplan.
- Contamination – No known contamination.

- Deficit Funding – Anticipate development of site will be privately funded.
- Marketability – The site can be developed in the period under consideration. House builders have expressed interest to landowner. The masterplan is being developed.
- Infrastructure – Landowner's assessment shows no significant infrastructure constraints above what would normally be expected. (See supporting documents SD0908a/2/026e and k)
- Land Use – Site will deliver range of house types and tenures and other complementary uses.

No modification is proposed.

### **R1 Bilbohall**

An access spur is to be provided off the proposed Western Link Road (TSP3, 21, 22, 23, 24 identified in site text) into site R3 Bilbohall South. It is noted that the Western Link Road application (14/00551/APP) (CD31) also shows an arm off this spur into the Fairfields development. It is also noted that the original consent for Fairfields shows potential road link to R3 Bilbohall South (04/00476/FUL BD/13a/03). The route that will be taken to access development at R3 Bilbohall South and R12 Knockmasting Wood will be determined at the planning application stage and consideration would be given to policy T2 Provision of Access and if required the Transport Assessment. It is anticipated that a Construction Traffic Management Plan would be imposed to address traffic and road safety.

No modification is proposed.

### **R2 Thornhill/ENV3**

Application 14/00766/APP (BD/13a/06) for 16 flats was approved by the Planning and Regulatory Services Committee on 5 August 2014. This includes part of the area shown as ENV3. It is also acknowledged that previous consent for the wider R2 site (06/01067/FUL) (BD/13a/04) showed the site as reserved for future development. If the Reporter was so minded the Council would not object to the ENV3 boundary in this area being amended to reflect the consented development and planning history. A plan showing revised ENV3 boundaries that the Council would consider appropriate is included as background document BD/13a/5. The area removed from ENV3 would be included within the R2 boundary.

The Council would have no objection if the Reporter were minded to make the modifications highlighted above.

### **R3 Bilbohall South**

An access spur is to be provided off the proposed Western Link Road (TSP3, 21, 22, 23, 24 identified in site text) into site R3. See application 14/00551/APP (CD31). TSP 23 pg 170 also states that access to R3 will be from the route of the Western Link Road. The detailed route that will be taken to access development at R3 and R12 will be determined at the planning application stage and consideration would be given to policy T2 Provision of Access and if required the Transport Assessment. The respondent will have the opportunity to object at the planning application stage. A key consideration of Designing Streets is to integrate street patterns with surrounding networks to encourage permeable/connected networks. Therefore the potential of connecting new development to Fairfield Avenue should be explored as this would be in line with these principles.

The allocation text for R3 states that the “site is constrained until TSP 3, 21, 22, 23, and 24 can be provided”. TSP 21 pg 170 is “Closure of Bridge to vehicular traffic following completion of the Western Link Road .....” Therefore, vehicular traffic to R3 will not be permitted to use the Mayne Farm bridge to access development.

No modification is proposed.

#### **R4 South West of Elgin High School**

The Key Design Principles are considered under Issue 17. There is no shortage of housing within the Elgin Housing Market Area and the identified sites meet the housing requirements. There is no need to allocate additional housing. This issue is discussed further in Issue 4a. Site R4 has been carried over from the Moray Local Plan 2008 (CD10) with an increased capacity. The site is identified in the Moray Local Plan 2008 for 40 houses and this has been increased to 80. Landscape analysis carried out for the 2008 Local Plan (CD32 page 54-67) suggested that around 4 hectares of the site was developable with the remainder of the site requiring advance planting, particularly on the upper ridges of the site. The 2008 allocation effectively gave a density of 10 houses per hectare on the developable area and when considering the bid an increased density of 20 houses per hectare was considered appropriate particularly given the levels of open space, landscaping and planting required across the whole site. This is the basis for the indicative capacity of 80 houses shown with the allocation and no reasoning has been provided for the suggested increase. However it is noted that the housing capacities identified with allocations are indicative and as stated within Policy H1 Housing Land “proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1”. Therefore, providing it meets the requirements of the relevant policies there is potential for a well designed scheme of more than 80 houses to be supported once an application is submitted. Any such application may require to be treated as a departure and follow appropriate processes.

No modification is proposed.

#### **R6 Hattonhill**

Site R6 is carried over from the Moray Local Plan 2008 and was considered at the Moray Local Plan Inquiry (CD26 page 2.51). This concluded that there was justification for designating the site subject to qualifications in respect of the road and retaining open space and amenity land for community use (page 2.51-2.52, CD26). The allocation text notes that “The release of the site, the total number of houses permitted, will be dependent on the satisfactory resolution of road improvements which may affect this site.” Therefore, traffic impacts will be taken into account at the planning application stage and the developer would be required to address any issues.

There is currently a planning application in respect of the Western Link Road 14/00551/APP (CD31) and this includes a route shown through site R6.

West End Primary School is operating close to capacity but the size of development and pupils generated is unlikely to cause significant issues. It is noted that there are no other residential development allocations within the West End Primary School catchment area. The Council is currently undertaking a “Sustainable Education Review”. The Local Development Plan cannot pre-empt this review. Policy IMP3 Developer Obligations refers to the impact upon existing infrastructure, community facilities or amenity. Community facilities include, amongst other things, school provision. Developers may therefore require to provide contributions where an adverse impact is anticipated from their

development on school provision. The forthcoming Supplementary Guidance on Developer Obligations will provide further clarity.

No modification is proposed.

### **R9 Driving Range**

The site is not protected as open space within the current Local Plan. The driving range is a commercial business and is not available for general non-paying access/public use. The Driving Range is a private enterprise and this type of commercial use would not normally be protected as open space. The developer put forward the site as a bid prior to the Main Issues Report and it is understood will be looking to relocate the driving range. Given the existing residential development to the north, the residential site under construction at site R8 Glassgreen to the east and the longer term residential development at LONG2 to the south, the R9 site is a logical progression to development in this area. The developer's commitment to the site and progression on the neighbouring site suggests the site is effective with potential for early delivery of R9 to meet housing requirements.

No modification is proposed.

### **R10 Linkwood Steading Site**

The hatched area shows the extent of the Reiket Park Tree Preservation Order (TPO). It is accepted that within parts of the hatched area there are no trees and therefore the TPO has little control over these areas unless development would be harmful to adjacent trees within the TPO. The allocation is not seeking the hatched area which has no trees to be planted but does require landscaping to an average depth of 20m along the Linkwood Road boundary and provision of a footpath to Maggot Wood. This is shown by the green and yellow shading around the edge of the site and not by hatching. The text does require that "Existing woodland should be maintained and enhanced." The Council will consider development proposals within the hatched area where these do not compromise the objectives of the blanket Tree Preservation Order.

In line with Policy T2 Provision of Access and IMP2 Development Impact Assessments the developer will be required to consider the impact of development on the safety and efficiency of the transport network and provide appropriate mitigation/modifications where required. New proposals should enhance permeability and connectivity and ensure that opportunities for sustainable and active travel are protected and improved.

It is noted that the roll at New Elgin Primary School is forecast to exceed capacity. The Council is currently undertaking a "Sustainable Education Review". This review may result in changes to education provision within Elgin. The Local Development Plan cannot pre-empt this review. Policy IMP3 Developer Obligations refers to the impact upon existing infrastructure, community facilities or amenity. Community facilities include, amongst other things, school provision. Developers may therefore require to provide contributions where an adverse impact is anticipated from their development on school provision. The forthcoming Supplementary Guidance on Developer Obligations will provide further clarity.

Facilities and amenities have been developed at the nearby CF3 site, this includes the relocated medical centre, pharmacy, shops and football pitches. This area was identified for such uses within the Elgin South Masterplan. The scale of development on R10 (85 houses) is unlikely to justify provision of new facilities on its own but developer

contributions towards enhancement of public facilities may be sought where reasonable and appropriate.

No modification is proposed.

### **R11 Findrassie/Myreside**

#### **Support for R11**

The support in principle for R11 is noted. The site is allocated LONG in the Moray Local Plan 2008 (CD10 page 137). Bringing this forward is being consistent with the Moray Local Plan 2008 and its intentions providing certainty to the landowner and communities.

#### **Key Design Principles**

The principle of having Key Design Principles and the detailed objections to the Key Design Principles map is discussed within Issue 17.

#### **Settlement Map**

The shading on the settlement map reflects the findings of the Landscape Study (CD32 page 16-28) undertaken for the Moray Local Plan 2008. This is indicative to an extent but is shown on the settlement map to provide a clear indication to developers and the community of the extent to which the site is developable and the type of landscape the Council expect to be provided to mitigate the impacts of development. The Council expects firmer and more detailed proposals to be explored through the Masterplan and planning application. The ENV6 referred to lies to the south of R11 and outwith its boundaries. This area is an established landscape bund and core path.

#### **Transport**

The approach taken for identifying the TSP locations in various settlements has been to identify;

- a) existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with MLDP Policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing Streets Policy;
- b) existing locations on the transport network where the development of specific sites would require the impact of the development traffic to be assessed in accordance with MLDP Policy IMP2 (b) and necessary mitigation/modifications to ensure the impact of new development to be delivered to adequately address the safety and efficiency of the transport network (walking and cycling infrastructure; bus stop infrastructure; passing places; road widening; junction enhancement; road drainage infrastructure)

Accept that TSPs are based on information available at 2013/14 and are intended to be of assistance to developers when considering proposals and giving clear expectation of what will be necessary to deliver the site. Paragraph 275 of Scottish Planning Policy (CD01) supports this approach. The Council does not agree that the text pre-empt the Transport Assessment outcomes and provides guidance on what would be scoped into the Transport Assessment.

Connection with site R5 is to achieve greater permeability and maximise connections helping to achieve the qualities of successful places including a development that is easy to move around and adaptable. Street patterns should be integrated with surrounding networks and this principle is contained within the Supplementary Guidance on Urban Design.

See Issue 13c regarding access onto Duffus Road.

### **Loch Spynie**

Impacts on Loch Spynie SPA/Ramsar site are being carefully considered through the masterplan. The initial masterplan workshops have already specifically considered SUDS and mitigation of impacts on Loch Spynie. SNH, SEPA and RSPB were all involved with this workshop and will continue to be consulted as the masterplan progresses. As stated within the text any planning application for proposals will require to demonstrate that the integrity of Loch Spynie is safeguarded. The Habitats Regulation Assessment (CD17 page 78-81) does not propose a reduction to the R11 allocation size. Mitigation detailed within the Habitats Regulation Assessment (CD17) includes a requirement for a masterplan to be prepared, appropriate levels of SUDS to be provided, and a drainage impact assessment. The Habitats Regulation Assessment (CD17) concluded submission of the information set out as mitigation should demonstrate that the overall proposal will not adversely affect the SPA/Ramsar site. Proposals that cannot demonstrate the integrity of the Loch Spynie SPA can be safeguarded will be refused.

### **Biodiversity/Waterbodies**

Developers are required to consider biodiversity under Policy E2 Local Nature Conservation Sites and Biodiversity. The issue is discussed further under Issue 11b where the respondent has also raised the issue in relation to policy IMP1 Developer Requirements.

If the Reporter is so minded the Council would not object to the additional text suggested by Scottish Environment Protection Agency being added into the site designation text. The following wording is considered suitable "A buffer strip of at least 6 m between development and the watercourse is required".

### **Summary R11**

The support for the site and collaborative development of a masterplan for the site is welcomed by the Council. The settlement map reflects the findings of the Landscape Study (CD32 page 16-28) and is included to provide an indication of the extent the site is developable and the type of landscape mitigation required. It is not considered that the designation text pre-empts the findings of a Transport Assessment. Any planning application on the site requires to demonstrate that the integrity of Loch Spynie is safeguarded. The Habitats Regulation Assessment did not propose a reduction in site size. Consideration will be given to biodiversity issues under Policy E2. If the Reporter is so minded the Council would not object to the addition of text requiring a 6m buffer to the watercourse within the site.

The Council would have no objection if the Reporter were minded to make the modifications highlighted above with regard to a 6m buffer strip. See Issue 13b in relation to site I8 and combining this with R11.

### **R12 Knockmasting Wood**

An access spur is to be provided off the proposed Western Link Road (TSP3, 21, 22, 23, 24 identified in site text) into site R3 see application 14/00551/APP (CD31). The route that will be taken to access development at R3 and R12 will be determined at the planning application stage and consideration would be given to policy T2 Provision of Access and if required the Transport Assessment. The respondent will have the opportunity to object at the planning application stage.

The allocation text for R3 states that the “site is constrained until TSP 3, 21, 22, 23, and 24 can be provided”. TSP 21 states “Closure of Bridge to vehicular traffic following completion of the Western Link Road .....” Therefore, development on R12 will not be permitted to use the Mayne Farm bridge to access development.

Blocking off Fairfield Avenue with bollards would effectively create a large cul de sac. A key consideration of Designing Streets is to integrate street patterns with surrounding networks to encourage permeable/connected networks. Therefore the potential of connecting new development to Fairfields should not be discouraged.

No modification is proposed.

### **R13 Fairway Avenue**

#### **Impact on Golf Club and Economy**

Acknowledge concerns raised about impacts on golf club and potential need to modify the golf course to prevent risk of stray balls hitting homes. It is unclear if the whole area would be affected or if risk could be reduced with fewer houses to the north of the site. Acknowledge that within the Moray Economic Strategy there is a focus on tourism.

#### **Loss of Green/Open Space**

The site is not designated as ENV within the current Moray Local Plan but is Countryside Around Towns. The area is used for passive recreation and access via the core path around the site edge. The allocation text requires the existing core path to be retained and enhanced. This will allow for access to other nearby open space including Mayne woods to be maintained and will allow neighbouring residents to continue to have access to open space.

Site R4 will be required to include its own open space in line with policy E5 Open Space and the requirement within the allocation text. Site R7 is under construction and the consented layout includes open space in the form of a play area.

#### **Impact on Views, Privacy and Property Value**

Impact on private views and property value are not material planning considerations. Impacts on privacy can be mitigated through layout and design to avoid overlooking of properties.

#### **Transportation and Roads**

Development of R13 would not be visible from the A941 approach to Elgin. There is a need to meet housing requirements and as the regional centre Elgin is required to meet a large proportion of this. The scale of requirement identified in the Housing Needs and Demand Assessment (CD12) and Strategic Housing Land Requirements (CD21) inevitably leads to a need for greenfield sites on the edge of settlement to be considered, as there are limited brownfield opportunities.

In line with Policy T2 Provision of Access and IMP2 Development Impact Assessments the developer will be required to provide appropriate transportation connections to development, consider the impact of development on the safety and efficiency of the transport network and provide appropriate mitigation/ modifications where required. This detail will be considered at the time of the planning application and initial consultation with Transportation based on the development proposals has led to specific text in the site designations and identification of TSPs.

**Need for development and Site Capacity**

There is merit in the argument that housing requirements can be met without the need for R13. Sufficient land has been identified to meet requirements in the Elgin Local Housing Market Area including an additional allowance of 50% to ensure a generous supply is maintained as required by Scottish Planning Policy. R13 does however contribute to providing a range of sites as required in paragraph 120 of Scottish Planning Policy. If the Reporter considers that R13 is not an appropriate site for residential development or for a reduced density, its removal would not leave a shortfall in the effective land supply.

Taking into account the density of neighbouring development the site could accommodate 10 houses. The site extends to approximately 1 hectare.

The high pressure gas main does not run through the site. Any other gas mains may require to be relocated by the developer as part of the development.

**R13 Summary**

The Council recognises the concerns raised by respondents in respect of the impact on the golf club and lack of need for an allocation but these require to be weighed against the need to provide a range of marketable sites in Elgin. If the Reporter was minded to remove the site it is noted that a replacement site would not require to be found and it is suggested the land is retained within the settlement boundary as white land.

If the Reporter is so minded, the Council would not object to site R13 being removed.

**R14 Former Hamilton Drive School**

Many of the issues raised are covered by policies and would be dealt with when a planning application is received. For example a fundamental principle of policy EP7 Control of Development in Flood Risk Areas is that development should not take place if it would materially increase the possibility of flooding elsewhere. Similarly policy EP5 Surface Water Drainage requires drainage to be dealt with in a sustainable manner. Much of the detail sought will be provided within the Design Brief to be prepared for the site. To prescribe many of these things within the Local Development Plan may unnecessarily constrain the sites future development. Any existing burdens on the land are a legal issue and not planning matters.

No modification is proposed.

**Reporter's conclusions:****Hierarchy Status/Objectives/Issues**

1. Representations made under this heading are related to those made more generally in the context of the housing land supply. To address these related matters together my conclusions are set out under Issue 4a. These conclusions also address the sufficiency and effectiveness of the Elgin housing land supply including R11: Findrassie, sites R1, R3, R4 and R6 and R12.

2. Drawing on my conclusions from Issue 4a I find that the council's stated margin of 50% generosity in Elgin is significantly less if the approach to the housing land calculation as set out in Scottish Planning Policy is followed. The council's margin applies only to new sites. My estimate is that the margin for the Elgin Housing Market Area is between 17-24% when considered as part of the overall supply. In addition, there is a lack of

clear information regarding the anticipated programming of new sites coupled with potential for delay associated with requirements for major infrastructure delivery including schools and the Western Link Road. The council accepts that delivery on a number of sites will fall into the second five year time-frame.

3. Elgin is the primary focus of the housing land strategy. My conclusions in Issue 4a point to the release of some suitable additional land if this would support the maintenance of a continuous effective land supply. The council has provided some information on the anticipated programming of sites and confirmed that the 350 units at Findrassie were included in the established land supply. Programming information changes over time and, whilst an important consideration, I do not consider this need be included in the local development plan. Table 1 on page 22 of the proposed plan shows how the target can be met and it will be for the annual housing land audit to monitor the effective housing land supply and progress towards the target.

#### R1 Bilbohall

4. This triangular section of ground is between Wards Road, the railway and the relatively recent enclave of new housing at Fairfield Avenue/Fairfield Way. The only existing means of access to Fairfield Avenue is over a single carriage road bridge. Planning permission was granted in 2005 for development of 60 houses but the remaining 20 of these are dependent on access improvements.

5. The use of the existing road bridge over the railway to serve further development would have road safety implications. In this respect, development of this site is aligned with delivery of the Western Link Road. The current indicated route runs through the site with a proposed new road bridge linking through to Wards Road. Given the costs involved delivery will rely on a master-planned approach with contributions from other housing sites on this side of town. The council currently envisage an 18 month construction programme for the road link with potential for completion before the end of 2017. The council consider that development on the remainder of the site could proceed post 2018. Consequently, I consider the site should be retained.

#### R2 Thornhill/ENV3

6. R2 is a major area of land release for Elgin and is currently under construction with a total capacity of 395 units. The area referred to in representation is identified as ENV3: Amenity Greenspace. It is an area of managed green space which links to a green corridor around the roundabout and main approach to Elgin. There is an equivalent area of ground on the other side of the roundabout which is used more formally as a play park. I consider the priority in this location should be placed on the retention of a green space along the road corridor and walkway/cycle way. In the absence of a more formal use the larger space is likely to be underutilised.

7. I agree with the council that the green corridor can be maintained in a much reduced area. This conclusion reflects the detail of a current planning permission on the site (CD31) for 16 flats. Consequently, I am content that area identified as ENV3 should be reduced as proposed by the council. The revised area, as established by the planning permission, is shown on the submitted plan (reference BD/13a/5). This area would then be incorporated within the boundary of R2.

### R3 Bilbohall South

8. This site to the south of Fairfield Avenue has a capacity for 75 houses. It raises similar access issues to R1. It offers potential to link through to the high school but its delivery is again constrained until proposed major transport and access improvements can be achieved.

9. The site is carried forward from the current Moray Local Plan 2008 and is indicated as effective 5 year plus with potential for development post 2018. The site capacity is indicative and will be confirmed following detailed consideration of layout and design at the planning application stage. I find nothing at this stage to indicate this density is inappropriate.

10. I agree with the council that opportunities to establish effective linkage with existing residential areas should be fully explored as this approach accords with “Designing Places”. The details of the proposed access will be considered further through any subsequent planning application and should address any road safety concerns. Consequently, I do not consider any change is required to address the matters raised on this site.

### R4 South West of Elgin High School

11. I have accepted some of the points raised by Scotia Homes in relation to the land supply position in Elgin and the council’s approach to providing a generous supply of land. However, this is a prominent site sloping up behind the high school to a shelter belt along the ridge of the hill. It will be for the master-plan to address detailed matters of design and density on this relatively sensitive site. In this context, I consider the current indicative low density provides scope to respond to the contours of the site and achieve sensitive siting. I do not consider that the matters raised by Scotia Homes on the land supply position in Elgin justify an increase in capacity at this stage in the planning process. This would make only a minor contribution to the land supply and could compromise the achievement of an optimal layout and design.

### R6 Hattonhill

12. Capacity of the road network and in local schools is important elements in enabling delivery of the proposed housing. The council has identified the need for road improvement works and delivery of the site will rely on resolution of the current issues surrounding progress of the Western Link Road. My conclusions in Issue 4a are relevant in this respect. The council’s submissions indicate the potential for development of the site post 2018. In summary my conclusion is that there remains a reasonable prospect of the road scheme being approved and implemented.

13. This is an open and visible site above the River Lossie on the approach to Elgin. The proposed road scheme and the retention of amenity land are reflected in the relatively low density of 20 houses. The number of pupils generated from these houses will have some albeit relatively small impact on the West End Primary School and on the high school catchment. The education review, referred to by the council, has not been completed in time to inform this local development plan. This will be an important element in informing any supplementary guidance on the extent of developer contributions which may be required to enable the housing strategy. I find nothing at this stage sufficient to justify deletion of this site.

R9 Driving Range

14. The site is laid out to grass and contributes to the green and open appearance of the area. It has a perimeter fence and its commercial use restricts access to fee paying users of the driving range. Consequently, I agree with the council that it does not function as public open space. I have no conclusive evidence that the driving range would be re-located. However, I find no reason to suggest this site is unsuitable for housing.

15. It is in a residential area and will link through to the other proposed housing to the south and east. In the absence of any identified constraints its potential capacity of 120 houses could make an early and necessary contribution to the required housing land supply in the shorter term. As a private commercial operation it would not be appropriate or feasible for this plan to seek to retain its current use. For these reasons my conclusion is that the housing allocation of the site should be retained.

R10 Linkwood Steading Site

16. The site includes the historic steading buildings and has protected trees along its north-western boundary. A high quality of design and landscaping will be required if an appropriate development is to be achieved. The proposed plan requires the sustainable re-use of the buildings, the protection of the woodland and provision of landscaping along Linkwood Road. Reference is also made to the formation of a new access onto Linkwood Road, footpath links to Magort Wood and pedestrian cycle links through to Reiket Lane and the back of Bain Road.

17. Scottish Planning Policy and the advice set out in “Designing Streets” promotes connectivity and accessibility of sites including by walking and cycling. The proposed pedestrian/cycle links seek to address this. Further details of the landscaping can be considered at the development management stage. However, I consider that it is important to establish the requirement for woodland protection and effective boundary treatment. This is required to ensure that a development of an appropriate character and amenity is achieved.

18. The council recognise the need to address capacity issues with Elgin schools and this is highlighted through the action plan. I note recent approval of the proposed new Elgin High School. Policy IMP2 contains specific provision to address identified infrastructure deficiencies through developer contributions. The proposed supplementary guidance can helpfully detail these requirements in relation to education provision following publication of the strategic schools review.

19. I understand that a medical centre, pharmacy, shops and football pitches were provided as part of the Elgin South Masterplan. Such provision is generally only achievable as part of a larger scale master-planned approach. I agree with the council that R10 alone is unlikely to facilitate further provision in this respect given its scale and the requirement to enable the sustainable redevelopment of the buildings on the site. However, with the proposed footpath and cycleway improvements I am satisfied that the site is sufficiently accessible to facilities and services without the need for further specific provision.

20. Consequently, my conclusion is that the allocation should be retained and that no change to the stated development requirements is required.

R11 Findrassie/Myreside

21. This is a significant site in the long term growth of Elgin and has an indicative capacity of 1500 houses. It is carried forward from the existing local plan where it was identified as a long term site. Prior to the publication of the proposed plan it was brought forward through the housing land audit. This sets out the circumstances under which long term allocations can be brought forward to meet an identified shortfall. I have addressed matters relating to the key design principles through Issue 17.

22. I have referred to the findings of the Landscape Study which was undertaken to inform the Moray Local Plan 2008. I find the principles that applied then remain relevant today. I consider that it is important to establish the principles of a significant landscape framework in order to integrate this settlement extension. This gives clarity regarding the expectation placed on developers to address these matters.

23. I accept that such guidance is indicative at this stage in the planning process. Further detail and refinement will be required in development of the master-plan, the detailed definition of the developable area and the layout of specific phases of the scheme. My recommendations on Issue 17 replace the wording “must be incorporated within the proposal” with “should address the key design principles set out on the accompanying map”. With this wording I do not consider the text would preclude a degree of flexibility. Consequently, I am satisfied that the existing references to landscaping should be retained.

24. The proposed plan has an important role to play in setting out the infrastructure and other improvements required to deliver the housing growth indicated for Elgin. Scottish Planning Policy, through paragraph 275, states that development plans should identify any required new transport infrastructure. The identified junction improvements give a clear indication to developers of the scale and extent of improvements that are likely to be required. This provides greater transparency and should inform any development appraisal of the site.

25. In a similar vein to the landscaping details the transport guidelines are indicative and in principle at this stage. Further refinement and specification will be required in the light of more detailed transport assessment information at the master-planning and development management stage. Setting out the likely requirements at this stage is helpful to inform the scope of any detailed assessment.

26. Connectivity between sites and established residential areas, services and facilities is a key principle of Scottish Planning Policy and the guidance set out in “Designing Places”. In this respect I agree that it is appropriate to require linkage with R5. If further investigation were to demonstrate this is not feasible then any decision on a planning application is able to take other material considerations into account. Consequently, I consider that this reference should be retained as a requirement rather than diluted by the addition of the words “if possible”.

27. I have addressed the issue of combining I8, a site identified for employment use, in my conclusions on Issue 13b. My conclusions there do not lead me to recommend any change in relation to the site boundaries of R11.

28. Given the status of Loch Spynie as a Special Protection/Ramsar site I have carefully considered the findings of the Habitats Regulations Assessment and the potential impact

on this designation. My conclusion is that with the proposed mitigation including the preparation of a master-plan, a drainage impact assessment and appropriate SUDS provision there is nothing at this stage to suggest that the integrity of the Special Protection Area cannot be safeguarded. A statement requiring safeguarding of these interests is included in the text and project level assessment will be required at the more detailed planning stages. A reduction in the scale of the site could be considered at the detailed stage should this mitigation be identified as necessary through further assessment. Policy E1 is also a relevant consideration in applying the required protection to the designation.

29. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances this policy should provide appropriate protection of the water environment. However, I accept the view of SEPA that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In these instances, I agree with SEPA that in addition to the requirements of Policy EP6 a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

30. Policy E2 includes a requirement for developers to address biodiversity issues. I note that RSPB are being actively consulted on the master-planning process. I do not consider that it would be appropriate at this stage to include a requirement for compensatory provision as the need, if any, for this will not be established until the detailed planning stage.

#### R12 Knockmasting Wood

31. Having viewed the bridge over the railway I agree that it would not have capacity to serve this proposal without raising road safety issues. However, the requirements for the site accept that development should not proceed until alternative access provision is made and the bridge is closed to vehicles. These actions are tied in with the council's proposals for the Western Link Road. My conclusion is that despite recent setbacks the council's commitment to this proposal is retained and there remains a reasonable prospect of delivery.

32. "Designing Streets" is a guidance document referred to in Scottish Planning Policy and it recognises the importance of provision through and between residential areas and to local services and facilities. In this respect I agree with the council that blocking off Fairfield Avenue would run contrary to this objective.

#### R13 Fairway Avenue

33. This triangular area of open space includes a footpath link and an area of maintained grassland. It is directly adjacent to the golf course so forms part of a pleasant open walk well used by local dog walkers and other residents. It is a small site and the council acknowledge it will make only a small contribution of 10 houses to the overall housing requirement.

34. Significant housing development is proposed on adjacent sites. This is essentially a back-land site which would require careful layout and design if a cramped appearance unrelated to the existing pattern of development was to be avoided.

35. I note that adjacent site R4 will be required to provide open space and R7 includes open space in the form of a play area. There is no apparent shortage of open space in the area which would justify the sites protection. I have not given weight to consideration of view or loss of property value as these are not relevant planning considerations. However, I do consider this green space has amenity value and contributes to the setting of the housing and core path providing a useful green buffer between the housing and the golf course.

36. I do not consider the small contribution this site could make to the housing land supply outweighs its value as part of the core path network and as informal open space. I note that the council has some sympathy for this view. The site is identified in the current Moray Local Plan as CAT (Countryside Around Towns). Given its role as an amenity space, in allowing access to Mayne Woods and as a corridor along the core path I consider it could appropriately be designated under ENV3: Amenity Green-space. This would ensure its continued retention as open space through Policy E5. Consequently, my conclusion is that the housing allocation for the site should be deleted and the site allocated as ENV3. A reference to the site should then be included under the heading ENV3 on page 163.

#### R14 Former Hamilton Drive School

37. This is a brownfield site which is in a predominantly residential area. As such I consider it has potential to be redeveloped for housing. The existing access may require upgrading and the layout of any development considered carefully to reflect the amenity of the site and the neighbouring area. The site is of a sufficient size to ensure that separation distances between houses can be achieved to an appropriate standard to maintain privacy. I find no other reason to suggest, at this stage, that the site is unsuitable for its stated use. Detailed matters of layout, access and design fall to be considered at the planning application stage.

#### Conclusion on Elgin Housing Issues

38. My conclusions above support the retention of the sites identified by the council to meet the housing land requirement for Elgin, with the exception of R13 Fairway Avenue. No additional sites are included under this issue and I do not consider my conclusions on the land supply position support an increase in the density of R4. The loss of R13 is offset and some additional flexibility to the land supply position is added through my conclusions and recommendations on Issue 13d. The identified LONG site at Lesmurdie Fields, which has a capacity of 70 units, is brought forward as part of the effective housing land supply (Issue 13d, recommendations 1 and 2).

#### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### R2 Thornhill/ENV3

1. Revise the boundaries of the site on the proposals map as shown on map reference BD/13a/5. The reduced area as shown in green is retained as ENV3 whilst the remainder of the site would be incorporated within the boundary of R2.

R11 Findrassie/Myreside

2. Add the following reference to the site specific text:

“A buffer strip of at least 6 metres between the development and the watercourse is required”.

R13 Fairway Avenue

3. Delete reference to R13 on the proposals map. Replace as ENV3. Delete text on R13 page 155 and re-number the other housing proposals accordingly. Add reference to Fairway Avenue under the heading ENV3 on page 63.

Issue 13b	Elgin Employment Land Issues and Opportunity Sites	
Development plan reference:	<p><b>Elgin Settlement Statement page152-175</b></p> <ul style="list-style-type: none"> <li>• I2 Chanonry Industrial Estate, page 159</li> <li>• I6 Linkwood East, page 159</li> <li>• I7 Barmuckity, page 159</li> <li>• I8 Newfield, page 160</li> <li>• I9 Railway Sidings/Ashgrove Road, page 160</li> <li>• I13 Linkwood Distillery, page 160</li> <li>• I16 Sandy Road (The Wards), page 161</li> <li>• BP/OPP Riverview, page 161</li> <li>• OPP2 Hill Street/Ladyhill, page 162</li> <li>• OPP3 Wards Road, page 162</li> <li>• OPP4 Ashgrove Road, page 162</li> <li>• OPP5 Auction Mart, Linkwood Road, page 162</li> <li>• OPP6 Spynie Hospital, page 162</li> <li>• OPP7 Bilbohall, page 163</li> </ul>	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>I2 Chanonry Industrial Estate</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>I6 Linkwood East</u></b> Northern Property (1012)</p> <p><b><u>I7 Barmuckity</u></b> Springfield Properties Plc (0010) Elgin Community Council (0122) Elgin South Area Forum (0194)</p> <p><b><u>I8 Newfield</u></b> Scottish Environment Protection Agency (0569) CJ And CRH Dunbar (Pitgaveny) (0908) Scottish Natural Heritage (1027)</p> <p><b><u>I9 Railway Sidings/Ashgrove Road</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>I13 Linkwood Distillery</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>I16 Sandy Road (The Wards)</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>BP/OPP Riverview</u></b> Highlands and Islands Enterprise (0109) Mr And Mrs John Mitchell (0888)</p> <p><b><u>OPP2 Hill Street/Ladyhill</u></b> The Maryhill Practice (0576)</p> <p><b><u>OPP3 Wards Road</u></b> Scottish Environment Protection Agency (0569) C Parsons (0963)</p> <p><b><u>OPP4 Ashgrove Road</u></b> Scottish Environment Protection Agency (0569)</p>		

<p><b><u>OPP5 Auction Mart, Linkwood Road</u></b>  Mrs Jennifer Main (0600)  ANM Group Ltd (0868)  David Bailey (0885)  <b><u>OPP6 Spynie Hospital</u></b>  Jerome and Hazel Lestienne (0578)  NHS Grampian (0300)  <b><u>OPP7 Bilbohall</u></b>  NHS Grampian (0300)  Mr William Stewart (0596)  Westfields Residents Association (0597)  Mr And Mrs David MacBeath (0866)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>The employment land designations safeguard the existing sites for employment related uses and propose new designations to meet future need in Elgin.  The Opportunity site designations highlight opportunities for redevelopment of sites which are vacant or derelict or those which are known may become vacant during the lifetime of the Plan.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>I2 Chanonry Industrial Estate</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Investigations suggest site I2 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>I6 Linkwood East</u></b>  <u>Northern Property (1012)</u>  The existing trees and planting on the land to the north of the recently completed flood alleviation bund and Tyock Burn diversion already provide a substantial buffer between the site and the River Lossie. Any further buffering for I6 is unnecessary and restricts development options.</p> <p>There should be no requirement to safeguard potential for a future connection between this site and Linkwood Place. This is evidenced by the Reporters decision forwarded separately on an earlier planning appeal reference PPA-300-2012 (submitted as a Supporting Document). See objection to TSP20 Issue 13c.</p> <p>There should not be a blanket requirement for a 15 metre landscape area of broadleaf trees and shrubs along the boundary with the A96 and along the Eastern Boundary. This should have the ability to taper towards the East side of the boundary with the A96 as the site narrows significantly. A fixed 15 metre landscape area will impede layout options of a large part of the site and could seriously impede demand. Precise depth can be dealt with in the detailed planning application. Planting broad leaftrees will reduce visibility of the building frontages and reduce demand from quality occupiers who will have no visibility from the A96. There should be low level landscaping in keeping with the majority of surrounding ENV 3 frontages. Similarly the landscaping depth along the Eastern Boundary should be flexible. Consideration should be given to amending the settlement boundary to the east to allow this landscaping to be located into the sterilised land adjacent forming an apex created by the diversions of the Linkwood and Tyock Burns.</p>	

Provided the Elgin Flood Alleviation scheme has been partially constructed to the extent that the whole of I6 is now protected to the 1 in 200 year standard no Flood Risk Assessments should be required.

### **I7 Barmuckity**

Springfield Properties Plc (0010)

Support inclusion of I7 but seek more accurate representation of the flood extent given recent improvements.

Accept landscaping is important but it should not be to the detriment of attracting businesses that require roadside presence/visibility. Work is ongoing to establish an appropriate and realistic strategic landscape framework which would then allow each detailed planning application to contribute to the overall environment for this business park.

Elgin Community Council (0122), Elgin South Area Forum (0194)

The best location for a relocated lorry park and service area is at Barmuckity and this should be considered along with a Park and Ride facility.

### **I8 Newfield**

CJ and CRH Dunbar (Pitgaveny) (0908)

Object to the identification of I8 as a standalone employment allocation. I8 should be included in R11 to increase flexibility and allow for the best design solution to be developed for Lossiemouth Road and allow a better masterplan that will accommodate a variety of business and commercial uses. I8 and R11 are in the same ownership and a masterplan process has been started. Masterplanning for the R11 and I8 site may indicate a better location within the wider R11 to accommodate up to 12 ha of Class 4 uses.

The text should indicate the site is only suitable for Class 4 Uses as defined in Circular 1/1998 and specifically exclude Class 5: General Industrial. The designation should also allow other employment uses to emerge from the masterplan process. This will require amendments to the text, proposals map and Key Design Principles. The northern boundary of I8 should be redrawn to remove an area currently in other productive uses which the landowner wishes to retain. Part of the land is planted with trees and provides a useful backdrop and advance planting to integrate development of I8. Removal of this area will require changes to the proposals map, and Key Design Principles.

Scottish Environment Protection Agency (0569)

Investigations suggest site I8 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

Scottish Natural Heritage (1027)

This allocation is subject to Habitats Regulations Appraisal with the need for mitigation identified in regard to Loch Spynie SPA. However no mitigation has been included in the plan. Given its similar proximity to Loch Spynie SPA compared to sites R11 and LONG 1 we consider a policy caveat should be included with regard to the SPA, including the need for SUDS.

**I9 Railway Sidings/Ashgrove Road**

Scottish Environment Protection Agency (0569)

The water body within I9 is at poor/moderate ecological status or at risk of being downgraded contrary to the Water Framework Directive. Object to site being included within the Plan unless a developer requirement stipulating that a "buffer strip of at least 6m between development and the watercourse is required", is included. Investigations suggest site I9 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I13 Linkwood Distillery**

Scottish Environment Protection Agency (0569)

Investigations suggest site I13 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I16 Sandy Road (The Wards)**

Scottish Environment Protection Agency (0569)

There is some risk of flooding and SEPA object unless the designation text is amended to confirm the need for a flood risk assessment and avoidance of the area shown to be at risk from flooding. The site is at risk from flooding from the Burn of Tyock. The Elgin Flood Alleviation Scheme is under construction and development should not take place until the scheme is operational. Development should consider flood risk and drainage with a Flood Risk Assessment or further information submitted, as appropriate.

**BP/OPP Riverview**

Highlands and Island Enterprise (0109)

HIE has no current intention to acquire or develop the BP/OPP Riverview site in Elgin, but recognise that the Council will pursue opportunities for the potential development of the site in conjunction with other private and public sector interests.

Mr and Mrs John Mitchell (0888)

Object to BP/OPP as concerned development will impact on Riverside Caravan Park's ability to offer the facilities it currently provides. Proposal will adversely impact on the access to the caravan park, will increase noise and pollution and be detrimental to the amenity of the caravan park. Proposals would have security implications for the caravan park and will have a negative impact on the visual amenity of the caravan park. The size and scale of development is unnecessarily large and will impact on amenity resulting in loss of privacy and overbearing impact.

**OPP2 Hill Street/Ladyhill**

The Maryhill Practice (0576)

Car parking should be provided for any proposed flats on OPP2 and should ensure Elgin Health Centre car park is not used by visitors or residents.

**OPP3 Wards Road**

C Parsons (0963)

Concerned about development of OPP3 due to road and pedestrian safety. The "S" bend road, parking and visibility give issues for access and egress from Wards Road and properties. Concerned about the height/number of storeys/windows of any development

in proximity to the existing housing.

**Scottish Environment Protection Agency (0569)**

Investigations suggest site OPP3 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**OPP4 Ashgrove Road**

**Scottish Environment Protection Agency (0569)**

Investigations suggest site OPP4 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**OPP5 Auction Mart, Linkwood Road**

**ANM Group Ltd (0868)**

Support the identification of Elgin Auction Mart as an opportunity site for redevelopment but request that the uses considered suitable for the site are expanded to respect the context of the site and provide a permissive context that supports a viable redevelopment. The suitable uses should include residential and leisure as part of a mixed use redevelopment. A planning application was submitted on the site for a supermarket but was withdrawn due to the length of time taken to negotiate access and flooding issues. Whilst the application was withdrawn, acceptable solution to address these issues were approved by the relevant agencies, demonstrating that OPP5 can successfully be developed. The market for industrial, business, office and distribution uses in the area is relatively weak and there is a surplus of former industrial, existing and service land available for this. OPP5 is adjacent to the existing Edgar Road commercial area and around 450m walking distance from the train station. Leisure uses would be suitable within the OPP5 designation with the same policy requirements as retail. The site is surrounded by housing to the west, south west, south, and east boundaries and in this context residential development would be an appropriate use for part of the site. There are two potential access points from Market Drive and residential development would not require to take access from Edgar or Linkwood Roads. Proposed Plan Policy ED5: Opportunity Sites notes that as "brownfield sites", "any new proposal (on an OPP site) should be compatible with surrounding uses". Through the addition of "residential uses" and "leisure uses" to the OPP5 designation, this will allow a redevelopment which would be complimentary to both the adjoining retail and residential uses to be considered for this site; but subject to sequential analysis to ensure that this is not to the detriment of any location that could be considered more suitable for a leisure element. Development for leisure uses would complement the existing town centre and Commercial Centre.

**Mrs Jennifer Main (0600)**

Development of the Auction Mart will increase flood risk in the area. The Elgin Flood Alleviation Scheme only deals with surface water and flood risk at this site will remain an issue. Records show underground streams which drain into the Tyock Burn and during previous flood events water has been seen welling up from these before the Tyock Burn over flowed. This has been exacerbated by development at Edgar Road which now forces water to rise in the area of Market Drive where previously this rose in the then undeveloped fields on Edgar Road. Any development that blocked these underground streams would result in build up of water and subsequent flooding. This will not be resolved by the Flood Alleviation Scheme. SEPA has limited information on these

streams and are unable to monitor flood risk in this respect. Concern raised that data presented is not accurate and does not take into account the possibility of flooding surrounding properties. Site is only suitable for sports track or public park.

David Bailey (0885)

The existing paddock should be retained as open space. Development should not have an adverse effect on residents of neighbouring properties and should not be constructed to overshadow any neighbouring property. If applicable, trading and delivery hours should be restricted to minimise disturbance. Provision of public access for pedestrians and cyclists would be an invasion of the privacy of residents of Milnefield Avenue.

**OPP6 Spynie Hospital**

Jerome and Hazel Lestienne (0578)

Development of OPP6 will impact on privacy as the proposed site sits at a higher level to existing properties and development would lower property value.

NHS Grampian (0300)

Welcome the allocation of Spynie Hospital as an opportunity site for residential use within the Proposed Plan.

**OPP7 Bilbohall**

Mr William Stewart (0596), Westfields Resident's Association (0597), Mr and Mrs David MacBeath (0866)

Existing trees within the OPP7 site should be protected and raises concern about the impact on the landscape.

Mr and Mrs David MacBeath (0866)

Have written separately regarding a Tree Preservation Order for a pine tree in the grounds of OPP7).

Mr William Stewart (0578), Westfields Resident's Association (0597) Mr and Mrs David MacBeath (0866)

Concerned about traffic levels, road safety and traffic impacts.

Mr William Stewart (0578)

Westfields Resident's Association (0597)

Concerned that too many houses would be squeezed into a small area impacting on the amenity of the area. Development of OPP7 would devalue property.

Mr and Mrs David MacBeath (0866)

Objects to OPP7 as concerned about the position and appearance of new buildings and these being out of scale and over bearing on neighbouring properties. Concerned about adverse visual impact, loss of character and loss of privacy to neighbouring properties. The building is still in use and serves a functional purpose.

NHS Grampian (0300)

Welcome the allocation of Bilbohall as an opportunity site for residential use within the Proposed Plan.

**Modifications sought by those submitting representations:**

**12 Chanonry Industrial Estate**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I6 Linkwood East**

Northern Property (1012)

The reference to a requirement for a buffer to the River Lossie at I6 should be removed. Delete the requirement to safeguard potential for a future connection between I6 and Linkwood Place to provide for a second point of access. Insert the word maximum before 15 metres and explain that this can taper to 5 metres towards the east of the site. Delete that a Flood Risk Assessment will be required for any planning application that is submitted for this site.

**I7 Barmuckity**

Springfield Properties Plc (0010)

Seek some clarification on the extent of the flood envelope shown and an acknowledgement that an appropriate and proportionate scheme of landscaping can be agreed. This would be enhanced in the future and under this framework as each business selects Barmuckity as its new location.

Elgin Community Council (0122), Elgin South Area Forum (0194)

Implied amendment to identify I7 Barmuckity as location for relocated lorry park.

**I8 Newfield**

CJ and CRH Dunbar (Pitgaveny) (0908)

- Amend plan so as to delete proposed allocation I8: Newfield as a stand-alone proposal. All of this site should instead be incorporated within allocation R11: Findrassie/ Myreside and the accompanying text to R11: Findrassie/ Myreside.
- The allocation text for a combined site should state: "Employment land of up to 12 hectares will be found within the R11 area as part of the masterplanning process. The employment land will be suitable for employment uses that can be undertaken in a residential area without detriment to amenity therefore Class 5: General Industrial Uses are specifically excluded. R11 is suited to a range of employment uses, particularly under Class 4: Business Use. Development of offices, research and development facilities and light industrial uses on class 4 will be supported. All employment areas within R11 should have a high amenity setting and a landscape and planting scheme must be submitted with proposals. This must consider the context of the sites and future development at LONG1 as defined through the masterplanning process. Access to these employment sites within R11 should be considered as part of the masterplan for R11 and future connections to LONG 1. The need for Transport Assessments must be considered for each employment area proposed in R11 in consultation with the Local Authority".
- Redraw the northernmost boundary of current proposal I8: Newfield as per the Alternative Indicative Key Design Principles diagram which we have submitted with this objection (supporting document SD0908af/2/035a). The area to the north of this site is not available for development as it is currently in productive environmental uses which our clients wish to retain.

**Scottish Environment Protection Agency (0569)**

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**Scottish Natural Heritage (1027)**

Add to supporting text for Industry site I8 Newfield "Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDS provision should be made."

**I9 Railway Sidings/Ashgrove Road**

**Scottish Environment Protection Agency (0569)**

Add requirement to I9 text stipulating that a "buffer strip of at least 6m between development and the watercourse is required". It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I13 Linkwood Distillery**

**Scottish Environment Protection Agency (0569)**

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I16 Sandy Road (The Wards)**

**Scottish Environment Protection Agency (0569)**

Add text "Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

**BP/OPP Riverview**

**Highlands and Islands Enterprise (0109)**

No change specified. Note Highlands and Islands Enterprise do not intend to develop site.

**Mr and Mrs John Mitchell (0888)**

Implied remove BP/OPP Riverview.

**OPP2 Hill Street/Ladyhill**

**The Maryhill Practice (0576)**

OPP2 should be required to provide adequate parking for residents and visitors to avoid the Health Centre car park being used.

**OPP3 Wards Road**

**C Parsons (0963)**

Implied amendment to highlight road safety and restrict height of buildings.

**Scottish Environment Protection Agency (0569)**

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**OPP4 Ashgrove Road**

**Scottish Environment Protection Agency (0569)**

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**OPP5 Auction Mart, Linkwood Road**

Mrs Jennifer Main (0600)

Remove opportunity to develop. Site is only suitable for sports track or public park.

ANM Group Ltd (0868)

Change first sentence of OPP5 Auction Mart, Linkwood Road to "this site is considered suitable for mixed use redevelopment, including but not limited to residential use, business use, which may include a range of compatible industrial, business, office and distribution uses. Consent for retail and leisure uses will be subject to Policy R2 and R3."

David Bailey (0885)

In line 6 of the text for OPP5, after "dependent on", insert "the height of any buildings in the proposed development shall be restricted to a maximum of 2 storeys and of a suitable design and sufficient distance away from existing residential properties so as not to overshadow the aforesaid properties and". In line 9, delete "incorporating public access ... to ...boundaries of the site (line 11)"

**OPP6 Spynie Hospital**

Jerome and Hazel Lestienne (0578)

Remove OPP6 from the Plan. If the site is included in the Plan there should be a large gap between the existing houses and any new build. Planting should be used to screen the buildings.

NHS Grampian (0300)

Supportive comments.

**OPP7 Bilbohall**

Mr William Stewart (0596), Westfields Resident's Association (0597)

Reduce amount of houses proposed. Greater consideration should be given to access roads. More space should be created between developments. No through road from new developments or construction traffic through Fairfield.

Mr and Mrs MacBeath (0866)

Implied amendment remove OPP7.

NHS Grampian (0300)

Supportive comments.

**Summary of responses (including reasons) by planning authority:**

**I2 Chanonry Industrial Estate**

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

**I6 Linkwood East**

The requirements for buffers are included in response to Scottish Environment Protection Agency's objection to the Main Issues Report (BD/13b/01) and is also in line with Policy EP6 Waterbodies. If sufficient buffers are already in place at the time of an application it is unlikely additional buffers will be required.

TSP20 is discussed under Issue 13c.

The site is carried over from the 2008 Plan (CD10) and the landscaping requirement has remained the same. The requirement for landscape planting arose from a Landscape Study during development of the Moray Local Plan 2008 (CD32). This recognised the opportunity for development on the low lying land within the meanders of the River Lossie but that structural planting and other measures should be taken to enhance the approach and sense arrival to Elgin. The report includes landscape enhancement proposals which for I6 include feature trees combined with wall and access route and new structure planting. To the east of the site riparian woodland is proposed. It is noted that the Council originally sought a 30m landscape strip but ahead of the examination into the Moray Local Plan 2008 an agreed position was reached with the objector that this would be reduced to 15m as documented on page 2.67-2.68 of the examination report (CD26 page 2.66). It is also noted that conditions placed on outline consent 09/01477/OUT (BD/13b/02) required further detail to be submitted in respect of a 15m landscaping area. This condition was not subject of a subsequent appeal. The requirement is for a 15m strip of broadleaf trees and shrubs and not a solid block of trees. This would mean businesses are still visible to potential customers.

One of the objectives for Elgin is to exercise the precautionary principle in relation to flooding until the Flood Alleviation Scheme is complete. It is noted that whilst the site will be protected from Spring 2015 by the Elgin Flood Alleviation Scheme there remains a residual flood risk to the site from the Tyock and Linkwood burns. It is therefore still appropriate to request a flood risk assessment.

No modification is proposed.

### **I7 Barmuckity**

The post scheme flood risk maps produced for the Flood Alleviation Scheme show that there remains a residual flood risk to I7 from the Linkwood Burn. The modelling information is not suitable for site specific analysis or design and a site specific Flood Risk Assessment and proposed mitigation measures would be a requirement for any development proposals. Comments from the Council's Flood Risk Management Team and the post scheme flood risk map are included as supporting information (BD/13b/03).

A landscape study undertaken in May 2006 considered the site at Barmuckity (BD/13b/04). This concluded the site was appropriate in landscape terms once landscape mitigation measures have been established. Amongst the recommendations within the study are: woodland structure planting to screen the railway, woodland structure planting to the east to screen the open views from the A96 and adjacent rural areas, avenue tree planting along the A96 to limit views, and creation of an open water body and wetlands in the areas at flood risk. These enhancements have been shown on the proposal maps. These are intended to be indicative with detailed proposals provided at the planning application stage. However, they are included to provide an idea of the levels and type of enhancement considered appropriate by the Council to provide greater certainty to developers and community. The proposal map does not show the extent of area at risk from flooding.

The relocation of the lorry park from central Elgin is being investigated by the Moray Economic Partnership as an action of the Moray Economic Strategy (CD28 page 14 action 1). Whilst lorry park relocation is an action this is integral to other strategy actions, and their timing. This includes the Lossie Green masterplan which covers the area

currently occupied by the lorry park and other infrastructure improvements. The potential for a Park and Ride in Elgin was previously looked at by HITRANS and it concluded that a Park and Ride was not currently viable due to the disconnection of the four main corridors into the city.

No modification is proposed.

### **I8 Newfield**

Site I8 was selected to ensure that targets within the Moray Economic Strategy are achieved. The Moray Economic Strategy (CD28 page 15 action 7) identified a requirement in Elgin for 25 hectares of new employment land allocations to 2025. This allocation therefore meets half this requirement and further land will be sought through the next local development plan review to meet the remainder. The site is considered to have good connections and visibility onto the A941 and with the anticipated housing growth within the area is considered to be a sustainable location to allow residents to walk or cycle to work. The site also has good containment with well defined boundaries and woodland edge to the east. In recognition of the largely residential nature of the area and visibility from the approach from Lossiemouth the site is considered suitable only for Class 4 uses.

There is some merit in the respondent's argument that the location of the employment land would be best identified through the masterplan process as this may aid earlier delivery of the site. As evidenced within the Employment Land Audit 2014 (CD19) Elgin has a shortage of "Immediately Available" land and limited number of effective sites and the Council would support the proposed amendment if this is considered likely to aid delivery. If the reporter is minded to combine the sites into a mixed use allocation there should still be a requirement for employment uses to be at least a total of 12 ha and for this to have frontage and access onto the A941. Within a mixed use site the Council's preference would be for the majority of the 12 ha to be located in one or two larger blocks and avoid pepper potting throughout the site. Pepper potting would take longer to deliver and limits the range and choice of sites available for businesses to locate. It would also reduce the potential for synergy between business uses.

The site designation text for R11 requires the access arrangements for I8 and R11 to be considered together in recognition that these sites are linked. The Council has started working with the landowner and their design team to develop a masterplan covering both I8 and R11 so there would be some merit in combining these sites into one mixed use allocation.

If the Reporter was minded to combine site R11 and I8 the Council would not object providing the allocation text reflected the wording set out below. Under the Industrial heading site I8 would be relabelled I8/R11 and the following wording is considered acceptable:

"I8/R11 Findrassie/Myreside Site 12 ha employment use and 100ha with indicative capacity for 1500 houses. See R11/I8 for details."

The R11 allocation would also require to be amended to reflect this change and the following changes would be acceptable; relabel site as R11/I8 and amend first paragraph to read:

"R11/I8 Findrassie/Myreside Site 12 ha employment use and 100ha residential use

with indicative capacity for 1500 houses

The majority of the site was previously identified as LONG and is brought forward as the major new mixed use land release for Elgin. The site extends to approximately 112 hectares. The site must include a minimum of 12 ha of employment land and has capacity for 1500 houses.

A masterplan must be prepared for the whole site and the development phased to create a distinct identity. The design principles set out in the accompanying map must be incorporated within proposals.

An access strategy for the site is essential as part of the masterplan and consideration given to future connections to LONG1. A Transport Assessment must be submitted with proposals and early contact with Moray Council Transportation is essential. Off site junction improvements will be required (see TSP's). Connection should be made with access arrangements for R7 and a new/upgraded junction onto the A941 is required. Widening and improvements required to Covesea Road and Myreside Road. Footway, cycleway and public transportation connections required.

A minimum of 12 ha of employment land will be included within the site. The location of this must be considered as part of the masterplanning process. The majority of the 12ha must be situated together in one or two areas and not "pepper potted" or spread throughout the development. Areas of employment use should have access and frontage onto the A941 to ensure access to the strategic road network. The employment land is suitable for business uses within use Class 4 (Business) that are compatible with residential uses. Development of offices, research and development facilities and light industrial uses compatible with residential area will be supported. Employment uses should have a high amenity setting and a landscape and planting scheme must be submitted with proposals. The employment uses must be considered in the context of the wider site and future development at LONG1.

Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDs provision should be made. Flood risk may constrain parts of the site and a flood risk assessment will require to accompany proposals for development. Water resilient measures should be considered as part of this."

The Council considers the wording of the I8 allocation text is sufficient to ensure only Class 4 uses would be supported and there is no need to specifically exclude Class 5 general industrial uses.

The boundary change requested appears to seek to exclude an area due to existing uses that may best be accommodated within a business allocation rather than countryside. Retaining the proposed plan boundary would allow flexibility in the future should the landowner wish to diversify activities on this site.

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

It is acknowledged that reference to mitigating impacts has been omitted in error and it

was an oversight not to pick this up from the Habitats Regulation Assessment. The proposed amendment by Scottish Natural Heritage would be in line with text within R11 and LONG1. The following wording is considered appropriate “Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDS provision should be made.”

The Council would have no objection if the Reporter were minded to make the modifications highlighted above in respect of combining site I8 with R11, habitats survey requirement and mitigating impacts on Loch Spynie SPA.

### **I9 Railway Sidings/Ashgrove Road**

If the Reporter is so minded, the Council would not object to the additional text suggested by Scottish Environment Protection Agency being added into the site designation text. The following wording is considered suitable “a buffer strip of at least 6 m between development and the watercourse is required”.

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

The Council would have no objection if the Reporter is minded to make the modifications highlighted above in respect of a 6m buffer and habitats survey.

### **I13 Linkwood Distillery**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I16 Sandy Road (The Wards)**

If the Reporter is so minded, the Council would not object to the suggested text by Scottish Environment Protection Agency being added into the site designation. The following wording is considered suitable “proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site.”

### **BP/OPP Riverview**

The comment from Highlands and Islands Enterprise is noted. The Council will continue to work with other partners in respect of the development of the site.

The caravan park is entirely outwith the boundaries of the BP/OPP site and should not impact on its ability to provide the facilities it currently offers. The BP/OPP site is intended to be a high amenity business park and the uses would likely be compatible with the caravan site in terms of generating minimal noise levels and pollution.

There is already an element of buffering between the site and the caravan park with a wooded embankment between the site boundary and the caravan stances. The caravan park sits lower than the site and therefore views and impacts on visual amenity are likely to be minimal and mitigable. BP/OPP is a small well defined site and the scale is not excessive. The detail of buildings and their scale will be best dealt with at the detailed

planning application stage. At this stage impact on amenity and on privacy would be considered. It is unclear how security would be substantially different to the situation at present.

The detail of access arrangements to BP/OPP would be the subject of a planning application and the impacts of existing junctions would be taken into consideration. Access would need to be provided in accordance with Policy T2 Provision of Access. As stated within TSP1 and TSP2 a new access onto the A96 may be considered for BP/OPP and the impact on the existing junction (TSP2) would be considered in a Transport Assessment.

No modification is proposed.

#### **OPP2 Hill Street/Ladyhill**

Access to OPP2 has historically been taken off Hill Street and not through the medical practice car park. The relevant parking standards would apply to any development proposal.

No modification is proposed.

#### **OPP3 Wards Road**

Any proposals for development that are likely to impact on transport networks would require to be mitigated in line with Policy T2 Provision of Access. Safe entry and exit for all road users will be addressed through this policy at the planning application stage. Policy IMP1 Developer Requirements requires the scale, density and character of proposals to be appropriate to the surrounding area and proposals must be designed and serviced appropriate to the amenity of the area. These policies would apply if an application is submitted on this site.

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

The Council would have no objection if the Reporter is minded to make the modifications highlighted above with regard to a habitats survey.

#### **OPP4 Ashgrove Road**

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

#### **OPP5 Auction Mart, Linkwood Road**

OPP sites are flexible in terms of the uses that are supported. The uses given are examples only. Policy ED5 states “Any uses that are given should be viewed as illustrative examples only, and not taken as a definitive list of acceptable activities.” Leisure and residential uses that are compatible with the surrounding uses and meet other policy requirements could be considered. The request to add further examples is not necessary and retaining the current wording does not unreasonably restrict

development opportunities.

There is not considered to be a surplus of industrial sites available in Elgin. The Moray Economic Strategy (CD28 page 15 action 7) has identified a need for a further 25 ha of land to be allocated to 2025. The Employment Land Audit 2014 (CD19) demonstrates a limited supply of immediately available land and limited number of effective sites.

Scottish Environment Protection Agency has not objected to the site but has acknowledged that a flood risk assessment would be required. The Council's Flood Risk Management team has advised that the area is known to have surface water and sewer flooding issues. Therefore any planning application would need to be supported by suitable mitigation measures. Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) and Policy EP7 Control of Development in Flood Risk Areas will be key policy considerations for any planning application.

The site has previously been considered at the examination into the Moray Local Plan 2008 (CD26 page 2.61). At that time the Reporter stated that whilst the paddock adjoining the former mart has been informally used by the local community it is privately owned and "as such it has value not only to local residents but also to the owner." (CD26 page 2.63) He concluded that "the informal use of the land concerned, which has evolved to become an established amenity feature of the local area, is not sufficient reason to prevent its designation in the local plan..." (Moray Local Plan Report into Objection to the Finalised Local Plan June 2008 CD26 page 2.63-2.64).

Policy IMP1 Developer Requirements requires the scale, density and character of proposals to be appropriate to the surrounding area and proposals must be designed and serviced appropriate to the amenity of the area. Through this policy any impacts on neighbours would be assessed at the planning application stage.

Provision of public access has been included to reflect the loss of open space used by walkers that was previously raised as an objection to the allocation during the Local Plan Inquiry into the 2008 plan (CD26 page 2.62). Creating access and permeability through the site would also be in line with Designing Streets (CD30). The detail of a route for such access would be the subject of a planning application and proposals are likely to be sensitive to the issues raised regarding privacy.

No modification is proposed.

#### **OPP6 Spynie Hospital**

Policy IMP1 Developer Requirements requires the scale, density and character of proposals to be appropriate to the surrounding area and proposals must be designed and serviced appropriate to the amenity of the area. Compliance with these criteria would be assessed at the planning application stage when more detailed proposals were available.

No modification is proposed.

#### **OPP7 Bilbohall**

The OPP7 site contains several mature trees within its boundary. Retention of all or some of these as part of any development is likely to help integrate development more readily with its surroundings and add to the aesthetic value of the site. Policy ER3 Development in Woodlands and the Supplementary Guidance on Trees and Development requires developers to provide a Tree Survey and Tree Protection Plan with any planning

application on designated sites. However, if the Reporter was so minded the Council would not object to an explicit statement being added to the allocation text requiring a Tree Survey and Protection Plan to be prepared and where possible for mature trees to be retained. The following wording is considered appropriate "A Tree Survey and Protection Plan requires to be submitted with proposals and where possible mature trees retained."The requested Tree Preservation Order will be considered through a separate process.

Traffic and road impacts will be considered when a detailed planning application is received and Policy T2 Provision of Access will be used to assess the suitability of access proposals.

No detailed proposals have been submitted and therefore the impact on neighbouring properties cannot be judged. In line with Policy ED5 Opportunity Sites proposals would require to be compatible with the surrounding area. The Primary Policy on Placemaking (PP3) and Policy IMP1 Developer Requirements should ensure that development is of a scale, density and character that is appropriate to the area and that proposals are appropriately designed and serviced to the amenity of the surrounding area.

The Council would have no objection if the Reporter is minded to make the modifications highlighted above in regard to requiring a Tree Survey and Protection Plan.

### **Reporter's conclusions:**

#### I2 Chanonry Industrial Estate

1. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

#### I6 Linkwood East

2. I note the requirement for buffers is a standard response to some sites where the Scottish Environment Protection Agency (SEPA) has raised specific concerns regarding the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances Policy EP6 provides appropriate protection but where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive.

3. In these instances, I agree with SEPA that in addition to the requirements of Policy EP6 specific reference to a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. This matter will be assessed at the detailed planning stage. The land to the north of the recently completed flood alleviation bund and Tyock Burn, as described in the representation, may be sufficient in this respect.

4. I address matters relating to TSP20 in paragraphs 10-15 of Issue 13c. My conclusion is that the wording in this respect should be consistent between the references in TSP20 and the site specific text. My recommended change to TSP20 (recommendation 2 Issue

13c) includes a less rigid requirement with reference only to the need to address/safeguard the potential to achieve a link between the two employment areas. My conclusion is that a slight change is also required to the site specific text for I6 to reflect these conclusions.

5. The site is carried forward from the adopted local plan. The landscaping requirements reflect those required to mitigate the impact of development on this edge of the town and to maintain the setting of Elgin and its visual amenity when approaching from the east. I consider these matters remain relevant and find no justification to alter the text in this respect.

6. I note that flooding is a major constraint to development on land in and around Elgin. Completion of the current flood alleviation works is an important step to address this and I note that the works related to this site should be completed by Spring 2015. However, there remain other more localised risks such as those from the Tyock and Linkwood Burns. In these circumstances I consider it is appropriate to retain the reference to flood risk assessment. This reflects Scottish Planning Policy paragraph 255 which promotes a precautionary approach and avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas.

#### I7 Barmuckity

7. The comments on flood risk raise similar matters to those addressed in my conclusion on paragraph 6 above. An assessment would be required for this site in relation to the risk associated with Linkwood Burn. The precautionary approach referred to above leads me to the conclusion that the requirement for assessment should be retained.

8. The site forms an important and visible gateway on approach to Elgin. In this context the text refers to woodland structure planting along the eastern boundary and to screen the railway line. It also refers to areas at risk from flooding being incorporated into any landscaping scheme for the site. I do not consider this is overly prescriptive as it establishes the principles of a landscape setting appropriate to the sites edge of settlement location. Appropriate design should enable this to be achieved without unacceptably compromising the potential to attract business which requires roadside presence/visibility. Consequently, I do not consider any change is required in this respect.

9. It would not be appropriate to include specific references to uses within the site when there is no certainty that these would be delivered. In this case I note relocation of the lorry park has not been confirmed. In addition there are no firm proposals for a park and ride scheme given that the viability of such a proposal has not been demonstrated. Consequently, I do not recommend any change in this respect.

#### I8 Newfield

10. I understand that the developer may wish to retain flexibility regarding the balance of and location of uses on the larger site area including all of the Findrassie/Myreside allocation. However, I also consider that I8 offers a distinct employment opportunity site with a main road frontage. As it is detached from the main residential area and extends the settlement along the main road I have concerns about an earlier phasing for residential. I consider this would make integration with the settlement more difficult to achieve. As an employment opportunity the site would also provide access to jobs for the

longer term housing planned as LONG1. In my conclusions on Issue 13a I refer to scope for some flexibility in the master- planning process. However I also conclude that the key principles should be retained as the basis of this process. I agree with the council that pepper-potting employment throughout the site would not enable the objective of providing immediately effective employment land. In the absence of a clear alternative to the provision of employment land on I8 I find insufficient justification to remove this employment allocation.

11. The text already refers to the suitability of the site for class 4 uses and in this context I agree with the council there is no need to specifically exclude Class 5 use. I also agree with the council that the retention of the existing site boundary to the north should not prejudice the continuation of use of this site for the environmental uses referred to. Indeed continued inclusion of this area will enhance the flexibility to consider inclusion of other uses in the future. Consequently, I find no reason to amend the northern boundary.

12. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

13. I note that the reference to mitigating impacts has been omitted in error and it was an oversight not to pick this up from the Habitats Regulation Assessment. The proposed amendment by Scottish Natural Heritage would reflect the corresponding statement in R11 and LONG1. I consider that it is necessary to include this specific requirement so that it can be appropriately addressed through the master-plan and subsequent detailed planning stages. My recommendation reflects this.

#### I9 Railway Sidings/Ashgrove Road

14. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

15. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances this policy should provide appropriate protection of the water environment. However, I accept the view of SEPA that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In these instances, I agree with SEPA that in addition to the requirements of Policy EP6 a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

#### I13 Linkwood Distillery

16. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site

for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

#### I16 Sandy Road (The Wards)

17. I note that the Scottish Environmental Protection Agency (SEPA) highlight the potential risk of flooding from the Tyock Burn. My conclusion reflects that in paragraph 6 above and I agree that the additional text as suggested by SEPA should be included. This reflects Scottish Planning Policy paragraph 255 which promotes a precautionary approach and avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas.

#### BP/OPP Riverview

18. Class 4 restricts uses to those generally compatible with residential use. In addition I note the change in levels and the wooded embankment which provides a buffer between the site and caravan park. Consequently, I am satisfied that the allocation can be retained without an unacceptable detrimental impact on the neighbouring use.

#### OPP2 Hill Street/Ladyhill

19. I note access is taken from Hill Street rather than through the medical practice car park. I consider that the site has potential for development without impacting on the existing car parking for the health centre. The council's car parking standards will be applied through the development management process.

#### OPP3 Wards Road

20. I note concerns about road and pedestrian access. This would be considered in detail at the planning application stage in the context of Policy T2. Amongst other things this requires safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends. There may be options to look at alternative points of access and improved visibility through redevelopment of the site. The site is already used for a variety of uses and I see no reason why redevelopment should have a detrimental impact on amenity or privacy. In any event proposals will be assessed against Policy IMP1 which requires that the scale, density and character must be appropriate to the surrounding area.

21. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

#### OPP4 Ashgrove Road

22. My conclusion above in paragraph 21 also applies here and my recommendation reflects this.

#### OPP5 Auction Mart, Linkwood Road

23. I note that Policy ED5 applies specifically to Opportunity Sites and that this clarifies

that the uses referenced in the town and village statements should be viewed as illustrative only and not viewed as a definitive list of acceptable activities. Other uses would be considered in the context of the relevant policies of the plan. The text refers to business use but also potentially to retail use subject to policies R2 and R3. I note the adjacent residential use and proximity to the Edgar Road Retail Park. Any proposals for residential would fall to be assessed against Policy H1 which sets out criteria for windfall sites within settlements whilst commercial leisure proposals would be assessed against Policy R2. Consequently I consider the text, when read with Policy ED5, contains sufficient flexibility without the need to refer specifically to a wider range of uses.

24. The allocation for business use reflects the conclusions of the Moray Economic Strategy (CD28 page15 action 7). The Employment Land Audit 2014 (CD19) highlights the limited availability of effective sites and I consider the site is well placed to contribute to the 25 hectares of employment land that are required in the period to 2025. Consequently, I consider that the focus on business use should be retained.

25. The flood risk is acknowledged by the council and the Scottish Environment Protection Agency given known surface water and sewer flooding issues. The supporting text already includes reference to the required flood risk assessment. In addition, Policy EP5 applies to surface water drainage and Policy EP7 to control of development in flood risk areas.

26. On my site visit I noted the open grassed area referred to as the paddock which is clearly distinct from the rest of the Auction Mart redevelopment area. However, it is a privately owned area and any public access is on an informal basis. I find nothing to lead me to a different view than that of the reporter at the last local plan examination. I note that the text refers to provision of a landscaped area in association with the development.

27. Appropriate layout and design of any development on the site should address matters of privacy and amenity in accordance with Policy IMP1. Government Guidance as set out in “Designing Streets” supports development which connects well to the existing area and includes access including by pedestrians and cyclists. Consequently, I am content that the existing text references should be retained

#### OPP6 Spynie Hospital

28. On my site visit I noted the location of adjacent residential properties at a lower level than the hospital site. However, this is a large site and I consider that an appropriate layout and design should address any potential loss of privacy or over-shadowing issues. These detailed matters fall to be assessed at the planning application stage in the context of Policy IMP1. This requires the scale, density and character of proposals to be appropriate to the surrounding area and that proposals are designed to protect the amenity of the area. Property value is not a relevant planning consideration.

#### OPP7 Bilbohall

29. On my site visit I noted the mature trees within the site and agree that appropriate retention will be important. Consequently, a tree survey would be required so that this matter could be properly addressed at the planning application stage. Whilst I note that these matters are addressed through Policy ER3 and the proposed Supplementary Guidance on Trees and Development, I agree that a specific reference in the text would provide clarity to potential developers. Matters relating to the application of a tree

preservation order fall to separate legislation and cannot be addressed through this examination.

30. This site presents an opportunity for redevelopment of these surplus National Health Service Buildings. I appreciate concerns about the access given the constraints imposed by the current bridge over the railway. However, the text recognises this constraint and any proposal generating additional trips would have to await an alternative access as part of the Western Link Road proposals. In addition proposals would also have to meet the requirements set out through Policy T2 on the provision of access. There are no current proposals and any residential development would have to address matters of privacy and achieve a density appropriate to the character and amenity of the area. Policies IMP1 and ED5 would apply in this respect. Consequently, I find the proposal should be retained without change.

### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### I2 Chanonry Industrial Estate

1. Add the following at the end of the site specific text on page 159:

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

#### I6 Linkwood East

2. Replace the text reference to "the potential for future connection between this site and Linkwood Place being safeguarded to allow for connectivity and provide a second point of access to the site" and replace with:

Future proposals for I1 and I6 should address/safeguard the potential to achieve a pedestrian/vehicular access between these two employment areas.

#### I8 Newfield

3. Add the following at the end of the site specific text on page 160:

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

4. Follow the above with an additional final sentence:

"Development proposals will require to safeguard the integrity of Loch Spynie SPA. Adequate SUDS provision should be made."

#### I9 Railway Sidings/Ashgrove Road

5. Add the following at the end of the site specific text for I9 on page 160.

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

6. Follow the above with an additional final sentence:

“A buffer strip of at least 6 metres between the development and the watercourse is required”

#### I13 Linkwood Distillery

7. Add the following at the end of the site specific text for I13 on page 160:

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

#### I16 Sandy Road (The Wards)

8. Add the following at the end of the site specific text for I16 on page 161:

Proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site.

#### OPP3 Wards Road and OPP4 Ashgrove Road

9. Add the following at the end of the site specific text for OPP3 and OPP4 on page 162:

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

#### OPP7 Bilbohall

10. Add the following at the end of the site specific text for OPP7 on page 163:

A Tree Survey and Protection Plan should be submitted with proposals and where possible mature trees retained.

Issue 13c	Elgin Other	
Development plan reference:	<b>Elgin Settlement Statement, page 152-175</b> <ul style="list-style-type: none"> <li>• Objectives, page 152</li> <li>• Transportation and TSP's, page 152</li> <li>• Developer Contributions, page 152</li> <li>• Elgin Town Centre, page 157</li> <li>• Elgin High Street First – Action, page 157</li> <li>• CC Commercial Centre Edgar Road, page 158</li> <li>• Cemetery Search, page 164</li> <li>• CF1 Dr Gray's, page 164</li> <li>• CF2 Edgar Road, page 164</li> <li>• CF3 Thornhill Road, page 164</li> <li>• Cemetery search, page 164</li> <li>• Elgin TSP, page 169-170</li> </ul>	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Objectives</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>Elgin Town Centre</u></b> Elgin Community Council (0122) Elgin South Area Forum (0194) Elgin Benevolent Trust (0461)</p> <p><b><u>CC Commercial Centre Edgar Road</u></b> Asda Stores Ltd (0206)</p> <p><b><u>Elgin City for the Future and Moray Economic Strategy</u></b> Elgin Community Council (0122) Elgin South Area Forum (0194)</p> <p><b><u>Community Facilities</u></b> Presbytery of Moray (0865)</p> <p><b><u>CF1 Dr Grays</u></b> NHS Grampian (0300)</p> <p><b><u>CF2 Edgar Road</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>CF3 Thornhill Road</u></b> Scottish Environment Protection Agency (0569) Craig Smith (0577)</p> <p><b><u>Transportation and TSP's</u></b> Elgin Benevolent Trust (0461)</p> <p><b><u>TSP20</u></b> Northern Property (1012)</p> <p><b><u>Western Link Road – TSP3, TSP4, TSP21, TSP22, TSP23, and TSP24</u></b> Network Rail Infrastructure Ltd (1041) Adeline Collins (0583) Mr William Stewart (0596) Westfields Resident's Association (0597) Hilda MacKessack-Leitch (0750)</p>		

<p><b><u>TSP25 and TSP31</u></b>  Springfield Properties plc (0010)  <b><u>New TSP</u></b>  CJ and CRH Dunbar (Pitgaveny) (0908)  <b><u>Access</u></b>  Christine I Clerk (0685)  <b><u>Developer Contributions and Health Care</u></b>  NHS Grampian (0300)  Elgin Community Council (0122)  Elgin South Area Forum (0194)  <b><u>School Capacity</u></b>  Elgin Benevolent Trust (0461)  Elgin Community Council (0122)  Elgin South Area Forum (0194)  <b><u>Cemeteries</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)  <b><u>Common Good</u></b>  Elgin Community Council (0122)  Elgin South Area Forum (0194)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Designations and strategy for retail development in Elgin and safeguarding town centre.  Designations for safeguarding and provision of new community facilities in Elgin.  Identification of transport improvements in Elgin (TSPs).  Provision of infrastructure and community facilities in Elgin.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Objectives</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Support the approach taken in the Elgin Settlement Statement where it states that a precautionary approach is required until the Flood Alleviation Scheme is complete.</p> <p><b><u>Elgin Town Centre</u></b>  <u>Elgin Community Council (0122), Elgin South Area Forum (0194)</u>  A commitment should be added to locate the tourist information centre on Elgin High Street. This is an intention of Elgin City for the Future and the information centre should be located where people arrive in the city not where they need to search for it.</p> <p><u>Elgin Benevolent Trust (0461)</u>  The plan refers to the Elgin High Street First Actions. These were recently the subject of discussion at a Charrette. At the Charrette there was significant support for an alternative approach for some of the actions, such as the Lossie Green Development Brief, A96 junction improvements, relocation of the bus station and retaining local businesses on current sites. Unclear whether Charrette or Local Plan will take precedence.</p> <p><b><u>CC Commercial Centre Edgar Road</u></b>  <u>Asda Stores Ltd (0206)</u>  Support is given to maintaining and strengthening the retail hierarchy for Elgin by recognising the role Edgar Road Retail Park plays in the shopping habits of the local community through the retention of the retail allocation and its identification as a</p>	

Commercial Centre.

### **Elgin City for the Future and Moray Economic Strategy**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Welcome cross referencing with Moray Economic Strategy and Elgin City for the Future. These strategies require to be implemented and actions firmed up and not allowed to get lost in piecemeal development. Short term fixes should be delivered within a strategic overview to ensure the long term vision is maintained.

### **Community Facilities**

Presbytery of Moray (0865)

There is no provision in the Local Plan for a community facility such as a church in the New Elgin area. Provision should be made to provide an opportunity for this. Elgin High Church is working towards meeting this need in this growing area where there is currently no church.

### **CF1 Dr Grays**

NHS Grampian (0300)

The retention of Dr Gray's Hospital for expansion of Community Facilities is commended.

### **CF2 Edgar Road**

Scottish Environment Protection Agency (0569)

Investigations suggest site CF2 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

### **CF3 Thornhill Road**

Scottish Environment Protection Agency (0569)

Investigations suggest site CF3 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

Craig Smith (0577)

Should be clearer what is proposed on site i.e. the site is either for housing or recreational facilities. Construction already commenced on north and building should not commence until consultation on Proposed Plan has ended and planning applications are approved.

### **Transportation and TSP's**

Elgin Benevolent Trust (0461)

Whilst TSP's are identified and the need for Transport Assessment it should be clearer if the transport network and existing roads will be able to accommodate new development without impacting on the city's transport network.

### **TSP 20**

Northern Property (1012)

There should be no requirement for either vehicular or pedestrian link between I1 and I6 before any future development of I6. This is evidenced by planning appeal decision PPA-300-2012 to conditions attached to consent 09/01479/OUT. The Moray Council conditions requiring a second point of access between I1 and I6 failed three of the six tests for conditions as set out in circular 4/1998. The link is not necessary for reasons of road or

junction capacity. Acknowledge benefits of integration between sites but this is outweighed by negatives such as inappropriate "rat running", increased vehicle through movement at expense of pedestrian/cycle, and decrease in available capacity at junction with A96 roundabout which could prevent future development. Relevance to the development was in doubt. The condition was considered unreasonable and unjustified. Submit letter from consultants WSP showing no policy reason for link and also appeal decision (see supporting document SD1012c/1/002c).

**Western Link Road -TSP3, TSP4, TSP21, TSP22, TSP 23, and TSP24**

**Network Rail Infrastructure Ltd (1041)**

Support TSP21 but would go further to suggest the bridge is closed to traffic altogether, as pedestrian traffic will be provided for a short distance away. Full closure would offer more significant operational benefits for Network Rail.

**Adeline Collins (0583)**

Does not support the Western Link Road and the demolition of existing property all because the Council granted permission for housing and then realised there is a traffic management problem. There should be a proper bypass. Other towns have been bypassed without detriment.

**Mr William Stewart (0596), Westfields Resident's Association (0597)**

The Western Link Road is unsightly and in the wrong place cutting through residential areas. It has not been thought out and will devalue property. Residents of Fairfields were never advised of this when buying their houses. Will the Council pay the difference in value?

**Hilda MacKessack-Leitch (0750)**

Opposes the Western Link Road from Wittet Drive to Edgar Road. It is unnecessary given that the A96 is to be upgraded to dual status and will take traffic away from the town. Extra traffic will create noise impact on a peaceful residential area and the increase in traffic will make it more dangerous for pedestrians to cross. The street is too narrow for heavy lorries and the bridge design is brutal and does not fit with the surroundings. It is wrong to spend money at a time of austerity.

**TSP25 and TSP31**

**Springfield Properties plc (0010)**

This Transport Improvement TSP 25 and TSP31 need further clarification in terms of exactly how it impacts on developments associated with the south side of Elgin. There are a number of designations on the south side of the railway line and north which do not seem to be burdened with this particular junction improvement specifically in their settlement statements, and others where it is clearly stated.

**New TSP**

**CJ and CRH Dunbar (Pitgaveny) (0908)**

No access is shown onto Duffus Road. This is contrary to Policy T2 which seeks multiple access points. It will result in a large cul-de-sac from the adjacent development which does not maximise the opportunities for the wider R11, reduces permeability (a cornerstone of Designing Streets) and will be an inconvenience to residents of R11 and R5. Access onto Duffus Road should be designed in accordance with Designing Streets with sensitive consideration to existing woodland, the character of Duffus Road, and the approach to Elgin. The Proposals Map, Key Design Principles, TSP map and text should be amended to include access from R11 directly onto Duffus Road.

### **Access**

Christine Clerk (0685)

More thought should be given to those without cars and there should be more routes to walk and cycle through Elgin and links to surrounding towns. There should be a link from Elgin to long distance footpaths. There should be a direct footpath to Rothes and connection to the Speyside Way. There should be footbridges over the main roads, especially Edgar Road.

### **Developer Contributions and Health Care**

NHS Grampian (0300)

The identification of long term development is commended in terms of considering demand for health and retail facilities emerging over a greater time scale. Appropriate developer contributions should be agreed where applicable in order to enhance the service provided by NHS Grampian within Elgin and expand the specialist healthcare at Dr Gray's and Moray College.

Elgin Community Council (0122), Elgin South Area Forum (0194)

Input from NHS Grampian is important because allocating development for health care purposes to meet the geographic spread of Elgin and Moray would be a commitment from the NHS that should be followed through.

### **School Capacity**

Elgin Benevolent Trust (0461)

The Local Plan does not refer to the capacity of Elgin's schools to accommodate children from the new houses proposed for Elgin, or within the catchment areas of Elgin schools.

Elgin Community Council (0122), Elgin South Area Forum (0194)

School capacity should be aligned with the outcome of the School Estate Review. No area with a school designation should be allocated for any other purpose.

### **Cemeteries**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Cemeteries are only mentioned in the Action Programme which mentions search for a new site. The issue has been under consideration for a number of years with no resolution and a firmer plan is needed. LONG2 may be suitable and it may be possible to develop part for natural burials. Would be five minutes walk from existing cemeteries.

### **Common Good**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Understand R6 is Common Good ground and other sites may be Common Good or some sort of unclaimed land. A map of Common Good land should be provided in the Local Development Plan with guidance on how plan for Common Good Land should be progressed and who has the say in what happens.

### **Modifications sought by those submitting representations:**

### **Objectives**

Scottish Environment Protection Agency (0569)

No change. Support approach taken to flooding.

### **Elgin Town Centre**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Amend plan to include commitment to relocating the tourist information to the town centre/High Street.

Elgin Benevolent Trust (0461)

The Plan should contain a statement referring to the ongoing and future discussions about the Elgin High Street First and associated strategies, and that other options may emerge to influence the Plan and future developments, so that the proposals listed in the Plan on page 157 are possibilities but are not the definitive list of developments for the area.

### **CC Commercial Centre Edgar Road**

Asda Stores Ltd (0206)

No change. Support identification of Edgar Road as a commercial centre.

### **Elgin City for the Future and Moray Economic Strategy**

Elgin Community Council (0122), Elgin South Area Forum (0194)

Implied amendment to include statement to ensure actions of strategies are no lost in piecemeal development and that development is delivered in strategic overview.

### **Community Facilities**

Presbytery of Moray (0865)

Identify a site for a church in south Elgin.

### **CF1 Dr Gray's**

NHS Grampian (0300)

Support identification of site. No change required.

### **CF2 Edgar Road**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

### **CF3 Thornhill Road**

Craig Smith (0577)

The Proposed Plan should be clear as to what the allocation is to be used for to avoid confusion. The Proposed Plan should coincide with other planning applications which have previously been proposed.

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

### **Transportation and TSP's**

Elgin Benevolent Trust (0461)

Include a reassurance that in principle transport networks are able to accommodate all traffic movements from identified sites, windfall sites and existing uses, subject to TSP, Transport Assessment and suitable traffic management.

### **TSP 20**

Northern Property (1012)

Delete TSP20

### **Western Link Road -TSP3, TSP4, TSP21, TSP22, TSP 23, and TSP24**

Network Rail Infrastructure Ltd (1041)

Close off TSP21 to all traffic, including pedestrian.

Adeline Collins (0583)

Drop plans for link road and replace with a proper bypass which goes around the town and not cut it in half.

Mr William Stewart (0596), Westfields Residents Association (0597)

Reconsider Western Link Road. It was meant to be a “relief road” not a major road and bridge.

Hilda MacKessack-Leitch (0750)

Do not proceed with Western Link Road.

### **TSP 25 and TSP31**

Springfield Properties plc (0010)

Further clarification should be given on which sites are being asked to look at TSP25 when assessments are considered in future planning applications.

Give further clarification on which sites are being asked to look at TSP31 when assessments are considered in future planning applications and justification for those where no mention is made of this TSP.

### **New TSP**

CJ and CRH Dunbar (Pitgaveny) (0908)

The illustrative settlement plan showing proposed TSPs at page 169 should be amended to include a TSP at a point on Duffus Road, immediately west of proposed site R11: Findrassie/Myreside, in order to enable access from the west of the allocation. The text included on page 170 of the Proposed Plan in support of the illustrative plan should be amended to include reference to a new TSP at a point on Duffus Road, immediately west of proposed site R11: Findrassie/ Myreside, in order to enable access from the west of the allocation.

### **Access**

Christine Clerk (0685)

Amend plan to show a footpath from Elgin to long distance footpaths including Speyside Way and to Rothes. Provide footbridges over main roads.

### **Developer Contributions and Health Care**

NHS Grampian (0300)

Healthcare provision should be specified under Infrastructure within the Settlement Statement and promoted as a Developer Contribution.

Elgin Community Council (0122), Elgin South Area Forum (0194)

Implied amendment to continue to consult with NHS Grampian during plan delivery.

**School Capacity**Elgin Benevolent Trust (0461)

Reassurance should be given that school capacities and zoning were taken into account in allocating the new housing numbers to Elgin.

Elgin Community Council (0122), Elgin South Area Forum (0194)

No area with a school designation to be allocated for any other purpose.

**Cemeteries**Elgin Community Council (0122), Elgin South Area Forum (0194)

Identify site for new cemetery provision, suggest site at LONG2.

**Common Good**Elgin Community Council (0122), Elgin South Area Forum (0194)

Provide a map of Common Good land within the Local Development Plan and confirmation of who has say in what happens on this land.

**Summary of responses (including reasons) by planning authority:****Objectives**

Support from the Scottish Environment Protection Agency in relation to taking a precautionary approach to flooding in Elgin is noted.

**Elgin Town Centre**

Relocation of the tourist information centre is included within the Plan at bullet point 4 on page 157 within the list of Elgin High Street First Actions. Support is given in principle to these actions. In any case Policy R1 Town Centre Development supports mix of uses within the town centre including tourism. Identification of a site for the relocation of the tourist information centre is best explored through the Moray Economic Strategy (CD28) given the other non-planning related issues involved with relocation such as funding and delivery of service.

The Elgin High Street First Actions referred to on page 157 of the Proposed Plan are relatively broad and there is sufficient scope within these headings for more detailed proposals to emerge through the work of the Moray Economic Partnership on the strategy. The Local Development Plan only gives support to the principle of the actions and not the detail. Policy R1 Town Centre Development supports a mix of uses within the town centre so proposals coming forward are therefore likely to have policy support. The Moray Economic Strategy (CD28) would also be a material consideration when considering any planning application. No modification is proposed.

**CC Commercial Centre Edgar Road**

The comments regarding Edgar Road are noted. Comments regarding Policy R2 Out of Centre Development of Retail, Commercial and Leisure Proposals and the table of "Retail Centres and Roles" are within Issue 10.

**Elgin City for the Future and Moray Economic Strategy**

Both Elgin City for the Future (CD29) and the Moray Economic Strategy (CD28) have been produced by the Moray Community Planning Partnership (MCP). As a land use planning document the Local Development Plan aims to provide a supportive framework for initiatives being promoted through these strategies. In many ways the purpose of the

strategies is to ensure that individual projects are co-ordinated within the context of the wider vision.

No modification is proposed.

### **Community Facilities**

Community facility sites are identified at Edgar and Thornhill Road. No detail of site requirements for the church have been provided and it is difficult to know if these sites would meet the needs of the church. There may be scope to accommodate a church on the OPP sites on Linkwood Road (OPP1 and OPP6). There may also be scope in the longer term to accommodate such uses within the LONG2 site. The Council will look to discuss further with the Church or provide comments on any sites being considered.

No modification is proposed.

### **CF1 Dr Gray's**

The comments from NHS Grampian are noted.

### **CF2 Edgar Road**

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

### **CF3 Thornhill Road**

If the Reporter is so minded, the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

Site CF3 has been carried over from the Moray Local Plan 2008. Decisions have therefore been made on the basis of the extant plan and there is no need to wait for the Proposed Plan to be adopted. The site has been subject to various planning applications and has been partially developed. The most recent application 13/01969/APP (BD/13c/01), on a part of the site formerly reserved for a school to the south of CF3, has been approved for 32 houses for older people.

The Council would have no objection if the Reporter were minded to make the modifications highlighted above in relation to habitats survey.

### **Transportation and TSP's**

Consultation is undertaken with the Council Transportation section during the preparation of the Local Development Plan. The approach taken for identifying the TSP locations in various settlements has been to identify;

- c) existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with MLDP Policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing Streets Policy;
- d) existing locations on the transport network where the development of specific sites would require the impact of the development traffic to be assessed in accordance with

MLDP Policy IMP2 (b) and necessary mitigation/modifications to ensure the impact of new development to be delivered to adequately address the safety and efficiency of the transport network (walking and cycling infrastructure; bus stop infrastructure; passing places; road widening; junction enhancement; road drainage infrastructure).

TSP's are based on information available at 2013/14 and are intended to be of assistance to developers when considering proposals and to give an indication of what may be necessary to deliver a site. It is not possible to say that all the development within Elgin will have no impacts on the road network. However, through Policy T2 Provision of Access and IMP2 Development Impact Assessments appropriate mitigation/modification should be provided to existing transport networks to ensure the safety and efficiency of the transport network if development proposals have an adverse impact.

No modification is proposed.

### **TSP 20**

There is a history of poor access to industrial sites in Elgin (single access) with subsequent problems for businesses and road users. Connections to specific sites are anticipated in order to satisfy policy compliance with Policy T2 Provision of Access (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing Streets (CD30). This approach is also consistent with the recently published (SCOTS) National Road Development Guide which considers connections to wider networks and connections within places on page 32/33 (BD/13c/02).

It is noted that consent 10/00524/APP (BD/13c/03) for the formation of road and footpaths at 16 Linkwood East includes a connection to Linkwood Place. This application was approved on 20 May 2011 and the applicant did seek a review by the Local Review Body in light of the appeal decision referred to PPA-300-2012 (decision date 26 July 2011). However, the request for review by the LRB was subsequently withdrawn. Notification of Initiation of Development was submitted with works starting on 27 April 2012.

No modification is proposed.

### **Western Link Road -TSP3, TSP4, TSP21, TSP22, TSP 23, and TSP24**

Several TSP's, including TSP3, TSP4, TSP21, TSP22, TSP 23, and TSP24, make up what is known as the Western Link Road. The Western Link Road project has three key aims and objectives, these are to provide an additional effective railway crossing in the west of Elgin, to relieve traffic on the existing New Elgin railway bridge; and to cater for planned and enable future development within Elgin. The Western Link Road is a key part of the overall Elgin Traffic Management Programme.

The Western Link Road and other identified road improvements are necessary to accommodate existing and continued residential and commercial developments within Elgin. The town requires a network of roads to allow traffic to efficiently distribute to the various parts. The Western Link Road will provide another crossing of the railway in the west and help the distribution of traffic in and around the town. The Western Link Road is not intended to be an A96 bypass. A bypass would not help distribute local traffic as it would have limited access off it. It is noted the Scottish Government has indicated a plan to create a dual carriageway between Inverness and Aberdeen by 2025.

The Local Development Plan sets out the principle of the Western Link Road and does not include detail of design. The Western Link Road is the subject of a planning

application 14/00551/APP (CD31) which is currently pending consideration and the issues raised regarding amenity will be considered through the planning application process.

TSP21 currently provides vehicular access to a constrained scale of land use. The Housing Land Audit 2014 (CD18 page 50-56) shows sites R1 Bilbohall North, R3 Bilbohall South (R5 in extant plan), R4 South West of Elgin High School (R6 is extant plan) and R6 Hattonhill (R8 in extant plan) as constrained. The new allocation at R12 Knockmasting Wood is similarly constrained until the Western Link Road is provided. The Western Link Road does not immediately provide an alternative vehicular access to the existing dwellings and agricultural land. Therefore the connection will remain open to vehicles until there is an alternative access for all types of vehicles. Stopping pedestrian access would reduce permeability and it is noted that this route is currently a Core Path as shown on map 10B (BD/13c/07). Stopping this up completely is not supported.

The principle of including TSPs in respect of the Western Link Road was considered at the Local Plan Inquiry into the Moray Local Plan 2008 (CD26 page 2.75). At this time the proposals were identified as TSP10, TSP11, and TSP12 and it was concluded that there was insufficient justification to remove these.

The Western Link Road has been identified as the strategic intent of the Moray Council in the Local Plan since 2000 (BD/13c/04) and was restated in the 2008 Local Plan following examination of the issue. It is the basis upon which the Proposed Plan is predicated. The decision of Economic Development and Infrastructure Services Committee on 18 December 2012 (BD/13c/05 and 06) was to progress the Western Link Road and therefore the plan reflects the strategic intent of the Council. The Compulsory Purchase Order and a Planning Application are currently being progressed for the Western Link Road. Removal of the Western Link Road from the plan would require a fundamental review to the approach taken to allocations in and around Elgin. More detailed background to the Western Link Road is summarised within the committee report to Moray Council on 29 January 2014 (CD16).

No modification is proposed.

### **TSP25 and TSP31**

Consultation is undertaken with the Council Transportation section in respect of the Local Development Plan. The approach taken for identifying the TSP locations in various settlements has been to identify;

- e) existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with MLDP Policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing Streets Policy;
- f) existing locations on the transport network where the development of specific sites would require the impact of the development traffic to be assessed in accordance with MLDP Policy IMP2 (b) and necessary mitigation/modifications to ensure the impact of new development to be delivered to adequately address the safety and efficiency of the transport network (walking and cycling infrastructure; bus stop infrastructure; passing places; road widening; junction enhancement; road drainage infrastructure).

At the scoping stage for a Transport Assessment the junctions that would need to be assessed would be clarified and this may include TSPs not specifically identified in the allocation text or junctions not identified as TSP's. The TSP locations are based on

information available in 2013/14 and are intended to be of assistance to developers.

TSP 25 is specifically highlighted in sites: R7 and R9. After further review and if the Reporter was so minded the Council would not object to highlighting TSP25 in the text for the following sites R3; R4; and R13. See below for text that is considered appropriate. The text for TSP31 highlights that the junction already shows insufficient capacity. All sites which would impact on this junction will be required to provide improvement.

TSP31 is specifically highlighted in text for a number of sites adjacent and south of the junction: OPP1; OPP5; R7; R8; R9; CF3. After further review and if the Reporter was so minded the Council would not object to highlighting TSP31 in the text for the following sites R2, R3, R4, R10, R11, R12 and R13;. The following text is considered appropriate for sites R3, R4 and R13 "The impact on the following junctions must be considered TSP25 and TSP31." For site R2, R10, R11 and R12 the following text is considered appropriate "The impact on the following junctions must be considered TSP31."

The Council would have no objection if the Reporter were minded to make the modifications highlighted above.

### **New TSP**

The lack of a TSP on Duffus Road does not prevent access being permitted at this location. However, creation of a new primary access onto Duffus Road for all users (including buses) is not supported due to the provision already being made for this type of access through R5 Spynie Hospital North. Preference is for R11 to maximise connections through R5 to this route in line with Designing Streets (CD30) and Supplementary Guidance on Urban Design. There are issues with provision of access onto Duffus Road directly from R11, including achieving speed reduction and the loss of mature trees. Speed reduction needs to take place in association with design measures as policing alone will not be acceptable. Given these issues it is not considered appropriate to identify a TSP at this location. The lack of TSP on the map or design principles does not mean an access is not possible or would not be permitted. It is considered this issue is best explored through the masterplan which the Council is working on collaboratively with the landowners and their design team. This is also subject to Architecture and Design Scotland Design Forum review.

No modification is proposed.

### **Access**

Policy T2 Provision of Access bullet point one states that "Proposals must maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, to reduce travel demands and provide safe and realistic choice of access." Therefore new development should include links to existing networks. Policy T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks promotes routes and would provide support if any of the projects raised were to come forward. It is also noted that the Moray Core Paths Plan 2011 contains a policy on network development, see policy 6 of Core Path Plan (BD/13c/08). No modification is proposed.

### **Developer Contributions and Health Care**

The support for the identification of long term growth and the assistance this gives to planning of infrastructure and services is noted. Policy IMP3 Developer Obligations refers to the impact upon existing infrastructure, community facilities or amenity. Infrastructure

includes amongst other things health provision. The forthcoming Supplementary Guidance Developer Obligations will provide further clarity. See Issue 11a. Dialogue is ongoing with NHS Grampian in respect of the Supplementary Guidance. The Council will continue to engage with NHS Grampian through implementation of the Action Programme.

No modification is proposed.

### **School Capacity**

It is acknowledged that capacity is limited at schools within Elgin. The Education service has been consulted during the preparation of the plan. The Council are currently undertaking a Sustainable Education Review and planning officers have met with consultants undertaking the review to highlight the direction of growth for Elgin. The Local Development Plan cannot pre-empt this review. Policy IMP3 Developer Obligations refers to the impact upon existing infrastructure, community facilities or amenity. Community facilities include, amongst other things, school provision. Developers may therefore require to provide contributions where an adverse impact is anticipated from their development on school provision. The forthcoming Supplementary Guidance on Developer Obligations will provide further clarity.

No modification is proposed.

### **Cemeteries**

Cemeteries are referred to on page 164 of the Proposed Plan under the heading "Cemetery Search". The Council is actively seeking to identify future cemetery provision but many issues have to be taken into account most notably ground conditions and watercourses. There are also issues of finding landowners willing to sell for this purpose. To date a suitable site has not been identified and planning officers will continue to work with other services to identify future provision.

No modification is proposed.

### **Common Good**

From their response to the Main Issues Report it is understood that Oldmills Farm Partnership are owners of the site at R6 Hattonhill. However, it is acknowledged that part of the site is currently one of the plots identified within the Elgin Western Link Road Compulsory Purchase Order to be acquired.

In line with legislation a Schedule of Land Ownership is included within the Plan. This identifies land affected by any policies or proposals within the plan that the planning authority has ownership or interest in. This does not identify which sites are Common Good. There is no requirement to show all land in which the planning authority has an interest. The purpose of the Local Development Plan is to set out how places should change and the policies to be used to make planning decisions. Its purpose is not to identify landownership or Common Good land.

It is Council Policy to deal with Common Good matters as they arise e.g. when proposals come forward to lease, sell or develop land.

No modification proposed.

**Reporter's conclusions:**Objectives

1. I note that flooding is a major constraint to development on land in and around Elgin. Completion of the current flood alleviation works is an important step to address this. In general where the Scottish Environment Protection Agency has raised the issue of flooding in Elgin and elsewhere we have accepted the wording- "proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site." This reflects Scottish Planning Policy paragraph 255 which promotes a precautionary approach and avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas.

Elgin Town Centre

2. Specific reference is made to relocation of the visitor centre within the Elgin High Street First- Actions on page 157 of the proposed plan. In addition, policy R1 supports a mix of uses in the town centre. It would not be appropriate to include a firm commitment to delivery in the absence of a more detailed proposal and the necessary funding. Consequently, I am content that this matter is sufficiently addressed.

CC Commercial Centre Edgar Road

3. I have addressed these matters through my conclusions on Issue 10. I accept the role of the retail park within the retail hierarchy and as a commercial centre. However, I consider the council's approach reflects that of Scottish Planning Policy in placing emphasis on the town centre.

Elgin City for the Future and Moray Economic Strategy

4. The proposed plan can provide a supportive policy and land use framework for delivery of the strategy. I agree with the council that the detailed actions arising from the strategy and its implementation will require to be addressed in detail by the relevant agencies. This will be subject to the availability of funding and other feasibility considerations which are beyond the scope of this land-use plan.

Community Facilities

5. I agree that it is important that new housing is supported by an appropriate range of services and facilities. Some provision is made in this respect at Edgar and Thornhill Road where land is reserved for a mix of community and recreational use. There may be a suitable site for a church and I note the council's willingness to assist the church in its consideration of suitable sites. Given the lack of a firm proposal I do not consider it would be appropriate or possible to identify a site for a church at this stage.

CF2 Edgar Road and CF3 Thornhill Road

6. I note the potential presence of wetland habitat in or around both these sites, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

7. For site CF3 Thornhill Road some development has already commenced on the site. This is based on permissions granted in the context of the current local plan. The proposed plan refers to a mix of uses. Given its current status I am content that this description is retained.

#### Transportation and TSP's

8. In formulating the strategy for the proposed plan it is important that the council is satisfied that the level of growth can be accommodated without an unacceptable impact on the road network in terms of its efficiency and safety. As for most considerations of impact it would be difficult if not impossible to guarantee a positive or neutral impact. However, appropriate assessment of the cumulative traffic impact at this early stage in the planning process is vital if any adverse impacts are to be identified and appropriately addressed.

9. In this context, I find it appropriate that the council has identified a range of required mitigation measures. This not only serves to identify the required mitigation but provides transparency to potential developers as to the matters to be addressed in any detailed transport assessment. Consequently, I find no reason to recommend any changes in this respect.

#### TSP 20

10. This requires a vehicular and pedestrian link between the Linkwood Industrial Estate (I1) and Linkwood East (I6). This matter is also raised through Issue 13b.

11. I have considered the supporting documents including the appeal decision dated 26 July and the planning permission 10/00524/APP (BD/13c/03). The council's submissions indicate notification of the commencement of work on 27 April 2012 and this permission includes a condition with a trigger for the second connection based on the number of trips generated. Supporting document (SD1012c-1-002d) shows a layout where Linkwood Place terminates in a turning circle and I6 is served only by access from the roundabout. It is currently possible to drive through from the Linkwood Industrial Estate to the roundabout. Upgrading of the road layout would be required to formalise this route and link to development of the area to the east.

12. The previous appeal decision calls into question the necessity for the link given that it was not required to address road capacity or safety issues. However, the decisions referred to date back to 2010; circumstances may change as may the nature of the proposed uses. In addition, I consider the advantages of connectivity and accessibility are also relevant considerations. Whilst "Designing Streets" may have more direct relevance to residential areas similar principles apply.

13. TSP20 refers to a requirement for a vehicular and pedestrian link from any future development on I1 or I6. This appears to apply a more definite requirement than that implied in the site specific text on I6. This text refers only to the potential for future connection between this site and Linkwood Place being safeguarded to allow for connectivity and provide a second point of access to the site.

14. Taking all of this together I consider the link is a desirable objective to achieve connectivity and accessibility between the two employment areas. However, I am conscious that the text of the plan should avoid imposing this requirement on any single

development on the site. This is unlikely to meet the tests of Circular 3/2012: Planning Obligations and good neighbour agreements given that any requirement may only be established based on cumulative impact as the sites progress towards being fully developed.

15. The necessity for a second access to address individual or cumulative road safety or capacity issues, which might require a secondary access, would be for any future transport assessment to address. I appreciate concerns about rat running through the existing industrial estate. However, given the clear advantages of linking the two employment areas I consider it is appropriate for the local development plan to require that any proposal should address the potential to secure the link and/or safeguard its future provision. Consequently, I consider the wording requires amendment to include a less rigid requirement with reference only to the need to address the potential to achieve a link between the sites. For consistency this would also require a slight revision to the site specific text on I6: Linkwood East. This related change is addressed through my recommendations on Issue 13b.

#### Western Link Road -TSP3, TSP4, TSP21, TSP22, TSP 23, and TSP24

##### General

16. My conclusions on Issue 4a explain the current status of the Western Link Road and the planning application process. I understand that there has been considerable local opposition to the details of the scheme. The council is seeking to address a number of these concerns through a revised application. I appreciate that in cutting through the residential area and in requiring compulsory purchase orders the proposal has raised local concern. In response to my further information request ( FIR1) the council explained it is now working towards a revised application which will seek to address and mitigate the following reasons for refusal:

- The proposed noise mitigation measures to address the potential increase in traffic were not satisfactory and the scale, density and character were not appropriate to the surrounding area;
- The development would not integrate into the surrounding landscape, which is very close to a wetlands area which has a special scientific interest;
- The level of adequate roads, public transport and cycling and footpath provision were not appropriate to the development in terms of pedestrian safety;
- The conservation of natural and built resources had not been demonstrated in relation to the wetlands area;
- The mitigation measures for the impact of development traffic were not appropriate and concerns remained regarding pedestrian safety and traffic movements, and that the Designing Streets policy had not been adequately adhered to in that matter (Policy T2).

17. In terms of the proposed local development plan the council has identified these road improvements as necessary to facilitate the strategy particularly the extent of proposed housing on the east side of Elgin. In this respect the principle of the proposed road is established through the current Moray Local Plan. There is nothing to suggest that circumstances have changed to an extent which would justify deletion of TSP3, 4, 21-24. Indeed the proposed plan makes it clear that this remains a necessary component of the strategy to insure that the traffic impact of proposed development on this side of town is appropriately mitigated.

18. Whilst a bypass may have addressed some of the concerns raised in representation it would undoubtedly have raised other issues. I have no details of any alternative bypass proposal. The link is considered necessary over and above the separate proposals to dual and upgrade the A96 which is being progressed under the auspices of the Scottish Government. The devaluation of property, whilst understandably a concern to neighbouring residents, is not a valid planning consideration.

19. I consider the bridge can still have an important function in providing a dedicated pedestrian access particularly as this currently forms part of an identified core path. Providing a choice of footpath links increases accessibility and encourages people to walk rather than use the car.

20. Consequently, I consider that these proposals and the associated text should be retained. My conclusions accept only the principle of retaining a commitment to the proposal within the plan and do not seek to prejudge any detailed consideration through the planning application process.

### TSP25 and TSP31

21. TSP25 requires junction improvement between Edgar Road/ the Wards and Glen Moray Drive. TSP31 refers to appraisal of the junction between Edgar Road and New Elgin Road. I consider it is reasonable to highlight these issues in the plan as they can helpfully inform the scoping of transport assessments on specific sites. However, I appreciate that it is clearer to developers if potential issues or requirements can be specifically attributed to particular sites.

22. In this context, the further information provided by the council in its response may not be exhaustive. However, it provides further clarity to guide future scoping of transport assessment and to highlight the potential for developer contributions to address the necessary mitigation. Consequently with some minor changes to the wording, I have accepted the council's proposed additions to the site specific development requirements for R2, 3, 4, 10, 11, 12 and 13. My revisions to the council's wording place emphasis on necessary improvements so that any contribution is clearly related in scale and kind to the individual or cumulative impact of the proposal.

### New TSP

23. Access from this side of town would be secured if the link through R5 Spynie Hospital North is achieved. This avoids the difficulties of providing a new access further to the east given that this is outwith the speed controlled area and as this is likely to involve the loss of mature trees. Connection to R5 helps link the site to the existing residential area. However, I agree with the council that a link onto Duffus Road, which would further enhance the connectivity of the site, should not be ruled out. This could be explored further through the master-planning stage. On this basis I do not consider that any change is required.

### Access

24. In the absence of a firm proposal for such a path it would not be appropriate to include this in the proposed plan. I am satisfied that the proposed plan through Policy T7, which promotes walking networks, provides a sufficiently supportive policy framework should such proposals come forward in the future.

Developer Contributions and Health Care

25. I have addressed this matter under Issues 4c and 11a. I am content that these matters can be addressed through Policy OP1 and further detailed through the proposed associated supplementary guidance on developer contributions.

School Capacity

26. The council acknowledge school capacity constraints in Elgin and I refer to this matter in my conclusion on Issue 4a. The conclusions of the council's "Sustainable Education Review" are still awaited. This will be required to inform detailed consideration of how these constraints are to be addressed. Policy IMP3 Developer Obligations provides a mechanism to address impacts of development upon existing infrastructure through developer contributions. Community facilities include, amongst other things, school provision.

27. It will be important that the anticipated Supplementary Guidance on Developer Obligations provides further detail on such developer contributions in light of the findings of the education review. It should provide developers with as much certainty as possible regarding the extent of any required contributions so that these are transparent and can be considered from the outset.

Cemeteries

28. I note reference on page 164 to a search exercise for cemeteries and that this is also mentioned in the action plan. In the absence of a firm proposal in this respect it would not be feasible to identify a site in the local development plan at this stage. Consequently I have not recommended any change in this respect.

Common Good Land

29. Given that there are no policies or proposals in the proposed plan which are specific to common good land I consider it would be inappropriate and confusing to include a map of this land within the local development plan. I find it is sufficient that the council has included a Schedule of Land Ownership which identifies only those areas of land affected by policies and proposals that the council has ownership or interest in.

**Reporter's recommendations:**

Modify the proposed plan as follows:

CF2 Edgar Road and CF3 Thornhill Road

1. Add the following at the end of the site specific text for CF2 Edgar Road and CF3 Thornhill Road on page 164:

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

TSP20

2. Amend the text for TSP20 to read:

Future proposals for I1 and I6 should address/safeguard the potential to achieve a pedestrian/vehicular access between these two employment areas.

TSP25 and TSP31

3. Include reference to the following within the developer requirements for sites R3; R4; and R13:

The text for TSP31 highlights that the junction already shows insufficient capacity. All sites which would impact on this junction will be required to contribute to any necessary improvements.

4. Include reference to the following within the developer requirements for sites R3, R4 and R13

“The impact on junctions TSP25 and TSP31 must be considered and a contribution to any necessary mitigation addressed.”

5. Include reference to the following within the developer requirements for sites R2, R10, R11 and R12 :

“The impact on the junction TSP31 must be considered and a contribution to any necessary mitigation addressed.”

Issue 13d	Elgin LONG's	
Development plan reference:	Elgin Settlement Statement, page 156: Section on long term direction of housing development. <ul style="list-style-type: none"><li>LONG1 North East, page 156</li><li>LONG2 South, page 156</li></ul>	Reporter: Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b>LONG1 North East</b> Robertson Homes Ltd (0054) Royal Society for the Protection of Birds Scotland (0285) Scottish Environment Protection Agency (0569) Mr George Harrold (0686) Mr Alexander J Harrold (0687) Mrs Helen Harrold (0688) CJ &amp; CRH Dunbar (Pitgaveny) (0908)</p> <p><b>LONG2 South</b> Springfield Properties Ltd (00010) Elgin Community Council (0122) Elgin South Area Forum (0194) Scottish Environment Protection Agency (0569) CJ &amp; CRH Dunbar (Pitgaveny) (0908) Scottish Natural Heritage (1027)</p>		
Provision of the development plan to which the issue relates:	These sites indicate the general long term direction of housing development in Elgin.	
Planning authority's summary of the representation(s):		
<p><b>LONG1 North East</b> Robertson Homes Ltd (0054) Seek inclusion of site within Elgin settlement boundary with an indicative capacity of 70 houses. Considers that site can be delivered within lifetime of Local Development Plan and will contribute to security of Elgin Housing Market Area housing land supply, increase the supply of affordable housing, provide upfront junction improvements to Pitgaveny Road to enable access to LONG1 and act as an initial phase in delivering a character zone. Site is considered to be effective with no significant constraints as it is not reliant on large scale infrastructure and will add flexibility to the housing supply. Suggests the effective housing land supply in Elgin is lower in reality as 5 sites (R1, R3, R4, R6 &amp; R12) are constrained by the Western Link Road and R13 is constrained by access to Elgin High School and that the 50% flexibility does not solely apply to effective sites. Considers that there is no need for delivery to be reliant on the timescale for the wider site. The LONG1 designation text confirms that part of the site could be subject to early release. Considers that requirement for affordable housing cannot be met through allocated sites. Seeks re-definement of north-west corner of site as open space (not structural planting) and amendment of ENV6 to allow for junction improvements. The supporting Development Framework Masterplan demonstrates how the site can be developed.</p>		

Royal Society for the Protection of Birds Scotland (0285)

Raises concerns that development could have potential impacts on integrity of Loch Spynie through run off and increased disturbance and, should be considered in selection of areas released. Masterplan should include mitigation and compensation for any potential impacts. Seek compensation for natural features lost to fulfil biodiversity duties under Nature Conservation (Scotland) Act 2004. Suggests Council should make clear to developers need for compensation through targeting management at other areas off site. Sustainable Urban Drainage Systems should look to increase benefits for biodiversity as well as negating impacts of run off.

Scottish Environment Protection Agency (0569)

Object unless text amended to confirm need for Flood Risk Assessment and avoidance of area shown to be at risk from flooding. Parts of site may be at risk of surface water flooding with potential for surface water flooding to be caused elsewhere. Site is likely to have groundwater dependent terrestrial ecosystems on or around them. Recommend applications supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr George Harrold (0686), Mr Alexander J Harrold (0687) and Mrs Helen Harrold (0688)

Raise concerns about drainage system which developer will have to repair at own expense and flooding given canal's capacity.

CJ & CRH Dunbar (Pitgaveny) (0908)

Consider specification of future landscape requirements inappropriate as these are better dealt with through the masterplan for R11/R8 and LONG1. Object to 'full treatment' in second bullet point of LONG1 text as this is open to interpretation. Reference should be made to specific guidance. Object to 'drainage impact assessment' as this term has different implications (i.e. in relation to Scottish Water it refers to sewer network capacity modelling but for SEPA and other Councils it has broader scope).

**LONG2 South**

Springfield Properties Plc (0010)

Queries detail in settlement statement for planting. Considers that broad indication of where likely 'strategic' planting rather than prescriptive indication should be given along with statement focusing on how future landscape masterplanning work will shape the form and direction of planting. Considers that this is fundamental to the masterplanning process. Requests removal of second paragraph of text for LONG2 designation which restricts area west of A941 from being developed until 'final phase' of any agreed masterplan. Considers that allowances can be made within the masterplan for any perceived negative visual impact. Sets out that this area may be crucial in early delivery of site, through servicing or new access point onto A941 to serve wider development area. Considers that it is more appropriate for phasing to be covered during the planning application stage when greater detail is known about all development issues/constraints.

Elgin Community Council (0122/), Elgin South Area Forum (0194)

Supports growth in both north and south of Elgin. Notes that landscape and transportation studies highlighted little difference between two areas, both would happen in time and, benefits to longer term strategic view.

Scottish Environment Protection Agency (0569)

Object unless designation text amended to confirm need for Flood Risk Assessment and avoid area at risk of flooding. Unclear whether Burn of Linkwood incorporated into Flood

Alleviation Scheme (FAS) modelling. Also, small watercourse running through north east of site. Layout/density may have to be restricted. Waterbody is at poor/moderate ecological status or risk of being downgraded contrary to Water Framework Directive. Object unless developer requirement stipulating a “buffer strip of at least 6m between development and the watercourse is required” is included. Site is likely to have groundwater terrestrial ecosystems on or around them. Recommend applications supported by results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

CJ & CRH Dunbar (Pitgaveny) (0908)

Concerns about exclusion of requirement for advance landscaping as advocated in Strategic Environmental Assessment which now causes proposal to be contrary to Environmental Assessment (Scotland) Act 2005. Considers that without advance planting there is likely to be significant landscape and visual impact on southerly approach to town. Exclusion of requirement in contradiction to the Strategic Environmental Assessment undermines validity of the Local Development Plan. Request that allocation is reviewed and substantially reduce if advance planting requirement not reinstated.

Scottish Natural Heritage (1027)

No reference in Local Development Plan text or masterplan requirements to habitat creation or species surveys despite being referred to as mitigation in Strategic Environmental Assessment Report.

**Modifications sought by those submitting representations:**

**LONG1 North East**

Robertson Homes Ltd (0054)

Include site included within larger LONG1 North East in Elgin settlement boundary with indicative capacity of 70 houses. Amend settlements map to show open space in north west corner of site. Amend ENV6 to allow for junction improvements.

Royal Society for the Protection of Birds Scotland (0285)

Amend text of settlement statement to reflect potential impacts on integrity of Loch Spynie SPA, and that masterplan should include mitigation and compensation of any potential impacts. Amend text to reflect that Sustainable Urban Drainage Systems look to increase benefits for biodiversity.

Scottish Environment Protection Agency (0569)

Amend text to include need for Flood Risk Assessment and avoidance of area shown to be at risk of flooding. Include requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr George Harrold (0686), Mr Alexander J Harrold (0687), Ms Helen Harrold (0688)

Infers that development will have to take account of flooding issues and the contributions should be sought from the developer to negate any impact the development has on the drainage system.

CJ & CRH Dunbar (Pitgaveny) (0908)

Amend text to include recognition that outcomes of masterplanning exercise for R11 should be considered in association with future design of area. Delete second last sentence of second bullet point on page 156 that states “full treatment will be required”

and replace with “levels of treatment in accordance with the SUDS Manual (CIRIA C697) and SEPA Regulatory Guidance WAT-RM-08 and/or such regulatory guidance and controls that exist at the time of development”. Remove “impact” and “full” from last sentence of second bullet point on page 156 so text reads “A drainage assessment and SUDS design will be required at an early stage”.

### **LONG2 South**

#### **Springfield Properties Plc (0010)**

Amend first paragraph of LONG2 designation text to indicate that while planting recommended in Carol Anderson’s report is to be agreed in advance, it should be agreed in the context of further assessment and within a strategic landscape framework which does not restrict the full and proper masterplanning exercise for the designation. Remove second paragraph of LONG2 designation text which restricts the area west of the A941 from being developed until a ‘final phase’ of any agreed masterplan.

#### **Elgin Community Council (0122), Elgin South Area Forum (0194)**

Comments noted.

#### **Scottish Environment Protection Agency (0569)**

Amend text to include need for Flood Risk Assessment and avoidance of area shown to be at risk of flooding. Include the following text “a buffer strip of at least 6 metres between development and the watercourse is required” and the requirement for a walkover and photographic survey of habitats to assess presence of potential wetlands.

#### **CJ & CRH Dunbar (Pitgaveny) (0908)**

Amend wording of proposal for LONG2 to include requirement for advance landscaping before any development can take place. Review allocation of LONG2 if requirement not included.

#### **Scottish Natural Heritage (1027)**

Add ‘habitat creation’ and ‘details of how the development has/will be informed by a species survey’ to masterplan requirements for LONG2.

### **Summary of responses (including reasons) by planning authority:**

### **LONG1 North East**

#### **Need for Housing**

Sufficient land has been allocated in the Elgin Housing Market Area including an allowance of 50% to ensure a generous supply is maintained as required by Scottish Planning Policy (CD01) over the lifetime of the Local Development Plan. The Housing Land Requirement identified for the Elgin Housing Market Area is 996 units. 50% flexibility has been added increasing this requirement to 1494 units, which includes 1290 new houses within Elgin City. This 50% margin of flexibility is well above the 10 to 20% recommended in Scottish Planning Policy (para 116) (CD01).

A planning application to address the transport infrastructure constraints of sites R1, R3, R4, R6 and R12 is currently pending (CD31). The total indicative capacity of these sites and R13 is 290 units. Therefore these constraints do not pose a significant risk to the housing land supply for the Elgin Housing Market Area as demand will continue to be met through a number of other sites.

The release of LONG term housing sites is controlled through Policy H2 Long Term Housing Designations (LONG) and a series of 'triggers' agreed by the Council are included within the Housing Land Audit with additional 'triggers' set out in the designation text of LONG1 North East. It is recognised that the owners of land within the LONG1 designation have differing priorities to masterplan and develop their respective sites and that this may have an impact on the effective land supply should the need arise to release LONG sites. Given the proposed site is largely visually contained and has a differing landscape character to the immediate area it is considered that the site can be identified as a separate LONG designation to ensure development is not constrained by the wider LONG1 North East designation. This would be on the proviso that the masterplan for the proposed site takes account of the development's relationship to the wider area and that advance planting is established to maintain and enhance the setting of Elgin and retain a quality and sense of arrival. Planting must be in accord with the Carol Anderson Landscape Associates Report October 2013 (BD/13d/1) to overcome the aforementioned issues.

In accord with policy H8 Affordable Housing, new housing developments of 4 or more units must provide a minimum of 25% of the total units as affordable housing. The proposed development would deliver 17.5 affordable homes. The Council's Housing Need and Demand Assessment (CD12) identifies that 80.4% of homes are required to be affordable within the Elgin Housing Market Area. Whilst the proposed development would contribute to this supply it does not significantly address the identified need to justify the allocation of this site for residential development in the short term. It is expected that a significant proportion of the affordable housing need will be delivered through the generous supply of housing land allocated in the emerging Local Development Plan.

Given the above it is not considered necessary to release additional land for residential development over the lifetime of this Local Development Plan. However, it is proposed to identify the proposed site as a separate LONG designation to ensure development is not constrained by LONG1 North East. The site will be brought forward in the Local Development Plan 2015-2020 or earlier if the triggers for release under the terms of Policy H2 are met.

If the Reporter is so minded, the Council would not object to the designation of the proposed site as LONG1(b) North East and the inclusion of the following text:

**"LONG1(a) North East**

- Advance planting will be required in accord with the Carol Anderson Landscape Associates' Report October 2013. This must be agreed with the Council beforehand and include details of species, densities, distribution and sizes of new planting. The planting must be established before development commences.
- Planting and development along Pitgaveny Road must enhance the policy woodland at Lesmurdie House and retain existing boundary features such as stone dykes to maintain the sense of arrival into Elgin.
- Open space below the power lines should be planned into a coherent sequence of linked parks and/or greenspace which provides non vehicular access around the town and links to neighbouring allocations.
- A strategic road network incorporating a bus corridor must link Lesmurdie Road and the A941. There must be vehicular and non-vehicular linkages into neighbouring allocations to ensure the site is connected to the wider area.

The inclusion of the above text would require LONG1 North East South to be renamed LONG1(b) North East.

**Transportation**

A full Transport Assessment for the overall development is required. The submitted Transport Assessment does not cover the necessary scope for the overall LONG1 site. No scoping for the submitted Transport Assessment has ever been received by The Moray Council, Transportation Services. The submitted Transport Assessment has not assessed the capacity/performance of the Newmill Road/Lesmurdie Road/Calcots Road junction for initial and future development traffic. Transportation recognises the triggers in policy H2 that are required to release LONG sites therefore Transportation agrees with the proposed modified text set out above. Transportation highlights any proposals for the overall site adheres to the principles of Designing Streets (CD30) (street networks should be designed to accommodate future adaptation) and the Council's Supplementary Guidance on Urban Design (CD03) in which a permeable movement framework is a key principle.

**Landscape and Open Space**

The landscape requirements shown on the settlement map reflect the findings of the Carol Anderson Landscape Associates' Report October 2013 (BD/13d/1). The Report identified the need for "generous planting across the steeper slopes ... to maintain the wooded and policy woodland character of the area". Whilst indicative to an extent the inclusion of these findings in the Local Development Plan is necessary as they provide a clear indication to developers and community the extent to which the site is developable and the type of landscape the Council expects to be provided to mitigate the impacts of development. More detailed proposals will be explored through the Masterplan for LONG1(a) North East and LONG1(b) North East. The robustness of the submitted Transport Assessment and associated junction improvements has not been agreed with The Moray Council, Transportation Services and as such an amendment to the ENV6 designation on this basis would be inappropriate.

No modification is proposed.

**Loch Spynie**

Loch Spynie Special Protection Area and other conservation interests will be protected through policy E2 Local Nature Conservation Sites and Biodiversity. The developer will be required to mitigate any adverse effect that development has on habitats or species. In addition, the impact of development on Loch Spynie and any necessary mitigation measures will be considered through the masterplanning process, where the Royal Society for the Protection of Birds, Scottish Natural Heritage and the Scottish Environment Protection Agency will be consultees and may be invited to participate in masterplanning workshops, where appropriate. The benefits of Sustainable Urban Drainage Systems for biodiversity are addressed in policy EP5 Surface Water Drainage: Sustainable Drainage Systems (SUDS). As such, it is not considered necessary to include the proposed additional information within the designation text as this is adequately addressed through the aforementioned policies.

No modification is proposed.

**Flooding and Drainage**

The Main Issues Report Bid Site Checklist 2012 (CD04) identifies that parts of the site are at risk of flooding, the need to assess the impact of the small watercourse on the northern part of the site, and a requirement for a Flood Risk Assessment to be carried out early in the masterplanning process to inform the development layout. Should the Reporter so be minded, the Council is amenable to the inclusion of text setting out these requirements.

These investigations will address the canal's capacity.

The designation text stipulates that a drainage impact assessment will be required at an early stage in the development process. Policy EP10 Foul Drainage requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint. The developer will be required to fund infrastructure improvements and any other mitigation measures associated with their development. These matters will be addressed directly between the developer and Scottish Water.

The Scottish Environment Protection Agency has set out the requirement for 'full treatment will be required'. 'Drainage Impact Assessment' is the term used across the engineering industry. As such, no changes are proposed to this terminology.

The Council would have no objection if the Reporter were to make a modification as outlined above whereby the following points are added to the section LONG1 North East and LONG2 Lesmurdie Fields "Flood risk may constrain parts of the site and a flood risk assessment will require to be submitted. Water resilient measures should be considered as part of this" and "A walkover and photographic survey of habitats is required to assess for the presence of wetlands".

### **LONG2 South Landscape**

The landscape requirements shown on the settlement map reflect the findings of the Carol Anderson Landscape Associates' Report October 2013 (BD/13d/1). Inclusion of the landscape proposals are necessary to provide a clear indication to developers and the community the extent to which the site is developable and type of landscape the Council expects to be provided to mitigate the impacts of the development. This is particularly pertinent for LONG2 South given the need for advance planting to create a landscape framework to integrate development. The proposals are indicative to an extent and further detail will be explored through the masterplan for the site.

In accord with Carol Anderson's Landscape Associates' Report October 2013 (CD/13d/1) and the Proposed Plan Strategic Environment Assessment (CD33) the Council is amenable to the inclusion of the following text at the end of paragraph one of the LONG2 South designation "The agreed advance planting and landscaping must be in place a minimum of 5 years before development of the site commences", should the Reporter be so minded. As set out above, this requirement was identified in the Proposed Plan Strategic Environment Assessment (CD33) however, it was removed following a decision by the Planning & Regulatory Services Committee on 10<sup>th</sup> December 2013 (CD07) which has resulted in the Plan not fully mitigating the impacts identified in the Strategic Environmental Assessment.

If the Reporter is so minded, the Council would not object to the modification as outlined above.

### **Phasing**

As outlined in Carol Anderson's Landscape Associates Report October 2013 (BD/13d/1) the areas to the east and west of the A941 have differing degrees of landscape and visual sensitivity to development. Given the low lying, flat topography of the area to the west, immediately adjacent the A941, development will have a high impact on the settlement

edge and sense of arrival to Elgin. This is exacerbated by the difficulty in recreating the existing robust and relatively dramatic sense of arrival created by a marked change of gradient as there are no similar topographical features as the A941 travels south. The aforementioned report suggested planting could be used to reinforce this sense of 'gateway'. In contrast, development within the area to the east of the A941 will have less visual and landscape impact on the settlement edge and sense of arrival to Elgin due to the area's topography and established woodland. As such, it is considered necessary to allow structure planting to become established and robust to ensure development in the area to the west of the A941 successfully integrates with the landscape and to create a high quality gateway reflective of Elgin's environs.

No modification is proposed.

### **Flooding**

The requirement for a Flood Risk Assessment to inform layout and design, and the impact development may have on flood risk elsewhere was identified in the Main Issues Report Bid Site Checklist 2012 (CD04). Should the Reporter be minded, the Council is amenable to the inclusion of the need for a Flood Risk Assessment within the designation text along with the requirement for a 6 metre buffer strip between development and the watercourse to protect the waterbody and, a walkover and photographic survey of habitats to assess the presence of potential wetlands. The Burn of Linkwood has not been included in the Flood Alleviation Scheme modelling.

If the Reporter is so minded, the Council would not object to the modification as outlined above whereby the following points are added to the section LONG2 South:

- "Flood risk may constrain parts of the site and a flood risk assessment will require to be submitted. Water resilient measures should be considered as part of this;
- A buffer strip of at least 6 metres between the watercourse and development is required; and,
- A walkover and photographic survey of habitats is required to assess for the presence of wetlands".

### **Nature Conservation**

The requirement for mitigation actions including habitat creation and species surveys is identified in the Proposed Plan Strategic Environmental Assessment (CD33). Should the Reporter be so minded, the Council is amenable to the inclusion of these requirements within the designation text of LONG2 South. This will provide evidence of whether habitats or species of importance exist on the site which is in accordance with policy E2 Local Nature Conservation Sites and Biodiversity.

If the Reporter is so minded, the Council would not object to the modification as outlined above whereby the text states (after Carol Anderson Landscape Associates' Report October 2013) "habitat creation, and how the development has been informed by a species survey".

### **Reporter's conclusions:**

1. Drawing on my conclusions from Issue 4a I find that the council's stated margin of 50% generosity for the Elgin Housing Market Area is significantly less if the approach to the housing land calculation as set out in Scottish Planning Policy is followed. The council's margin applies only to new sites. My estimate is that the margin for the Elgin Housing Market Area is between 17-24% when considered as part of the overall supply.

In addition, there is a lack of clear information regarding the anticipated programming of new sites coupled with potential for delay associated with requirements for major infrastructure delivery including schools and the Western Link Road. I accept the council's continued commitment to the Western Link Road. However, I consider there is potential for delay in securing the required infrastructure and the consequent programming of housing completions. The council accepts that delivery on a number of sites will fall into the second five year time-frame.

2. My conclusions in Issue 4a point to the release of some suitable additional land if this would support the maintenance of a continuous effective land supply. In this context, the site referred to as Lesmurdie Fields forms part of a much larger site which is reserved to meet Elgin's longer term housing land requirements. It is currently outwith the settlement boundary. The site has known developer interest and the supporting submissions indicate a site capacity of 70 units with potential for programming which would contribute to the 5 year effective housing land supply.

3. The site is visually contained by woodland and topography. It would be reliant on access along the minor Pitgaveny Road which has a rural character. Its visual containment and landscape setting enables its distinction from the larger "LONG" site and it is in separate ownership. However, this containment also creates a degree of dislocation from the established urban area and would extend development into the countryside.

4. Policy H1 accepts the principle of LONG sites coming forward earlier if a shortfall in the land supply emerges. The council's submissions refer to the need to address integration with the larger site and to a requirement for a strategic road network. This includes a bus corridor to link Lesmurdie Road and the A941. It also states that a transport assessment would be required for the whole of the LONG1 site. There is also an issue regarding the master-planned approach and whether allocation of this site now in advance of this process might prejudice a coherent approach to this major expansion area.

5. In my view there is scope for this site to be delivered as an early phase of the expansion area. However, it will be important to avoid a piecemeal approach to development of this area. This could undermine a coherent approach to delivery of the larger area and place unrealistic expectations, such as delivery of a strategic road and bus link, on a relatively small development of only 70 houses. In addition, given the longer term nature of the remainder of the adjoining site it will be important to achieve effective integration of Lesmurdie Fields with the established urban area.

6. Submissions from Robertson Homes refer to upgrading the junction of Pitgaveny Road with Calcotts Road in a way that will allow any future required improvement. This would become the southern access into the north-east expansion area. They also refer to the upgrading of Pitgaveny Road and new footway and cycle connections to the adjacent residential areas.

7. In response to my further information request (10) the council's officers confirmed that the site could be brought forward in advance of a master-plan for the entire "LONG" site. It would however have to address key design principles including those set out in Scottish Government policy Designing Places, Creating Places, Policy PP3 Placemaking of this proposed plan and the council's proposed Supplementary Guidance on Urban Design. A layout and design, in accordance with these principles, should address the

sites relationship to the future development of the rest of the “LONG” allocation and ensure that its potential is not compromised.

8. The council’s officers refer to the need for a transport assessment for this site in combination with the LONG allocation. I understand this would be necessary given the future implications for the strategic road network as well as the more localised improvement of the junction and any required improvement of Pitgaveny Road. However, it would only be appropriate for this development to contribute proportionately to any required improvements. I consider that such a proportionate contribution could be addressed through the scoping process for any such assessment. I agree that assessment of the likely cumulative impact of the whole north east expansion area would be necessary in order to avoid any works or layout decisions which might compromise the wider proposal and master-plan.

9. The council’s original submissions gave some support to the separate identification of this site, albeit still as a LONG site. This was in order to enable it to progress in advance of the larger site. A subsequent officer response along with the detailed submissions of Robertson Homes provide a clear context in which the site could be brought forward. The site is suitable for inclusion and is already identified as a longer term allocation. Its release now would enable some topping up of the effective land supply in the shorter term in accordance with the objectives of Scottish Planning Policy.

10. Taking account of all of the above I find the site should be included as an allocation in the local development plan and its “LONG” status should be removed. The site has been subject to the due process of public consultation, appropriate assessment and strategic environmental assessment. There is nothing to suggest that it is not a suitable site for inclusion.

11. The council has referred me to the development requirements set out above as for LONG1(A) North East. This sets out the parameters within which the site could be developed. My recommendations reflect these but with some slight alteration to the final bullet point and the addition of some text in relation to the wider master-plan and to the required transport assessment. These additional references are necessary in order to clarify the importance of linkage with the urban area and the avoidance of any potential impediment to the delivery of the larger site area.

#### Landscape and Open Space

12. The landscape requirements reflect the Carol Anderson Landscape Associates’ Report October 2013 (BD/13d/1). The objective of re-enforcing the established landscape character which includes the wooded policies of Lesmurdie House appears reasonable. This would require fairly extensive planting and a comprehensive scheme of landscaping. There may be scope for variation subject to detailed assessment in the context of the overall design framework for the site. However, at this stage I agree with the council that it is important to establish the likely requirements. This provides greater certainty to developers and local communities regarding the key matters to be addressed. In this context, I am content that the text on landscaping is retained.

13. I appreciate that any junction improvement might impact on land identified as ENV6, an identified green-space which is protected as open space through Policy E5. However, in the absence of agreed details I do not consider it would be appropriate to alter the designated area at this stage. Policy E5 allows for exceptions and I consider this matter

is best considered through the planning application process.

### Loch Spynie

14. As Loch Spynie is a Special Protection Area it is protected through policy E1 which applies to all Natura 2000 designations. This requires appropriate assessment to ascertain there will be no adverse effect on the integrity of the site.

15. In addition, Policy E2 applies to wider biodiversity issues and requires mitigation of any impact on habitats or species.

16. I note that the council's Habitat Regulations Appraisal (CD17) states that housing developments to the north of Elgin will require SUDS and it will be important that drainage for the large scale developments within Loch Spynie catchment do not add further pressure in terms of nutrient input. Developers considering such projects will need to engage early with the Moray Council, SEPA and SNH to determine what measures may need to be implemented to fully safeguard the SPA and Ramsar interests.

17. The identified mitigation, as included in the proposed plan under the LONG north east allocation, states that post development run off should match pre- development run off and this should be achieved through the use of appropriate levels of Sustainable Urban Drainage. I consider it should also be specifically referenced with a requirement that mitigation should demonstrate that the proposal will not adversely affect the integrity of the Loch Spynie SPA designation. With this change, I am satisfied that this matter is appropriately addressed at this stage in the planning process. As stated by the council further detail would be considered at the project stage and through development of the required master-plan.

18. I agree that the reference to flood risk assessment and water resilient measures should be included. This reflects Scottish Planning Policy paragraph 255 which promotes a precautionary approach and avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas.

19. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances this policy should provide appropriate protection of the water environment. However, I accept the view of the Scottish Environment Protection Agency (SEPA) that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In these instances, I agree with SEPA that in addition to the requirements of Policy EP6 a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

20. Given my conclusions regarding the potential impact on Loch Spynie, I consider the wording requiring full treatment should be retained. This reflects the wording recommended by the Scottish Environment Protection Agency.

21. To reflect my conclusions and recommendations the proposed changes above regarding Loch Spynie, flooding and drainage issues, should be applied to R17: Lesmurdie Fields and the remaining LONG north east allocation.

LONG2 South: Landscaping

22. The matters raised regarding the landscaping requirements also reflect those raised through Issue 17. This proposal determines the long term direction of growth for Elgin. The rationale behind identifying these areas now is based on the facilitation of a master-planned and coherent approach to settlement expansion. In this context, I consider it is appropriate and desirable for the council to establish the basic parameters around which future master-planning can be based. To this end the council commissioned the landscape report (9cd/13d/1). Having considered this report and the conclusions of the council's Strategic Environmental Assessment (CD33) I agree that an appropriate landscape framework will be crucial to ensure the appropriate integration of the site as part of Elgin.

23. I understand that the requirement for advance planting arose from the mitigation identified through the Strategic Environmental Assessment. This would serve to ensure that the required landscaping is well established prior to development commencing. However, I can also appreciate that this could prove an onerous restriction on developers so far in advance of other works commencing on the site. To address mitigation and consistency with my recommendation below on R15, I consider this reference should be re-instated but to state that planting must be established before development commences rather than 5 years in advance. I have incorporated this reference in a slightly revised first bullet point on page 156 which also includes reference to habitat mitigation to reflect my conclusion in paragraph 29 below.

LONG2 South: Phasing

24. I consider it is legitimate to identify phasing which responds to the nature of the site and its integration as a coherent extension on this side of Elgin. In this respect I agree with the council that the area to the west of the A941 is low lying and more visually prominent/sensitive on the approach to Elgin. Leaving this site to a final phase will give a greater opportunity for an appropriate landscape framework to be established. This will enable the development to integrate with the wider scheme without appearing prominent or isolated. Consequently, in the interests of the setting of the town and the achievement of a coherent settlement extension I consider this reference should be retained.

LONG2: Flooding

25. I note that the Scottish Environment Protection Agency raise the issue of flood risk associated with the Burn of Linkwood and another small watercourse running through the site. I consider that the wording provided in this respect reflects Scottish Planning Policy paragraph 255. This promotes a precautionary approach and avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas.

26. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances this policy should provide appropriate protection of the water environment. However, I accept the view of SEPA that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In these instances, I agree with SEPA that in addition to the requirements of Policy EP6 a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

27. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems.

#### LONG2: Nature Conservation

28. I note the required mitigation in the Strategic Environmental Assessment (CD33) for this site. This matter could be addressed through Policy E2 on local nature conservation sites. However, a specific reference in terms of LONG 3 would afford appropriate emphasis to the required mitigation. My recommendation includes text on this as part of a revised first bullet point on page 156.

#### **Reporter's recommendations:**

Modify the proposed plan as follows:

#### Lesmurdie Fields and LONG 1: North East

1. Amend the proposals map to reflect the council's submitted settlement and site boundary map for Elgin North East (map reference BD/13d/04) where site R15 should replace LONG 1b and the remainder of the site outside the settlement boundary shown as LONG 1a should be renamed as LONG 1: North East.

2. Insert the following new housing allocation after R14 on page 155:

R15 Lesmurdie Fields: Indicative capacity 70 houses.

This site has been identified as being effective to deliver housing in the shorter term and capable of being brought forward in advance of the larger north-east expansion area identified as LONG 1 North East subject to:

- Advance planting in accordance with the Carol Anderson Landscape Associates' Report October 2013. This must be agreed with the Council beforehand and include details of species, densities, distribution and sizes of new planting. The planting must be established before development commences.
- Planting and development along Pitgaveny Road to enhance the policy woodland at Lesmurdie House and retain existing boundary features such as stone dykes to maintain the sense of arrival into Elgin.
- Open space below the power lines to be secured in a coherent sequence of linked parks and/or green-space which provides non-vehicular access around the town and links to neighbouring allocations.
- A Transport Assessment (TA) for the overall development of this site and LONG1 North East. This should consider the strategic road network incorporating a bus corridor must link Lesmurdie Road and the A941\* .
- Vehicular and non-vehicular linkages into neighbouring allocations to ensure the site is connected to the wider area.

- Agreement of key design principles to ensure a layout and design which ensures integration with the future north-east expansion area as well as the existing urban area\*\*.

\* The scoping process should ensure that the necessary improvements to the transport network will be proportionate to this proposal but will avoid compromising delivery of the longer term growth area.

\*\* This is required to enable the site to proceed in advance of the master-plan whilst securing a planned approach to longer term housing land release in Elgin north-east.

### 3. Add the following to the text on R15: Lesmurdie Fields and LONG 1: North East:

- Development run off should match pre- development run off and this should be achieved through the use of appropriate levels of Sustainable Urban Drainage. The proposal should demonstrate that it will not adversely affect the integrity of the Loch Spynie SPA designation.
- Flood risk may constrain parts of the site and a flood risk assessment will require to be submitted. Water resilient measures should be considered as part of this.
- A walkover and photographic survey of habitats is required to assess for the presence of wetlands.

### LONG 2 : South

#### 4. Amend the first bullet point under the heading LONG 2: South on page 156 to read:

- The developer/landowner must prepare a landscape and planting strategy. This must be agreed with the Council beforehand and include details of species, densities, distribution and sizes of new planting. The planting must be established before development commences. It should take into account the mitigation measures detailed in the Carol Anderson Landscape Associates' Report October 2013. The strategy should also address habitat creation, and how the development has been informed by a species survey.

#### 5. Add to the following additional bullet points to the text under the heading LONG2 South on page 156:

- proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site". Water resilient measures should be considered as part of this;
- A buffer strip of at least 6 metres between the watercourse and development is required; and
- A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

<b>Issue 13e</b>	<b>Burghead, Cummingston, and Hopeman</b>	
<b>Development plan reference:</b>	<p><b>Burghead Settlement Statement, page 119-124</b></p> <ul style="list-style-type: none"> <li>• R1 North Quay, Harbour, page 119</li> <li>• OPP1 West Foreshore, page 120</li> <li>• HBR1 Harbour Area, page 120</li> <li>• T1 Caravan Park, page 121</li> <li>• ENV8, page 122</li> <li>• Not Taken Forward</li> </ul> <p><b>Cummingston Settlement Statement, page 135-136</b></p> <ul style="list-style-type: none"> <li>• R1 Filling Station, page 135</li> </ul> <p><b>Hopeman Settlement Statement, page 212-214</b></p> <ul style="list-style-type: none"> <li>• R1 Manse Road, page 212</li> <li>• LONG pg 213</li> <li>• HBR1 Harbour Area, page 213</li> <li>• Not Taken Forward and New Site</li> </ul>	<b>Reporter:</b> Douglas Hope
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>Burghead</u></b>  <b><u>R1 North Quay, Harbour</u></b>          Scottish Environment Protection Agency (0569)          Pamela and David Eveleigh (1018)  <b><u>OPP1 West Foreshore</u></b>          Allan Howie (0623)          Mrs Margaret Kendrick (0751)          Grant Mitchell (0998)          Tulloch of Cummingston (1016)  <b><u>HBR1 Harbour Area</u></b>          Scottish Environment Protection Agency (0569)  <b><u>T1 Caravan Park</u></b>          Grant Mitchell (0998)  <b><u>ENV8</u></b>          Grant Mitchell (0998)  <b><u>Not Taken Forward</u></b>          Strathdee Properties (1020)  <b><u>Cummingston</u></b>  <b><u>R1 Filling Station</u></b>          Ingrid Fraser (0573)  <b><u>Hopeman</u></b>  <b><u>R1 Manse Road</u></b>  <u>The Moray Council, Contaminated Land (0186)</u>          Mrs Sandra Smith (0462)          Mr Stuart Huyton (0582)          Dr Alison Sands (0653)          Ms Evelyn More (0875)          Melisa and Peter Richardson (1046)          Tulloch of Cummingston (1016)</p>		

<p><b><u>LONG</u></b>  Mr Stuart Huyton (0582)  Ms Evelyn More (0875)  <b><u>HBR1 Harbour Area</u></b>  Tulloch of Cummingston (1016)  <b><u>Not Taken Forward and New Site</u></b>  Springfield Properties Plc (0010)  Dr Alison Sands (0653)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Statements showing sites proposed for development, including descriptive texts outlining their purpose and design requirements, for the third tier settlements of Burghead, Cummingston and Hopeman.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Burghead</u></b>  <b><u>R1 North Quay, Harbour</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Part of this site is within the coastal flood plain. A Flood Risk Assessment would be required prior to residential development taking place.</p> <p><u>Pamela and David Eveleigh (1018)</u>  Seeks removal of two sites on the grounds that parking will be a significant issue for existing residents and previous restrictions to planning consents have not been upheld. Queries whether the conservation area status will restrict style and type of materials and whether the pump will be able to cope with additional residential development.</p> <p><b><u>OPP1 West Foreshore</u></b>  <u>Tulloch of Cummingston (1016)</u>  It is unreasonable to expect a developer to form and provide an esplanade/walkway all the way to the harbour. It is reasonable to expect this on the area directly adjacent to the site only.</p> <p><u>Grant Mitchell (0998)</u>  Upgrading of OPP1 is welcomed but provision should be made to ensure the existing amenity of neighbouring properties is respected. This could be achieved by extending ENV8 to allow a buffer between properties and development.</p> <p><u>Allan Howie (0623)</u>  Development of OPP1 must recognise dangers of global warming and increased coastal flooding risk. Potato store is pounded by sea and the lower levels including rough track to caravan park has been flooded.</p> <p><u>Mrs Margaret Kendrick (0751)</u>  Questions suitability of site given proximity to the sea. Note high tides already reach boundary and given extreme weather to become more regular the boundary could be breached and lower areas flooded. Already issues of wind and sea erosion at caravan park. The sea has broken up the concrete ramp to the beach. Site should be an observation and interpretation centre with cafe and shop.</p> <p><b><u>HBR1 Harbour Area</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  As residential use would be supported in this area the text should refer to a Flood Risk</p>	

Assessment being required for this type of use.

### **T1 Caravan Park**

Grant Mitchell (0998)

OPP1, T1 and ENV8 are linked. The ENV8 should be extended east to create an opportunity for an attractive link to be created between the caravan park and harbour and onward to the coastal trail.

### **ENV8**

Grant Mitchell (0998)

ENV8 should be extended through OPP1 to ensure amenity of existing neighbours is respected and allow a buffer to be created. It would also allow an attractive link to be created/maintained between the caravan park and the harbour. This is a principal route identified by its inclusion as part of the Moray Coastal Trail and should be safeguarded.

### **Not Taken Forward**

Strathdee Properties (1020)

Sites R2, R3 and R5 are built out which highlights additional housing should be allocated. Land adjacent to Firth View (MIR site R6) provides opportunity for small scale expansion without extending the overall settlement boundary and development would be contiguous with existing development. Bid has been reduced since MIR to a 1ha area for 10 houses to address landscape concerns. The site is set low in the landscape to minimise visual impacts. Site includes direct link to railway path to the benefit of the houses and increasing permeability between Fraser Road and the coastal path. There is good access to Fraser Road. The site is within walking distance of services and is adjacent to existing bus stops. The site is not within the AGLV. A location plan is included (BP\_13e\_1\*) and a site plan is included with the response (see supporting document SD1020b\_1\_012).

### **Cummingston**

#### **R1 Filling Station**

Ingrid Fraser (0573)

Site R1 should be restricted to the site of the former filling station land and not include the farmland to the rear as this area contains the septic tank for Firth View which the owners property have right of servitude over.

### **Hopeman**

#### **R1 Manse Road**

The Moray Council, Contaminated Land (0186)

R1 Hopeman will require a landfill gas risk assessment and this requirement should be added to the designation text.

Mrs Sandra Smith (0462)

Access to and from existing property on Forsyth Street (B9040) is dangerous because there is no footpath and due to the height of neighbouring walls and garden visibility is restricted. This is an issue for drivers and those using wheelchair and mobility scooters. Despite speed limit of 30mph vehicles travel faster. Development would increase traffic using Forsyth Street and the needs of existing householders should be taken into account. Despite development at Burghead and other new properties between Kinloss and Lossiemouth there has been no upgrade of Forsyth Street to deal with the traffic increase. There should be no further housing between Kinloss and Lossiemouth which would lead to an increase in traffic using Forsyth Street until there is a solution for existing residents to access their properties safely.

**Mr Stuart Huyton (0582)**

The proposed R1 Manse Road site goes against the third settlement objective which is to prevent the coalescence of Hopeman and Cummingston.

**Dr Alison Sands (0653)**

Development of R1 goes against the objective to safeguard the Coastal Protection Zone and prevent the coalescence of Hopeman and Cummingston. Development at Burghead has reduced the distance between Burghead and Cummingston. To also reduce the distance between Hopeman and Cummingston risks near-coalescence of all three villages with negative impacts on the independent character of each. Manse Road gives structure to the western side of Hopeman which would be lost and would have a negative impact on Hopeman. There should not be any development of Hopeman towards Cummingston as has previously been acknowledged and publicly stated. Hopeman has gap sites that could be development without affecting the character of the village.

**Ms Eveyln More (0875)**

The density of housing on R1 is too high.

**Melissa and Peter Richardson (1046)**

Concerned about loss of "Village feel". Like the size of the village at present and development or extension will only impede this. As it presently stands, 69 Forsyth Street enjoys stunning views of the Moray Firth and development will block out all the views which will impact adversely on property value. No development should take place.

**Tulloch of Cummingston (1016)**

Developer submits that site R1 Hopeman could accommodate total of 36 houses in first phase and 37 in second phase (LONG). Acknowledges proposals will require to be redesigned to comply with current policy and guidelines still anticipate similar density and mix of homes being achieved. The capacity of the site should be increased.

**LONG**

**Mr Stuart Huyton (0582)**

The proposed LONG site goes against the third settlement objective which is to prevent the coalescence of Hopeman and Cummingston.

**Ms Eveyln More (0875)**

The density of housing on LONG is too high. Houses within the LONG should be orientated east to west and no buildings should be within 30 metres of the eastern boundary to preserve privacy to existing home owner.

**HBR1 Harbour Area**

**Tulloch of Cummingston (1016)**

Residential usage at harbour should be considered to provide a mix of tenures which can help fund recreational tourism and environmental uses. This would be in line with the designation at Lossiemouth harbour.

**Not Taken Forward and New Site**

**Springfield Properties Plc (0010)**

Welcomes allocation of housing in Hopeman given the lack of opportunities in the current local plan. Seek inclusion of site to the south of the B9040 which meets the objectives set out in the plan. Site sits between existing houses and recreational/community uses and

has capacity for 12 houses. It will provide additional housing within Hopeman and will not detract from the designations and areas referred to. The surrounding uses are compatible with housing. Small site fits with third tier status and was supported in last local plan review. The site integrates well with the landscape. The site can be developed in accordance with National Planning Policy and Guidance. A site plan is included with the response (see supporting document SD0010m/3/18b).

Dr Alison Sands (0653)

A less intrusive site to the east of Hopeman Golf course adjacent to the quarry access road is available if there is need for a significant increase in housing

### **Modifications sought by those submitting representations:**

#### **Burghead**

##### **R1 North Quay, Harbour**

Scottish Environment Protection Agency (0569)

Insert wording "Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes of which may affect the developable area of the site."

Pamela and David Eveleigh (1018)

Remove site R1 from the Plan.

#### **OPP1 West Foreshore**

Allan Howie (0623)

Suggests development must take account of existing and future flooding.

Grant Mitchell (0998)

Extend ENV8 through OPP1.

Mrs Margaret Kendrick (0751)

Remove site due to flooding issues.

Tulloch of Cummingston (1016)

Clarify in wording that the esplanade is to be formed at the top of the embankment immediately adjacent to the OPP1 site.

#### **HBR1 Harbour Area**

Scottish Environment Protection Agency (0569)

Insert wording "Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

#### **T1 Caravan Park**

Grant Mitchell (0998)

Extend ENV8 designation.

#### **ENV8**

Grant Mitchell (0998)

Extend ENV8 eastwards.

#### **Not Taken Forward**

Strathdee Properties (1020)

Allocate land at Fraser Road for up to 10 houses.

**Cummingston**

**R1 Filling Station**

Ingrid Fraser (0573)

R1 should be restricted to the site of the former filling station land and not include the farmland to the rear as this area contains the septic tank for Firth View which the owners property have right of servitude over.

**Hopeman**

**R1 Manse Road**

The Moray Council, Contaminated Land (0186)

Add text requiring landfill gas risk assessment.

Mrs Sandra Smith (0462)

No further housing between Kinloss and Lossiemouth which would lead to an increase in traffic using Forsyth Street until there is a solution for existing residents to access their properties safely.

Mr Stuart Huyton (0582)

Remove R1 from the plan.

Dr Alison Sands (0653)

Implied amendment to remove R1 from plan.

Mrs Evelyn More (0875)

Implied amendment to reduce density.

Melissa and Peter Richardson (1046)

Do not develop site.

Tulloch of Cummingston (1016)

Increase capacities to around 36 in phase 1 and 37 in LONG.

**LONG**

Mr Stuart Huyton (0582)

Remove LONG from the plan.

Ms Eveyln More (0875)

Reduce density to 20 houses in the LONG and housing should be aligned east/west with no building within 30m of the eastern LONG boundary.

**HBR1 Harbour Area**

Tulloch of Cummingston (1016)

Include residential usage within HBR1 Designation

**Not Taken Forward and New Site**

Springfield Properties Plc (0010)

Include 12 house site to the south of B9040 in the adopted plan as it is consistent and proportionate for a third tier settlement such as Hopeman.

Dr Alison Sands (0653)

Allocated a site to east of Hopeman Golf Course.

**Summary of responses (including reasons) by planning authority:****Burghead****Site R1, North Quay, Harbour****Transportation**

Development proposals will have to adhere to the Council's policy on Parking Standards as set out in Policy T5, Parking Standards which will assist in traffic management.

**Conservation Area**

In accord with policy BE3 Conservation Areas the scale, materials and design of any proposed development will need to take account of their affect on the character and appearance of the conservation area.

**Water**

Scottish Water has been consulted at each stage of the Plan's preparation and has raised no objection to the inclusion of the site for residential development. Scottish Water are a consultee on planning applications and should any new development cause new or exacerbate any known network issues the developer will be expected to undertake work to mitigate the impact on existing residents.

**Flooding**

Should the Reporter be so minded, the Council is agreeable to the inclusion of the following text within the site designation description "Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes of which may affect the developable area of the site."

If the Reporter is so minded, the Council would not object to the inclusion of text as outlined above.

**OPP1 West Foreshore****Flooding**

Policy EP7, Control of Development in Flood Risk Areas, sets out that the potential risk from flooding will be considered through planning applications and satisfactory mitigation measures put in place, where necessary. In addition, the designation text sets out that a Flood Risk Assessment will be required.

No modification is proposed.

**Environmental Designation/Residential Amenity**

The amenity of existing properties and the route of the Moray Coastal Trail will be dealt with at the planning application stage. The extension of ENV8 to provide a buffer strip is not necessary given that issues such as privacy can be addressed through the design and layout of the development. Properties within 20 metres of the site boundary of any forthcoming planning application site will be neighbour notified. The Moray Coastal Trail is a core path that will be afforded protection through Policy T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks.

No modification is proposed.

**Esplanade**

Should the Reporter be so minded, the Council is agreeable to the inclusion of the following text clarifying that the esplanade is to be formed at the top of the embankment

immediately adjacent to OPP1 “The developer will be expected to provide an esplanade/walkway on the embankment immediately adjacent the site.” This is considered to be in accord with policy IMP3 Developer Obligations and the five tests set out in Circular 3/2012 (CD36).

If the Reporter is so minded, the Council would not object to the inclusion of text as outlined above.

### **HRB1 Harbour Area**

Should the Reporter be so minded, the Council is agreeable to the inclusion of the following text within the site designation description “Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site.”

If the Reporter is so minded, the Council would not object to the inclusion of text as outlined above.

### **T1 Caravan Park**

The extension of ENV8 to provide an attractive link between the caravan park and harbour is not necessary as this can be addressed through the design and layout of development at the planning application stage. The amenity value of the route will be given due consideration at this stage particularly given the settlement statement objective ‘to continue to support Burghead as a tourist destination’. The core path will be afforded protection through Policy T7 Safeguarding and Promotion of Walking, Cycling and Equestrian Networks.

No modification is proposed.

### **ENV8 Foreshore Area**

This issue has been addressed in the Council’s planning response to site OPP1 West Foreshore Environmental Designations/Residential Amenity.

No modification is proposed.

### **Not Taken Forward**

This site was considered as part of a larger bid site at the Main Issues Report stage. The landscape assessment (BD/13e/02) undertaken for Fraser Road for the Main Issues Report identified the site had limited potential for development given its exposure, visual prominence, lack of containment and potential to obscure views of the sea. Whilst the designated site R4 Clarkly Hill is still considered to be the better option for settlement expansion as identified in the landscape assessment for the Main Issues Report (BD/13e/03), the reduction in the proposed site has addressed some of the landscape concerns identified at the Main Issues Report stage (CD04). However, a strong boundary would need to be established along the eastern edge of the proposed site to prevent further development along the coastline as development in this more open area would detrimentally impact on the landscape character and setting of Burghead.

Based on the Housing Land Audit 2014 (CD18) and land allocation in the Proposed Plan Burghead has a 5+ year housing land supply. Along with opportunity sites, there is a generous supply of housing sites to meet local demand in this third tier settlement. Therefore, it is not considered necessary to identify further land for residential development within the timeframe of this Local Development Plan although the reduced

site will be given further consideration through the future review of the Plan.

No modification is proposed.

### **Cummingston**

#### **Site R1 Filling Station**

Right of servitude is a private matter and not a material consideration, therefore the area of land to the rear of Firth View will continue to be included within the settlement boundary. This is a non-notifiable modification included in the table of non-notifiable modifications.

Given the boundary amendment to site R1 to exclude the property Firth View and reduction in developable area, it is not considered necessary to designate this land for residential development. If the Reporter is so minded, the Council would have no objection to the removal of site R1 from the Plan with the site becoming white land within the settlement boundary.

If the Reporter is so minded, the Council would have no objection to the modification outlined above.

### **Hopeman**

#### **R1 Manse Road**

#### **Landfill Gas**

The comment regarding landfill gas assessment is noted. If the Reporter is so minded the Council would not object to additional text requiring a landfill gas assessment being added to the site designation text. The following wording is considered suitable "A landfill gas assessment is required."

### **Transportation**

Traffic impacts will be assessed at the planning application stage and as noted in the allocation text a Transport Assessment will be required. The assessment will consider impact on the safety and efficiency of the transport network and identify any appropriate mitigation/modification required. Proposals will also be assessed against Policy T2 Provision of Access.

### **Coalescence**

The development of R1 will not bring Hopeman together with Cummingston. There will continue to be a 500m gap between the settlements. This gap is considered sufficient to prevent the coalescence of the settlements. However, it is acknowledged within the "Bid Checklist" (CD04) that site R1 and the LONG are likely to be the furthest west the settlement could expand. It is also noted that at the Moray Local Plan 2008 examination (CD26 pg 2.139) the Reporter commented that in principle he was "persuaded by the arguments presented by the Council that, on balance growth to the west of Hopeman would be preferable to an extension southwards."

### **Coastal Protection Zone**

The Coastal Protection Zone (CPZ) is reviewed as part of the review of each Local Development Plan. There are limited brownfield sites in Hopeman to accommodate growth and therefore consideration has been given to expanding the settlement which inevitably requires adjustments to the CPZ. This continues to protect the undeveloped coast by providing opportunities for coastal expansion which will reduce demands for development within the undeveloped coast.

**Traditional Settlement Pattern**

Manse Road does not reflect the traditional settlement pattern of Hopeman and R1 provides an opportunity to enhance the edge of the settlement and create a distinctive edge to Hopeman to help achieve the objectives to prevent coalescence and safeguard character.

**Density**

The density of the site is relatively low, at around 11 houses per hectare. In the more traditional parts of Hopeman the density is around double this and in some areas higher. It is noted that the developer is seeking to increase the density of the development. An increased density would be more reflective of the historic densities within Hopeman and there may be some merit in an increase in house numbers. However, 25 houses is proportionate to the size of the settlement and is a reasonable level of growth for the plan period. The appropriate capacity and phasing of the site would be best explored through the development of the masterplan. It is noted that house numbers are indicative and Policy H1 Housing Land states housing numbers will be considered against the characteristics of the site, and conformity with policies PP3 Placemaking, Policy H8 Affordable Housing and IMP1 Developer Requirements.

**Phasing**

The phased development of Hopeman is proportionate to the size of the settlement. No development sites are identified in the 2008 Local Plan (CD10 page 177) and the settlement has benefited from a period of consolidation. Phased expansion and preparation of a masterplan will help ensure development is in keeping with the village and reflects the character and amenity.

**Residential Amenity**

Impact on private views and property value are not considered material planning considerations.

**Summary Site R1 Manse Road**

Site R1 Manse Road should not be removed or amended. The exact house numbers are more appropriately explored through development of a masterplan and consideration of the planning application. In order to provide greater clarity for applicants, if the Reporter was so minded the Council would not object to the proposed modification to require a landfill gas assessment.

The Council would have no objection if the Reporter were minded to make the modifications highlighted above with regard to landfill gas assessment.

**LONG**

The development of LONG will not bring Hopeman together with Cummington. There will continue to be a 500m gap between the settlements. This gap is considered sufficient to prevent the coalescence of the settlements. However, it is acknowledged within "Bid Checklist" (CD04 extract in folder) that site R1 and the LONG are likely to be the furthest west the settlement could expand. It is also noted that the Moray Local Plan 2008 examination (CD26 pg 2.139) the Reporter commented that in principle he was "persuaded by the arguments presented by the Council that, on balance growth to the west of Hopeman would be preferable to an extension southwards."

The density proposed within the LONG allocation is approximately 15 houses per hectare. This is reflective (and in some cases slightly lower) than densities in other parts

of Hopeman. There is no justification to reduce this further. The masterplan will be developed and this is likely to consider the orientation and layout of development.

No modification is proposed.

### **HBR1 Harbour Area**

Residential development of the harbour area could risk compromising the recreational and tourism uses within the harbour area. The harbour contributes to the character of Hopeman and any development would require to be carefully considered. The HBR1 allocation is at risk from coastal flooding and any proposals would require to be accompanied by a Flood Risk Assessment.

No modification is proposed.

### **Not Taken Forward and New Site**

The site identified by Springfield Properties plc (SD0010m/3/18) was considered during the formal inquiry into a significantly larger site during the examination of the 2008 Local Plan (CD26 page 2.125). The examination included consideration of this smaller site, which was put forward by the Council. The site was only put forward by the Council as there were no other unconstrained development opportunities in Hopeman at the time. However, the Reporter disagreed with allocating development (of any size) to the south of the B9040. The Reporter stated (CD26 page 2.137) that “One of Hopeman’s distinguishing characteristics is that, broadly speaking, the B9040 road forms an effective southern boundary. This principle has been reinforced by local plans allocating new housing development exclusively on sites to the north of this road. This has safeguarded this characteristic feature of the village and its setting, with its generally open rural outlook to the south of the B9040 road. It is evident from the representations made by all the objectors to the local plan – with the notable exception of Springfield Properties- that this is an attractive feature of Hopeman which is valued locally and is worthy of protection from inappropriate new developments to the south of the B9040. I endorse this view and conclude that the Council is correct in now seeking to avoid unnecessary and inappropriate development to the south of the B9040 road which would damage the character and setting of the village.” The Reporter also stated (CD26 pg 2.139) that in principle he was “persuaded by the arguments presented by the Council, that on balance, growth to the west of Hopeman would be preferable to an extension southwards”.

The Reporter considered the allocation of the 12 houses proposed “would demonstrate acceptance of a limited breaching of the B9040 road – and trigger longer term risks associated with that “precedent” (CD26 pg 2.141). The Reporter concluded that there should be no allocation made to the south of the B9040 and that the short term benefits of providing 12 units was outweighed by the precedent this would set and the associated risks. This also had the benefit of retaining the B9040 as an effective southern boundary which would retain one of Hopeman’s most distinctive and attractive characteristics. There has been no change in circumstances to suggest this site should now be allocated, indeed the identification of the site to the west further justifies maintaining the presumption against development to the south of the B9040.

No plan was submitted for the suggested new site to the east of Hopeman. This was not submitted as a bid and therefore the deliverability and effectiveness of the site is questionable. There has also been no opportunity for the public to comment on this site.

No modification is proposed.

**Reporter's conclusions:**Burghead: R1 North Quay, Harbour

1. In relation to the provision of parking in association with the development of the identified gap sites, the council states that development proposals will have to adhere to local development plan policy T5, Parking Standards, which indicates that proposals for development must conform to the council's current parking standards. The respondent suggests that these standards have not been adhered to in the past. However, the manner of the implementation of the adopted standards is not a matter for this examination. As regards the design of any proposed development, the designation text indicates that development proposals should respect the scale and design of the original buildings and the historic importance of the harbour. Policy BE3 indicates that the scale, materials and design of any proposed development will need to take account of the character and appearance of the surrounding conservation area. In relation to the provision of adequate drainage, I note that Scottish Water has raised no objection to the designation of the gap sites as being suitable for residential development. Subject to the above matters being addressed at the planning application stage, I can find no justification for the removal of this site from the proposed plan.

2. I note that part of this site lies within the coastal flood plain. I agree that any proposals for the site should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area of the site. This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. My recommended modification reflects this.

Burghead: OPP1 West Foreshore

3. This site comprises an extensive area of unused ground in a prominent location. The site abuts existing housing to the north and east on Station Road and the access road (Bridge Street) to a caravan site to the south-east. The northern part, adjacent to Station Road, lies at a higher level and comprises cropped grass. A lower area, located in the centre of the site and utilised for access and parking, is more at risk of flooding. It is crossed by the Moray Coastal Trail. The southern part of the site, which abuts the foreshore, comprises rough ground and has been the subject of erosion as a result of wave action. A sea defence embankment has been constructed along the shoreline.

4. The council wishes to see the comprehensive redevelopment of this site for housing and or small scale business activity. The designation text indicates that any development should include an esplanade along the foreshore embankment, appropriately equipped with street furniture and lighting. In response to representations, the council has clarified that this requirement relates only to the site itself and not to the whole length of the foreshore leading to the harbour. My recommended modification reflects this

5. In relation to the other concerns expressed, the designation text recognises that the site is at risk of flooding and that a detailed flood risk assessment will be required. I agree that any proposals should be supported by a flood risk assessment, the outcome of which may affect the developable area of the site. As regards the impact of any development on residential amenity, the proposed plan (Primary Policy 3) indicates that high quality design and layout in new developments is a priority of the council, reflecting the priorities set out in Scottish Planning Policy. Whilst the extension of designation

ENV8 would provide a green space between the properties on Station Road and any development on the site, this part of the site is equally appropriate for housing. I am satisfied that issues such as privacy and residential amenity for occupiers of existing dwellinghouses on Station Road would be adequately addressed through the planning application process. I consider that there is no justification for the removal of this site from the proposed plan on these grounds.

#### Burghead: Link between T1 Caravan Park and ENV8

6. The creation of an appropriate link between the caravan park and the area designated ENV8 would be achieved through the provision of an esplanade pedestrian link along the foreshore embankment of site OPP1, as referred to above. In addition, the Moray Coastal Trail, which crosses site OPP1, is afforded protection through policy T7 and would be integrated into any development proposals for the site. No change to designation ENV8 is required to achieve a link between the caravan park and the west foreshore leading to the harbour.

#### Burghead: HBR1 Harbour Area

7. I note that part of this area lies within the coastal flood plain. I agree that any proposals for tourist, recreational or residential use of the harbour area should be supported by a flood risk assessment (FRA). This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. My recommended modification reflects this.

#### Burghead: Site not taken forward

8. This site forms a small part of a larger site at Fraser Road that was considered at the Main Issues Report stage (MIR site R6). The site was not considered suitable due to landscape impact. The council acknowledges that the reduction in extent of the proposed site has addressed some of the landscape concerns identified at the MIR stage. However, I agree that the site lacks a strong eastern boundary and that it remains an exposed, visually prominent site. I also note that, although sites R2, R3 and R5 are nearing completion, there is a generous supply of housing land to meet demand in Burghead. Accordingly, it is not considered necessary to identify further land for residential development in the proposed plan.

#### Cummingston: Site R1 Filling Station

9. The council acknowledges the error in including the property 'Firth View' within site R1, which also comprises the site of a former petrol filling station and part of a field to the rear. Accordingly, the council agrees to the removal of 'Firth View' from site R1 and, in view of the reduction in developable area, considers that the site designation should be deleted from the proposed plan, the site to remain within the settlement boundary as 'white land'. The respondent requests that the developable area should be restricted to the site of the former petrol filling station and that the farmland to the rear should be excluded. I agree that the settlement boundary should reflect the extent of development in the locality and not include, arbitrarily, a small area of agricultural land the boundaries of which are undefined on the ground. The boundary of the former filling station provides a much more robust settlement boundary. My recommended modification reflects this view.

Hopeman: Site R1 Manse Road and site LONG

10. This area was considered for development during the preparation of the Moray Local Plan 2008 but was discounted because of landfill gas emissions from the Greenbrae landfill site to the west. Landfill gas emissions were a significant issue when this site was previously considered and when a number of households on the edge of Hopeman were evacuated. The gas was subsequently controlled and ongoing monitoring has continued. A landfill gas risk assessment would be required as part of any proposals for site R1 and the council acknowledges that reference to this requirement should be included in the designation text.

11. Site R1 and site LONG lie within the Coastal Protection Zone (CPZ) where policy E8 applies. This states that development proposals within the CPZ must not prejudice its objectives. The stated planning objectives for Hopeman are to safeguard the CPZ and prevent the coalescence of Hopeman and Cummington. The council suggests that the lack of brownfield sites in Hopeman requires the identification of green field land and accepts that the designation of these sites for development will inevitably result in adjustments to the boundary of the CPZ. In plain language, site R1 and site LONG will require to be removed from the CPZ.

12. In relation to the potential for coalescence with Cummington, there would continue to be a gap of 500 metres between the settlements and the designation text requires a landscape strip along the western edge of the development. A robust landscape edge to development would provide a signal that no further development is permitted on land to the west. On this basis, I am satisfied that Hopeman and Cummington would continue to function as separate settlements and that coalescence of the two settlements would continue to be resisted.

13. In relation to transportation issues, the designation text indicates that a transport assessment will be required. This would assess the impact of the proposed development on the safety and efficiency of the existing roads system and identify appropriate mitigation measures required, including off-site works, in accordance with policy T2 of the proposed plan. In this respect, I note the comments of the council on the draft site layout prepared by the prospective developers (see CD04 Extract). The council considers that this layout (see SD1016c/1/003) does not meet the requirements of the council's Urban Design guidance or respect the grid layout of the village. The council considers that a significant layout change is required away from a cul-de-sac, single road access to a more permeable layout with road linkages into adjacent streets. I would concur with this view.

14. The existing western edge of Hopeman is highly visible when approaching the village from the west along the B9040. I consider that the development of site R1 and site LONG, in the longer term, provides the opportunity to enhance the visual appearance of this edge of Hopeman. Therefore, although these sites are located within the CPZ, I am satisfied that an appropriately designed development, incorporating suitable landscaping along the western and northern edges, in accordance with the requirements of Primary Policy 3 (PP3: Placemaking) of the proposed plan, would not prejudice the integrity of the CPZ along this part of the coast, which would continue to be protected to the north of the former railway line.

15. As regards the scale and nature of the proposed development, I note that the settlement has benefitted from a period of consolidation following a period of growth. I

am acutely aware of the debate that took place on the appropriate scale of development for Hopeman during consideration of the allocation of land for housing on the south side of the B9040 in the previous local plan (see CD26 Extract). The proposed plan suggests a capacity of 25 houses for site R1 and a capacity of 30 houses for the LONG site, which is not proposed for development during the currency of the proposed plan. I am content that a development of 25 houses within the plan period on site R1 is proportionate to the size of Hopeman (700+ households). In relation to the request for a higher number of houses on site R1 and the LONG site, this would be a matter for the council to decide during the preparation of the masterplan for the site, which would be subject to public consultation. I note that policy H1 indicates that capacity figures are indicative and that proposed house numbers will be considered against policies PP3: Placemaking, H8: Requirements for Affordable Housing and the more detailed developer requirements set out in policy IMP1.

16. I recognise that the density of housing on this site is relatively low when compared with the more traditional parts of Hopeman and a higher density would be more reflective of the character of Hopeman. The calculated density of 11 houses per hectare, however, ignores the fact that a substantial proportion of the site would be devoted to the landscape feature on the western boundary. It would be a matter for the masterplan that is required for the site to determine the form and layout of the development to ensure that it satisfactorily complements the pattern of existing development in Hopeman and that the privacy and residential amenity of the occupiers of existing dwellinghouses on Forsyth Street and Manse Road is adequately addressed. I consider that there is no justification for the removal of this site from the proposed plan on these grounds.

#### Hopeman: HBR1 Harbour Area

17. In relation to the request to include residential use at the harbour, whilst the harbour has scope for further recreational or tourism use, the potential for residential development within the site designated HBR1, which essentially comprises the harbour, quays, stores and traffic circulation space, is extremely limited due to the nature of the harbour area. In the absence of any positive proposals, it would not be appropriate to identify the harbour area as an area with potential for residential use.

#### Hopeman: Site not taken forward

18. As the council explains, this site was considered during the examination of the Moray Local Plan 2008. It was put forward by the council as an alternative to the larger site proposed south of the B9040 and because there were no other unconstrained development opportunities in Hopeman at the time. The Reporter, however, considered that on balance, growth to the west of Hopeman was preferable to an extension southwards. As the council relates, he did not favour allocating housing development of any size on land to the south of the B9040. The proposed plan now identifies the site to the west of Hopeman for housing development and, having duly considered the representations received in relation to that site, I consider that there is no justification for the removal of site R1 from the plan. This determination lends support to the decision not to designate land to the south of the B9040 for housing development.

19. I am satisfied that with the designation of site R1 and the LONG site, with a combined capacity in excess of 50 houses, there is a generous supply of housing land to meet demand in this third tier settlement during the timeframe of the proposed plan and beyond. Although the reduced site to the south of the B9040 could be considered a small

infill site between the existing frontage development on Forsyth Street, there is no over-riding reason to designate additional land for housing development in Hopeman. Notwithstanding the presence of a relatively small number of houses on the south side of the B9040, this road provides an effective southern boundary to the settlement, which should not be breached by unnecessary development.

#### Hopeman: New site

20. As regards the suggested new site to the east of Hopeman, this site was not considered at the Main Issues Report stage. As stated by the council, there is insufficient information available, at this stage, to assess the deliverability and effectiveness of the proposal. It would be totally premature to consider including such a proposal in the proposed plan.

#### **Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the designation texts for Burghead: R1 North Quay, Harbour and for Burghead: HBR1 Harbour Area: "Proposals should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area."
2. Replace the second sentence of the third paragraph of the designation text for Burghead: OPP1 West Foreshore with the following sentence: "The development will be expected to include an esplanade/walkway on the foreshore embankment adjacent to the site."
3. Delete designation Cummingston: Site R1 Filling Station from the local development plan. Amend the settlement boundary on the Cummingston Map on page 136 to include only the property 'Firth View' and the site of the adjoining former petrol filling station.
4. Add the following to the designation text for Hopeman: R1 Manse Road: "A landfill gas risk assessment is required."

<b>Issue 13f</b>	<b>Fochabers</b>	
<b>Development plan reference:</b>	<b>Fochabers Settlement Statement, page 184-189</b> <ul style="list-style-type: none"> <li>• R1 Ordiquish Road, page 184-185</li> <li>• R2 Ordiquish Road West, page 185</li> <li>• R3 East of Duncan Avenue, page 185</li> <li>• LONG Ordiquish Road East, page 186</li> <li>• OPP1 High Street, page 186</li> <li>• OPP2 Institution Road, page 186</li> <li>• OPP3 Lennox Crescent and OPP4 Garden Centre, Scottish Natural Heritage - Strategic Environment Assessment Comment, page 186-187</li> <li>• T1 – Caravan Site, page 187</li> <li>• Not Taken Forward</li> <li>• General</li> </ul>	<b>Reporter:</b> Richard Bowden
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>R1 Ordiquish Road</u></b>          Scottish Environment Protection Agency (0569)          Crown Estates (0861)          Ms Rosemary Smith (0956)          Mr Gordon Young (0957)</p> <p><b><u>R2 Ordiquish Road West</u></b>          Scottish Environment Protection Agency (0569)          Crown Estates (0861)          Ms Rosemary Smith (0956)          Mr Gordon Young (0957)</p> <p><b><u>R3 East of Duncan Avenue</u></b>          Mr Donald J C Cameron (0516)          Ms Louise Duncan (0873)          Ms Frances Duncan (0917)          Mr D Christie (0919)          Ms Mandy Broadley (0920)          Mr Ronald Milne (0921)          Mr Joe Duncan (0922)          Mr Gordon Fraser (0944)          Mr Bryan Robertson (0951)          Mr &amp; Mrs Eddie Currie (0952)          Mr Tom Duncan (0954)          Ms Abby &amp; Mr Steven Duncan (0955)          Mr Gordon Young (0957)          Mr Margaret McKerrell (0958)          Ms Marianne Johnston (0959)          Ms Alison Hook (0960)          Mr Andrew Duncan (0961)          Ms Gloria MacKenzie (0965)          Ms Julie Muir (0969)</p>		

<p>Ms Patricia Johnston (0979)  Mr Roddy Munro (0985)  Mr James &amp; Ms Alison Stewart (0986)  Mr Andrew Forbes Smith (1048)  Mr Andrew Milne (1050)  Ms Tanya Dale-Johnson (1053)  <b><u>LONG</u></b>  Crown Estates (0861)  Ms Rosemary Smith (0956)  <b><u>OPP1 High Street</u></b>  The Moray Council, Environmental Health (0186)  <b><u>OPP2 Institution Road</u></b>  Mr Colin &amp; Ms Jill Sanders (0572)  <b><u>OPP3 Lennox Crescent and OPP4 Garden Centre</u></b>  Scottish Natural Heritage - Strategic Environment  Assessment Comment  <b><u>T1 Caravan Site</u></b>  Scottish Environment Protection Agency (0569)  <b><u>Not Taken Forward</u></b>  <b><u>Main Issues Report Sites R5 and R6</u></b>  Crown Estates (0861)  <b><u>General</u></b>  NHS Grampian (0300)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Statement showing sites proposed for development, including descriptive texts outlining their purpose and design requirements, for the third tier settlement of Fochabers.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>R1 Ordiquish Road</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Object unless text amended to include need for Flood Risk Assessment and avoid area at risk of flooding. Site bordered on two sides by small waterbody/agricultural drainage ditch. Relatively flat site, topography suggests if flooding occurred water from waterbody on SE edge could flow over site. Layout/density may be restricted by space for watercourse.   <u>Crown Estates (0861)</u>  Support. Planning Permission in Principle consented and negotiations with developer significantly advanced. Site is effective and will be built within LDP period. Allocation contributes towards SPP and LDP 'Vision for Moray' objectives.   <u>Ms Rosemary Smith (0956)</u>  Possible archaeological site as shown on original plans for Fochabers bypass.</p>	
<p><b><u>R2 Ordiquish Road West</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Object unless text amended to include need for Flood Risk Assessment and avoid area at risk of flooding. Small waterbody potentially cause of flood risk in NW of site which is relatively flat. Layout/density may be restricted by space for watercourse.</p>	

**Crown Estates (0861)**

Support designation and increase in indicative capacity. Higher densities are more sustainable. Developer interest has been expressed in R2 and is marketable and deliverable. Allocation contributes towards SPP and LDP 'Vision for Moray' objectives.

**R1 Ordiquish Road & Site R2 Ordiquish Road West**

**Ms Rosemary Smith (0956)**

Previous two housing developments blocked sewage system which was rectified by Scottish Water at cost to householders. New housing should not be 'tacked' onto present system.

**Mr Gordon Young (0957)**

Development will exacerbate dangerous traffic volume and management. Raises parking on street corners and during football matches as an issue. Narrow bridge has had many accidents and near misses. Major expenditure required to improve road network. Preference for development of R3 rather than R1 and R2.

**R3 East of Duncan Avenue**

Mr Andrew Milne (1050), Ms Tanya Dale-Johnson (1053), Ms Patricia Johnston (0979), Mr Roddy Munro (0985), Mr James & Ms Alison Stewart (0986), Mr Andrew Duncan (0961), Ms Gloria MacKenzie (0965/), Ms Julie Muir (0969), Ms Margaret McKerrell (0958), Ms Marianne Johnston (0959), Ms Alison Hook (0960), Mr Bryan Robertson (0951), Mr & Mrs Eddie Currie (0951), Mr Tom Duncan (0954), Mr Ronald H Milne (0921), Mr Joe Duncan (0922), Mr Gordon Fraser (0944), Ms Frances Duncan (0917), Ms Louise Duncan (0873), Mr Andrew Forbes Smith (1048)

Support. Need for housing. Will help sustain schools, shops, businesses and employment.

Ms Patricia Johnston (0979), Mr Ronald H Milne (0921), Ms Mandy Broadley (09201)

Support. Site offers opportunities to access woodland walks and castle estate.

Mr Andrew Duncan (0961), Ms Alison Hook (0960), Ms Abby & Mr Steven Duncan (0955), Mr Ronald H Milne (0921), Mr Joe Duncan (0922), Mr Gordon Fraser (0944), Mr D Christie (0919), Ms Louise Duncan (0873)

Support. Site will be screened from bypass and existing properties by new planting.

Ms Marianne Johnston (0959), Mr Bryan Robertson (0951), Mr Ronald H Milne (0921), Ms Louise Duncan (0873)

Support. Close proximity to local amenities.

Ms Alison Hook (0960), Mr Gordon Young (0957), Ms Louise Duncan (0873)

Support. Re-balance shape of village as historically development has been one-sided.

**Mr Gordon Young (0957)**

Support. Development of R3 is preferable to R1 and R2 which will exacerbate traffic volume and management issues.

Mr Ronald H Milne (0921), Mr D Christie (0919)

Support. No adverse impact on existing road infrastructure.

Mr Joe Duncan (0922), Ms Louise Duncan (0873), Mr Andrew Smith Forbes (1048)

Support. Unobtrusive low density development.

**Ms Louise Duncan (0873)**

Support. In accord with LDP vision and HNDA requirements. Logical extension to village as bypass has created new boundary. Land is otherwise unusable.

**Mr Andrew Smith Forbes (1048)**

Land has little community value for village. Land is severed from adjacent agricultural land by A96 Fochabers bypass. Suitable land for housing in and around Fochabers is in short supply.

**Mr Donald J C Cameron (0516)**

Object. Proposed access is poor and destructive. Proposal goes against long standing decision not to develop to north of Fochabers. Increases risk of further housing to north of bypass. Site is uneven and close to bypass. Development would hamper natural landscape development of woods and restrict long-standing use of area by walkers. Proposal to develop 50% of site and preservation of walkway would mitigate landscape concerns.

**LONG**

**Crown Estates (0861)**

Support preferred designation of 'LONG' allocation. Accords with SPP housing land requirements and 'Vision for Moray' set out in Proposed LDP.

**Ms Rosemary Smith (0956)**

Previous two housing developments blocked sewage system which was rectified by Scottish Water at cost to householders. New housing should not be 'tacked' onto present system.

**OPP1 High Street**

**The Moray Council, Environmental Health (0186)**

Investigate contamination issues before development of site for residential use.

**OPP2 Institution Road**

**Mr Colin & Ms Jill Sanders (0572)**

Retain comparable degree of existing privacy through design or screening of new development.

**T1 (Caravan Site)**

**Scottish Environment Protection Agency (0569)**

The water body within T1 is at poor/moderate ecological status or at risk of being downgraded contrary to the Water Framework Directive. Object to site being included within the Plan unless a developer requirement stipulating that a 'buffer strip of at least 6m between development and the watercourse is required', is included.

**Additional Sites**

**Main Issues Report Site R5 and Site R6 (Plan Attached)**

**Crown Estates (0861)**

Identify as LONG site in LDP. Disappointed Proposed Plan LONG site is cited as 'likely to represent the ultimate extent of development off Ordiquish Road, and it would not be proposed to allow further development to the east through the site'. Concern that Proposed Plan does not acknowledge Transport Assessment submitted by respondent at MIR stage. Access difficulties are solvable and wider infrastructure issues have been addressed by the bypass. Contained by woodland, unlikely to have detrimental

landscape impacts and logical extension to R1 and R2.

**General**

**NHS Grampian (0300)**

No details for new healthcare facilities or land allocated in Fochabers. This request has been made by the respondent. Current facilities operate close to, or at, full capacity, upon constrained sites with little scope for physical expansion. Increase of population will exert pressure on current provision. Logical and necessary to allocate additional sites for healthcare facilities.

**Modifications sought by those submitting representations:**

**R1 Ordiquish Road**

**Scottish Environment Protection Agency (0569)**

Amend designation text to include need for Flood Risk Assessment and avoid area at risk of flooding.

**Crown Estates (0861)**

Support noted.

**Ms Rosemary Smith (0956)**

Infers sewage system infrastructure must be addressed at developer's cost.

**Mr Gordon Young (0957)**

Infers removal of site R1 due to traffic concerns.

**R2 Ordiquish Road West**

**Scottish Environment Protection Agency (0569)**

Amend designation text to include need for Flood Risk Assessment and avoid area at risk of flooding.

**Crown Estates (0861)**

No modification required.

**Ms Rosemary Smith (0569)**

Infers sewage system infrastructure must be addressed at developer's cost and archaeological remains investigated before development of site.

**Mr Gordon Young (0957)**

Infers removal of site R2 due to traffic concerns.

**R3 East of Duncan Avenue**

**Ms Louise Duncan (0873), Ms Frances Duncan (0917), Mr D Christie (0919), Ms Mandy Broadley (0920), Mr Ronald Milne (0921), Mr Joe Duncan (0922), Mr Gordon Fraser (0944), Mr Bryan Ferguson (0951), Mr & Mrs Eddie Currie (0952), Mr Tom Duncan (0954), Ms Abby & Mr Steven Duncan (0955), Mr Gordon Young (0957), Mrs Margaret McKerrell (0958), Ms Marianne Johnston (0959), Ms Alison Hook (0960), Mr Andrew Duncan (0961), Ms Gloria MacKenzie (0965), Ms Julie Muir (0969), Ms Patricia Johnston (0979), Mr Roddy Munro (0985), Mr James & Ms Alison Stewart (0986), Mr Andrew Forbes Smith (1048), Mr Andrew Milne (1050), Ms Tanya Dale-Johnson (1053)**  
Support noted.

Mr Donald J C Cameron (0516)

Infers removal of site R3.

**LONG**

Crown Estates (0861)

Support noted.

Ms Rosemary Smith (0569)

Infers sewage system infrastructure must be addressed at developer's cost.

**OPP1 High Street**

The Moray Council, Environmental Health (0186)

Suggests amendment to designation text to include requirement for investigation of contamination issues before development of site.

**OPP2 Institution Road**

Mr Colin & Ms Jill Sanders (0572)

Suggests reference to retention of privacy for existing residents or need for screening included in designation text.

**T1 Caravan Site**

Scottish Environment Protection Agency (0569)

Remove site or amend designation text to include developer requirement stipulating that a 'buffer strip of at least 6m between development and the watercourse is required'.

**Not Taken Forward**

**Main Issues Report Sites R5 and R6**

Crown Estates (0861)

Include MIR site R5 to the east of the proposed 'LONG' allocation as a medium to long term allocation.

Include MIR site R6 to the south of site ENV6 and the Burn of Fochabers as a medium to long term allocation.

**General**

NHS Grampian (0300)

Allocate land for new healthcare facilities to cope with increase in population associated with new housing allocations in LDP.

**Summary of responses (including reasons) by planning authority:**

**R1 Ordiquish Road**

**Flooding**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through the planning application process and satisfactory mitigation measures put in place, where necessary. The policy requires a Flood Risk Assessment to be carried out for development in areas at risk of flooding. Planning Permission in Principle (12/01577/PPP) (BD/13f/01) has been granted for residential development on this site. The Scottish Environment Protection Agency did not request a Flood Risk Assessment when consulted on the application.

**Sewage**

Policy EP10, Foul Drainage, requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint. Scottish Water's consultation response to planning application 12/01577/PPP (BD/13f/01a) sets out that the developer will have to address the limited capacity of the wastewater treatment works to serve the new demand, and that they may have to carry out works to the local wastewater network to ensure there is no loss of service to existing customers. The developer will be required to fund infrastructure improvements and any other mitigation measures should issues arise during construction. The developer will address these matters directly with Scottish Water.

**Transportation**

The site text states that road widening of Ordiquish Road will be necessary along with consideration of the need for improvements at the bridge over Fochabers Burn. Potential improvements at various junctions with High Street may be required due to the extent of housing land being released in this area, to be confirmed by a Transport Assessment. Conditions attached to the planning consent for 12/01577/PPP (BP/13/01) require a Transport Assessment, access provision and road widening. Policy IMP2 Development Impact Assessments sets out that a Transport Assessment will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. Policy T5 Parking Standards sets out that proposals will have to adhere to the Council's policy on parking standards assisting in traffic management and reducing on-street parking thereby contributing to road safety.

**Archaeology**

Moray Council's Regional Archaeologist raised no comments on application 12/01577/PPP (BD/13f/01b).

No modification is proposed.

**R2 Ordiquish Road West****Flooding**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through the planning application process and satisfactory mitigation measures put in place, where necessary. The policy requires a Flood Risk Assessment to be carried out for development in areas at risk of flooding. Planning Permission in Principle (12/01577/PPP) (BD/13f/01) has been granted for residential development on the neighbouring site R1. The Scottish Environment Protection Agency did not request a Flood Risk Assessment when consulted on the application (BD/13f/01c).

**Sewage**

Policy EP10, Foul Drainage, requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint. Scottish Water's consultation response to planning application 12/01577/PPP (BD/13f/01a) for the adjacent site R1 sets out that the developer will have to address the limited capacity of the wastewater treatment works to serve the new demand, and that they may have to carry out works to the local wastewater network to ensure there is no loss of service to existing customers. The developer will be required to fund infrastructure improvements and any other mitigation measures should issues arise during construction.

These issues will be addressed by the developer directly with Scottish Water.

### **Transportation**

The site text states that this site should be considered in conjunction with R1 to the east and provision of road improvements (widening of Ordiquish Road; consideration of need for improvements at the bridge over Fochabers Burn; High Street junction improvements) will be required if these have not already been provided through development of R1.

Conditions attached to the planning consent for 12/01577/PPP (BP/13f/01) for the adjacent site R1 require a Transport Assessment, access provision and road widening. Policy IMP2 Development Impact Assessments sets out that a Transport Assessment will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. Policy T5 Parking Standards sets out that proposals will have to adhere to the Council's policy on parking standards assisting in traffic management and reducing on-street parking thereby contributing to road safety.

No modification is proposed.

### **R3 East of Duncan Avenue**

#### **Transportation**

The site text states that access should be from a priority junction with High Street which will not be developed other than for the new road access.

### **Landscape & Recreational Use**

The bypass creates a strong boundary limiting further development to the north of Fochabers. The Proposed Plan stipulates that no more than 50% of the site will be developed with the balance given over to structural planting to screen development from the bypass and enhance residential amenity. The Proposed Plan sets out that the wooded area will not be developed other than for a road access into the site. The retention of the majority of the wooded area and stone wall frontage will continue to create an attractive entrance to the village. A pedestrian/cycle link with Gordon Castle Farm is to be provided and contributions towards core paths may be sought allowing the area to continue to be utilised by the public.

No modification is proposed.

### **LONG**

#### **Sewage**

Policy EP10, Foul Drainage, requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint. The developer will address any issues regarding the water and wastewater infrastructure directly with Scottish Water.

No modification is proposed.

### **OPP1 High Street**

#### **Contamination**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "A ground contamination investigation will be required before development commences".

If the Reporter is so minded, the Council would not object to the inclusion of the text outlined above.

**OPP2 Institution Road****Residential Amenity**

Issues concerning privacy and design will be addressed through the planning application process.

**T1 Caravan Site****Environment**

Given the ecological status of the waterbody within the site, the Council is agreeable to the additional text suggested by the Scottish Environment Protection Agency. The following wording is considered suitable “buffer strip of at least 6m between development and the watercourse is required”.

The Council would have no objection if the Reporter were to include the text as outlined above.

**Not Taken Forward****Main Issues Report Sites R5 & R6**

Sufficient land has been allocated in the Elgin Housing Market Area including an allowance of 50% to ensure a generous supply is maintained as required by Scottish Planning Policy (CD01). Given that Fochabers is a third tier settlement with a historical low build rate, it is considered that the sites allocated provide an adequate supply for local demand and choice. As set out in the policy H1 Housing Land the average completion rate over the period 2005-2012 was 0.1 units. Based on the Housing Land Audit 2014 anticipated completion rates (10 units per year over the period 2014-2018) and land allocated in the Proposed Plan along with development currently under construction (combined total of 146 units) Fochabers has a 14+ year housing land supply. This substantiates that there is no need to allocate additional sites in Fochabers.

In addition, MIR sites R5 and R6 are more remote from local amenities and given their topography development will be prominent within the landscape setting of Fochabers. Therefore, development will expend more energy during construction and operation which is contrary to Scottish Planning Policy which requires development plans to “... promote resource efficiency ... during construction and operation” (Scottish Planning Policy, para.179) (CD01).

No scoping for the submitted Transport Assessment has been received by the Moray Council, Transportation Services. Regardless of any transportation matters, the site is not considered appropriate for development primarily for the reasons outlined above.

No modification is proposed.

**General****Health Provision**

It is proposed that developer contributions will be sought to mitigate any impact on health provision that emanates from development in line with policy IMP3 Developer Obligations. This requirement will be set out within the forthcoming Supplementary Guidance on Developer Obligations which will be presented to the Council’s Planning & Regulatory Services Committee by the end of 2014 with the intention to adopt, following consultation, in early 2015. Dialogue with NHS Grampian is currently ongoing. In regard to the identification of a site for relocating health services, NHS Grampian has no firm proposals

to expand and therefore a designation is not justified. Should this need arise, there is an adequate supply of opportunity and housing sites within Fochabers.

No modification is proposed.

**Scottish Natural Heritage – Strategic Environmental Assessment Comment**  
**OPP3 Lennox Crescent & OPP4 Garden Centre**

As identified in Scottish Natural Heritage's response to the Strategic Environmental Assessment, there is no reference to the mitigation measures to retain the existing mature trees, provision of landscaping and working with the existing natural features on the site to help development integrate sensitively.

Should the Reporter be so minded, the Council would not object to the inclusion of the following text at the end of the OPP3 and OPP4 designations "The existing mature trees must be retained. Development must work with the existing natural features on site and provide landscaping to help development integrate sensitively".

**Reporter's conclusions:**

**Fochabers**

**Sites R1 Ordiquish Road and R2 Ordiquish Road West**

1. Whilst noting the brief observation made in one of the representations about possible archaeological interest on the R1 site I am satisfied that this matter has been checked - resulting in no concerns being expressed by the council's Regional Archaeologist. Based on the available evidence I conclude that there is insufficient reason to modify the plan in response to this particular observation.
2. I note that in February 2014 planning permission was granted, subject to various planning conditions, for 50 houses on the R1 site. Those conditions, amongst other matters, set out detailed requirements with regard to access arrangements – including reference to a Transport Assessment. There are also references to road improvements and other access issues set out in the Fochabers section of the proposed new plan – and in the sub-sections dealing specifically with sites R1 and R2. In summary, having had regard to the available evidence and my own site visits, I am satisfied that there are no further modifications to the plan required to address the specific concerns expressed in the representations with regard to access matters, including with regard to the bridge. Accordingly, I conclude that there are insufficient reasons to delete either the R1 or the R2 allocations, based on access constraints.
3. The council has drawn attention to the fact that when consulted on the planning application related to the R1 site, prior to it being determined, SEPA made no request for a Flood Risk Assessment (FRA). Nevertheless, the planning conditions attached to the planning permission included detailed flood risk and drainage requirements to be met by the developer, including a Sustainable Urban Drainage Scheme (SUDS) - and all to be discussed with and approved by SEPA.
4. Furthermore, I note that the proposed new plan includes policies EP7 and EP10, on flooding and foul drainage respectively. The former makes reference to the need for a FRA to be carried out for all developments in areas at risk of flooding. I therefore do not find it necessary for this to be re-stated in the plan text for sites R1 and R2.

5. Policy EP10 states a requirement for satisfactory disposal of foul drainage from all new developments to be through the public sewerage system – with the developer having to liaise with Scottish Water directly on these and related matters. Policy EP10, amongst other matters, also states that in certain situations where there is a lack of capacity, temporary provision of private sewerage systems may be allowed. More specifically this is solely in cases where Scottish Water has confirmed that investment to address this constraint has been allocated in its investment programme. so that existing users do not suffer a loss of service.

6. Based on all of these considerations, I conclude that there is no need or justification to delete either of the R1 or R2 allocations or to add additional wording on flooding and drainage matters or with regard to access and traffic matters in the text relating specifically to these sites in the new plan.

### R3 East of Duncan Avenue

7. There are a large number of representations expressing support for this allocation. Their reasoning is that this would utilise available, unproductive land in a good, accessible location - as well as addressing a need for housing and arguing that this is and would help to support local schools and businesses. Based on the available evidence and my own site visit I have no significant reason to challenge or question any of these arguments in favour of the designation.

8. Nevertheless I note the terms of a representation that raises concerns about access constraints and the importance of local woodlands in this area - as well as contending that this allocation would be contrary to the long-standing principle of not promoting new development to the north side of Fochabers.

9. I also note, however, that the text accompanying the allocation in the proposed plan includes a specific requirement for access to the R3 site to be via a priority junction with the High Street, with appropriate safeguards for local woodland and other features along the route. I am satisfied that this would ensure that satisfactory access is achieved to serve the site whilst respecting the amenity of the local area.

10. More generally, I am satisfied that the Fochabers by-pass provides a strong, clearly defined new boundary for the settlement that should effectively protect against any future development pressures for built developments to the north of it. Furthermore, the text accompanying the plan allocation stipulates that no more than 50% of the field area of site R3 should be developed with the remainder given over to structural planting. I am also satisfied that in principle this should achieve the aims of assisting with integration and residential amenity as well as providing a buffer with the by-pass.

11. In summary, I conclude that these measures, together with the assurances given by the council - that the existing wooded areas and stone walls will not be removed or developed other than where necessary to provide access - would all combine to ensure that the site is sensitively developed in its local context. Furthermore, I conclude that the R3 site is strategically well located, not only for pedestrian access to the village centre but also for existing and proposed new walks providing access to the wider rural area, including the Gordon Castle estate to the north. These links northwards are achieved via the underpass that has been incorporated as part of the by-pass construction.

12. Based on all of these considerations I conclude that there is no reason to delete or

modify the R3 allocation or the supporting text in the proposed plan.

### LONG

13. Two representations were made concerning the land identified in the new plan as an indication of the proposed longer term direction of housing growth for Fochabers – in summary continuing eastwards from sites R1 and R2 along the southern edge of the existing built-up area. One of those representations is supportive of this strategy whilst the other draws attention to infrastructure capacity constraints.

14. In response to the concerns expressed about sewage disposal, as noted earlier Policy EP10 of the plan requires all new developments to demonstrate a satisfactory disposal of sewage via a connection to the public sewerage system. In cases where there is a lack of capacity, temporary provision of private sewerage systems may be allowed provided that Scottish Power has confirmed that investment to address this constraint has been specifically allocated in its own investment programme. I conclude that these policy requirements are sufficient to safeguard against existing local householders suffering as a result of any new developments proceeding without adequate foul drainage arrangements being in place.

### OPP 1 High Street

15. The council's own Environmental Health Department expresses the view that investigations should be made prior to any development taking place on the OPP1 site to establish whether or not there are any ground contamination issues to be addressed. I note that the council is agreeable to appropriate wording being inserted into the plan text to address this matter.

16. Given that the site in question was formerly a garage premises, I am in agreement that it would be appropriate for additional wording to be inserted under the sub-heading OPP1 High Street - to require a ground contamination survey to be undertaken prior to any development taking place there. I also consider that any remedial action that may be required to address any matters arising from that survey needs to be fully addressed by the developer – and for this to be to the written satisfaction of the council.

### OPP2 Institution Road

17. A representation contends that any new development proposal for this site should be designed or screened in order to ensure that the existing privacy of neighbouring residents is safeguarded.

18. The safeguarding of local amenity is one of the key principles that should be addressed as a matter of course through the development management process when any planning application is put forward for assessment and determination by the planning authority. This accords with paragraph 29 of the Scottish Planning Policy, as approved in 2014, which states, as one of its policy principles, that decisions should (amongst other things), avoid over-development and protect the amenity of existing developments. This principle is also endorsed as part of Policy ED5 Opportunity Sites in the proposed new plan, which (amongst other matters) states that “Any new development should be compatible with surrounding uses.” Based on all of these considerations, I conclude that there is no need to add additional text to the wording of OPP2 in order to address the concerns of the objector in this case.

T1 Caravan Site

19. The Scottish Environment Protection Agency (SEPA), expresses concerns about the “poor ecological status” of the water body – a reservoir link - that passes through the valley within which the caravan park is situated. I note from my site visit that the caravan park extends either side of this water feature with bridge links across it. The council has indicated a willingness to address the concerns expressed by SEPA and to endorse their recommendation for a 6 metres wide buffer strip to be established between any development and the watercourse.

20. Based on the available evidence and my own site visit I have no reason or basis to go against the request made by SEPA and its recommendation that has been endorsed by the council. Accordingly, I conclude that the text under the heading T1 Caravan Site should be expanded to include the requirement for a 6 metres wide buffer zone between any development and the water body that passes through the site. In my recommendation, for consistency this is expressed in a form of words used elsewhere in the new plan where similar situations arise.

Sites R5 and R6 of the Main Issues Report (Not Taken Forward by the council in the proposed plan)

21. Conclusions elsewhere in this report are relevant to my consideration of these additional sites. Paragraphs 31-33 of Issue 4a support some additional land release but only where this would enable an enhanced output in the earlier years of the plan period. This would be justified in order to address uncertainties regarding maintenance of a continuous effective 5 year land supply capable of meeting the overall target.

22. The representation lodged concerns two sites on the south-eastern fringe of the built-up area - that were considered at the Main Issues Report stage of the plan process but then both rejected by the council. The representation now contends that each of these sites should be included in the new plan as logical ‘LONG’ designations – arguing that previous concerns, including with regard to local access and landscaping, can all be satisfactorily addressed.

23. These particular parcels of land are currently in use as agricultural fields. Whilst noting the arguments put forward in support of the position set out in the representation, based on the available evidence I am not persuaded that a case has been made to justify allocation of these 2 sites, even as LONG designations. I have a number of concerns in this regard.

24. Firstly, whilst they are located on the eastern fringe of the built-up area of Fochabers these 2 sites would remain geographically remote from the village core’s facilities and services – irrespective of whether or not local access constraints can be resolved. Secondly, these fields are set on high ground relative to the built-up area of Fochabers – and are highly prominent, particularly when viewed from the west. That visibility would be accentuated in the event that housing was built here. In summary I am concerned that this would mean that any new housing on these two parcels of land would be unduly prominent in the local landscape. The existing woodlands to the north and east of these sites would not address those concerns – and the elevated position of the fields concerned is such that no satisfactory screening could be provided by new landscape planting.

25. Based on all of these considerations, I conclude that these 2 particular parcels of land are inappropriate for allocation even as LONG designations in the new plan, for the reasons outlined above. These concerns are not outweighed by the potential benefits of an enhanced land supply in the Elgin Housing Market Area particularly as a “LONG” designation would not contribute directly to the effective housing land supply.

### General

26. NHS Grampian expresses concern that the new plan makes no reference to the fact that existing healthcare facilities in Fochabers operate at or close to capacity. In their view this justifies the allocation of land in the new plan to accommodate a new healthcare facility for the area, particularly as new housing allocations are being made here that will increase local demand for healthcare provision.

27. In response, I note that policy IMP3 Developer Contributions of the new plan includes reference to health care provision and, where appropriate, associated supplementary guidance will provide further clarity on specific matters. Elsewhere in this report under Issue 11a it is noted that the council has confirmed that it will consult with NHS Scotland when preparing that guidance. More generally, policy IMP3 relates to measurable adverse or negative impacts of developments on existing infrastructure, community facilities or amenity – where development contributions would have to be appropriate to reduce, eliminate or compensate for any such impact. I am satisfied that this addresses one important principle of the concerns expressed by NHS Grampian.

28. I now turn my attention to the request for a formal allocation in the new plan of a site in Fochabers for new healthcare facilities. The council has confirmed that whilst dialogue on these matters is on-going, NHS Grampian has indicated no firm proposals to expand its current provision in Fochabers. Based on all of these considerations, I conclude that the allocation of a site for new healthcare facilities for Fochabers in the new plan is not merited at this time.

### **Reporter’s recommendations:**

Modify the proposed plan in the following terms:

1. Under the sub-heading OPP1, after the second sentence (so immediately prior to the sentence commencing “*Car parking requirements ...*”) insert the following additional text: “Prior to any development commencing on the site a ground contamination investigation will be required. This together, with any remedial action that may be required to address matters arising, shall all be undertaken by the developer to the satisfaction (in writing) of the council.”

2. Under the sub-heading T1 Caravan Site, after the first paragraph, insert the following statement as a new paragraph:

*“Between the development and the watercourse a buffer strip, with a minimum 6 metres width, will be required.”*

<b>Issue 13g</b>	<b>Garmouth, Lhanbryde, and Urquhart</b>	
<b>Development plan reference:</b>	<p><b>Garmouth Settlement Statement, page 209 -211</b></p> <ul style="list-style-type: none"> <li>• <b>Water and Drainage, page 209</b></li> <li>• <b>R1 South of Innes Road, page 210</b></li> <li>• <b>ENV6, page 210</b></li> </ul> <p><b>Lhanbryde Settlement Statement, page 233 -237</b></p> <ul style="list-style-type: none"> <li>• <b>R1 West of St Andrews Road, page 233</b></li> </ul> <p><b>Urquhart Settlement Statement, page 276-278</b></p> <ul style="list-style-type: none"> <li>• <b>Objectives, page 276</b></li> <li>• <b>R1 Meft Road, page 276</b></li> <li>• <b>LONG 1 Meft Road, page 277</b></li> <li>• <b>Not Taken Forward</b></li> </ul>	<b>Reporter:</b> Allison Coard
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>Garmouth</u></b>  <b><u>Water and Drainage</u></b>  Scottish Water (0113)  Scottish Natural Heritage (1027)  <b><u>R1 South of Innes Road</u></b>  Innes Community Council (0129)  Garmouth and Kingston Amenities Committee (0149)  Mr Stephen Forsyth (0586)  Rosslyn Golding (0603)  Mr A W Clarke (0607)  Gordon Rae (0616)  David And Jenny Burridge (0633)  Hilary Dawson (0913)  Bill And Shirley Lamb (0942)  Allison Young (0949)  Robert Dodsworth and Karen Stewart (0970)  Mrs Susan Barclay (0971)  <b><u>ENV6</u></b>  Mr Cyril Smith (0025)  <b><u>Lhanbryde</u></b>  <b><u>R1 West of St Andrews Road</u></b>  Scottish Environment Protection Agency (0569)  A E Milne And Son (0881)  <b><u>Urquhart</u></b>  <b><u>Objectives</u></b>  Mr E Rattray (0701)  <b><u>R1 and LONG1</u></b>  Mr E Rattray (0701)  Ray Cartwright (0929)  S Rattray (1017)  <b><u>Not Taken Forward</u></b>  Mr Ed Rattray (0087)</p>		

<b>Provision of the development plan to which the issue relates:</b>	Site designations within the villages of Garmouth, Lhanbryde and Urquhart. These include residential allocations which contribute to achieving the housing land requirements for the Elgin Housing Market Area and environmental designations to protect open space and safeguard amenity.
<b>Planning authority's summary of the representation(s):</b>	
<p><b><u>Garmouth</u></b>  <b><u>Water and Drainage</u></b>  <u>Scottish Water (0113)</u>  Current levels of development within the Garmouth Waste Water Treatment Works (WWTW) catchment can be accommodated by the existing treatment plant. All surface water is now removed from the sewer network for any new housing development which reduces the hydraulic loading on the treatment plant and the network. Note the text within the settlement statement. Scottish Water assesses and evaluates connection applications and if there is any suggestion that new housing development may cause new or exacerbate any known network issues, there is a responsibility upon the developer to undertake a drainage impact assessment (DIA). There is an expectation the developer will undertake work on the network to mitigate the impact on existing customers. Recently concern has been raised locally about the Treatment Plant and network to accommodate development. Recent studies have been carried out on the affected part of the network which have shown that ingress of tree roots within the sewer pipes has resulted in blockages. Would reassure the Council and residents that the foul drainage only flows from the promoted site within the Local Development Plan would have a limited impact on the network and the treatment facility. The proposals would need to be assessed as part of the connection process and would not be allowed to connect until such times as mitigation work was carried out. Should investment be required in the future at the treatment facility, Ministerial investment triggers must be met to allow Scottish Water to allocate growth project funding. One criteria is that it is fully supported by the Local Development Plan. By promoting this site within the Local Development Plan the Council is actively ensuring that Scottish Water has the ability to allocate growth funding to deliver future capacity at Garmouth WWTW when required as well as informing future investment planning. Proposes amendment to wording.</p> <p><u>Scottish Natural Heritage (1027)</u>  Text refers to the nearby SPA and Ramsar site (Moray and Nairn Coast) but not to the equally relevant nearby SAC (River Spey). Protection of water quality is as important for this SAC as it is for the SPA/Ramsar</p> <p><b><u>R1 South of Innes Road</u></b>  <u>Innes Community Council (0129), Garmouth and Kingston Amenities Committee (0149), Stephen Forsyth (0586), Rosslyn Golding (0603), Mr AW Clarke (0607), Gordon Rae (0616), David and Jenny Burridge (0633), Hilary Dawson (0913), Bill and Shirley Lamb (0942), Allison Young (0949), Robert Dodsworth and Karen Stewart (0970), Mrs Susan Barclay (0971)</u>  Object on some or all of the grounds below.</p> <ul style="list-style-type: none"> <li>• Development will ruin the ambiance and character of the village. Estate development will overwhelm the dispersed settlement. The site is bordered on four sides by the conservation area which the Council has an obligation to have regard to preserving and enhancing. Concerned about the quality and amenity of development, overlooking and the impact of this on neighbouring property value.</li> <li>• Consent has previously been refused on the grounds of the capacity of the waste</li> </ul>	

water treatment facility and the location outwith the settlement boundary. The sewage infrastructure is unable to cope with current demands and there are existing issues of sewage backing up. The position on sewage capacity is unclear.

- There are no local facilities including shop or medical facilities. There is limited bus service and therefore development will be reliant on private transport.
- There are road safety issues for pedestrians, cyclists, horse riders and drivers along Innes Road and the junction with High Street/Station Road. The narrowness of the road results in damage to vehicles and boundaries when vehicles attempt to pass each other, this would be exacerbated by development. There is no capacity to widen Innes Road, provide passing places or a footpath. It is not possible to provide a footpath and this puts school children at increased risk. The development is contrary to the objective to protect the Sustrans route.
- The loss of view will impact on residential amenity. There will be a detrimental visual impact on the landscape from several view points.
- Development will destroy wildlife and habitat. The land is currently used for grazing horses adding a vital rural element to the village.

Mr AW Clarke (0607)

The number of residents living in Garmouth is inaccurate as the census figure is 3 years old.

Rosslyn Golding (0603)

Object to housing to rear of Sonas but less concerned with housing to west of this.

Gordon Rae (0616)

No further expansion should be permitted on "greenbelt".

Mr Stephen Forsyth (0586)

Prior to development the road should be widened as there is insufficient room for vehicles to pass resulting in over-riding of verges and driveways being used to allow passing. Development must fit with the character of the properties in vicinity including nearby listed buildings. There is no demand evidenced by number of sites for sale locally with no development having occurred.

Bill and Shirley Lamb (0942)

View the area as amenity green space and this should be ENV given the function it performs. There is vacant property in Garmouth and development at Connagedale. Questions why there is a requirement for housing in Garmouth.

Innes Community Council (0129). Garmouth and Kingston Amenities Committee (0149)

Raises concern that the term one and half storey has become "elastic" and buildings are much higher than traditional 1.5 storey houses.

**ENV6**

Mr Cyril Smith (0025)

Within the Moray Local Plan 2008 the land to the east of Orchard House, Spey Street, Garmouth is undesignated but within the settlement boundary. This position was agreed as part of the negotiations to the Moray Local Plan 2008. An application for a house was submitted in 2011. The application was withdrawn while further information was collated. Since the withdrawal of the application agreement has been reached with the Roads department regarding access and a flood risk assessment has been completed and the proposals have the support of Scottish Environment Protection Agency. Scottish Water

has also indicated that they will accept a future application for a foul sewer connection. Development Management will now be reconsidering the application. There has been no change in local circumstance since 2008 and it is inappropriate to now designate the land as ENV6.

### **Lhanbryde**

#### **R1 West of St Andrews Road**

Scottish Environment Protection Agency (0569)

Investigations suggest site R1 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

AE Milne and Son (0881)

Support designation of R1 Lhanbryde and continue to be committed to seeing this developed. Do not object in principle to an indication of design factors but wish to ensure that there is sufficient degree of flexibility so that developers can deliver housing effectively based on the ability of the market to support the development of the site in relation to any constraints. (See Issue 17).

### **Urquhart**

#### **Objectives**

Mr E Rattray (0701)

Support objective to "retain and enhance rural and historical character of Urquhart" but note Urquhart contains a mix of traditional and modern development and is not a conservation village. There are good examples of traditional cottages but these should not restrict development.

### **R1 and LONG1**

Ray Cartwright (0929)

Development of R1 will depart from the traditional layout (one house facing street with no backfilling) and will introduce suburban style layout criticised in 2000 Local Plan. If R1 is developed it should be one row of houses facing Meft Road. Given that Beil's Brae layout "departed from the village's character" (Moray Local Plan 2000) and infill has meant further loss of character there should be moratorium on releasing any land. The requirements of the plan are not delivered resulting in the objectives of the plan "to retain and enhance the rural and historical character of Urquhart" are not achieved. The Moray Council is critical of development proposals but it is not able to meet the objectives itself. There is a problem with the Meft Road junction and there is a lack of pedestrian walkway. No solutions have been found and development should not be released until this is found. The R1 text is misleading when it refers to connections to existing pedestrian network and it should be clearly stated that there are none. No consideration has been given to increased traffic on Meft Road. Pedestrians exit the park onto Meft Road, or use the car park and cross to the village hall.

Mr E Rattray (0701)

Supports allocation for housing in Urquhart at R1 and LONG1 as Urquhart has capacity to accommodate this limited development. Currently there is no 5 year effective supply in Urquhart and the OPP1 site in the 2008 plan is now developed. The site at Meft Road is in the Moray Local Plan 2008 as a LONG site for up to 20 houses with the caveat that the site would be considered for inclusion/designation in future reviews. Urquhart has now had a period of consolidation and given the absence of development opportunities it is

now appropriate to bring forward the site for development in two phases. Bringing the LONG site forward is justified as there is no longer an effective supply of housing in Urquhart. Urquhart has been disadvantaged in the past by being allocated no new housing sites unlike other small villages with fewer community facilities and services. Urquhart has a range of community facilities including shop, post office, playing field, parish hall, public house and cemetery. The R1 designation will help support and sustain these facilities. There is strong local demand for housing and since widening of the road into Urquhart from Garmouth there are no constraints affecting development. Development at R1 would not adversely affect the village character. The level of development proposed on R1 and LONG1 is appropriate to the village size and character. The site at Meft Road is close to the village centre, has clearly defined boundaries, has low landscape sensitivity, fits with the character of the village, creates a logical northern settlement edge and is easily accessible due to road frontage.

**Mr S Rattray (1017)**

There is currently no effective housing supply in Urquhart and R1 and LONG should be brought forward for development in the Local Development Plan. This will support local services and facilities. The site is close to the village centre, has well defined boundaries, has road frontage, fits the character of Urquhart, is not unduly visible being set back from the ridgeline and is a logical northern limit for the village. Supports phased allocation of R1 and LONG 1.

**Not Taken Forward**

**Mr Ed Rattray (0087)**

Object to omission of site for small scale low density housing development on infill site between Glebe House and Hawthorn Cottage, Main Street, Urquhart (plan included with representation). The current settlement boundary in this part of the village is irregular in shape and the proposed development represents a logical 'rounding off' of the south-western village settlement boundary. The site is suitable for small scale infill housing development. The site is bounded by existing housing and the public road. The site benefits from a long road frontage with direct access onto the B9103. Development would have minimal impact on the settlement character and would not detract from the character or setting of any existing buildings. The site constitutes an appropriate infill development opportunity allowing for the organic growth of the village and the settlement boundary should be extended in this location to accommodate small scale housing development

**Modifications sought by those submitting representations:**

**Garmouth**

**Water and Drainage**

**Scottish Water (0113)**

Minor adaptation to text on infrastructure "There is limited capacity at the Scottish Water treatment plant for Garmouth. It is anticipated that new housing within Garmouth would link to the existing treatment plant and will not require works that could impact on the SPA and Ramsar interests. Any formal application to connect to Scottish Water networks are subject to assessment of the potential impact the development may have on existing customers and there is an obligation on developers to mitigate any adverse impact their development may present. In order that Scottish Water can access the necessary funding to provide additional strategic treatment capacity, should this be required, it is essential that the Council promotes such sites within their plans so as they can act as triggers for required investment and form part of Scottish Water's investment planning process."

**Scottish Natural Heritage (1027)**

Amend text under Water and Drainage to "It is anticipated that new housing within Garmouth would link to the existing treatment plant and will not require works that could impact on the SAC, SPA and Ramsar interests".

**R1 South of Innes Road**

Innes Community Council (0129), Garmouth and Kingston Amenities Committee (0149), Mr AW Clarke (0607), Gordon Rae (0616), David and Jenny BurrIDGE (0633), Hilary Dawson (0913), Robert Dodsworth and Karen Stewart (0970), Mrs Susan Barclay (0971)  
Remove R1 from the plan.

Stephen Forsyth (0586) Alison Young (0949)

None stated, implied removal of R1.

Rosslyn Golding (0603)

No housing to rear of Sonas.

Bill and Shirley Lamb (0942)

Remove R1 and make ENV.

**ENV6**

Mr Cyril Smith(0025)

Land to east of Orchard House, Garmouth should be left as white unzoned land within the settlement boundary

**Lhanbryde**

**R1 West of St Andrews Road**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

AE Milne and Son (0881)

Key design principles for the proposed R1 designation be set out as indicative at this stage with a requirement for a Landscape Design and Visual Appraisal of the site to determine the development/landscape areas on a site specific basis in relation to site specific development.

**Urquhart**

**Objectives**

Mr E Rattray (0701)

Implied amendment to allow modern development.

**R1 and LONG1**

Ray Cartwright (0929)

Moratorium of further development in Urquhart

Mr E Rattray (0701), Mr S Rattray (1017)

No change to plan.

**Not Taken Forward**

Mr Ed Rattray (0087)

Designate site between Glebe House and Hawthorn Cottage Urquhart for housing

**Summary of responses (including reasons) by planning authority:****Garmouth****Water and Drainage**

Scottish Water's comments are noted. If the Reporter is so minded the Council would not object to amending the text to reflect the wording provided, however it is not considered appropriate to include the last sentence which relates to operational and procedural matters. The additional text proposed by Scottish Water (excluding last sentence) will provide additional information to the community and developers and does not fundamentally change the intention of the statement nor add additional burdens. As noted by Scottish Natural Heritage the text should also make reference to SAC given the proximity to the River Spey SAC. The following wording is considered suitable "There is limited capacity at the Scottish Water treatment plan for Garmouth. It is anticipated that new housing within Garmouth would link to the existing treatment plant and will not require works that could impact on the SPA, SAC and Ramsar interests. Any formal application to connect to Scottish Water networks are subject to assessment of the potential impact the development may have on existing customers and there is an obligation on developers to mitigate any adverse impact their development may present

The Council would have no objection if the Reporter were minded to make the modifications highlighted above.

**R1 South of Innes Road**

Within the Moray Local Plan 2008 (CD10 page 175) the site is out with the settlement boundary where there is a presumption against development. However, the settlement boundary is reviewed as part of the review of each local development plan. Following a landscape study (BD/13g/01) it was considered this site (which was bid 134) was suitable for housing and that the settlement boundary should be amended.

Site R1 can be designed to reflect the character of Garmouth and minimise impacts on amenity. A landscape study (BD/13g/01 page8) was undertaken on behalf of the Council and the recommendations within that have been included within the allocation. The site was found to be sheltered, well contained and related well to the village. The site follows the settlement pattern which is focused around the conjunction of narrow roads. Development layout and design will be assessed against policies PP3 Placemaking, IMP1 Developer Requirements, and the principles within the Supplementary Guidance on Urban Design. Implementation of these policies and principles would minimise impacts on residential amenity and the character of the settlement. The site is a small sheltered site and its loss is considered to have minimal impact on the rural ambiance given the more open countryside around the village. The site does lie on the edge of the conservation area and it would be expected that this context is acknowledged within the layout and design of proposals in line with PP3 Placemaking and the Supplementary Guidance on Urban Design.

The landscape assessment undertaken acknowledges the site is visible on the approach to the village from the north west but noted the site was not visually prominent. The study concluded that from a landscape and visual perspective the site has potential for development. Impacts on private views are not a material planning consideration.

10 houses is a relatively small increase in housing and this level of development reflects the third tier status of the village and the services it has. Need and demand for housing in the Elgin Housing Market Area has been demonstrated through the Housing Need and

Demand Assessment (CD12) and Strategic Housing Land Requirements Background Paper (CD21). An allocation within Garmouth allows for development to be planned for rather than rely on windfall sites like the approved development at Connagedale.

Note the concerns raised regarding sewage drainage. The comments from Scottish Water advise that there is capacity within the WWTW for development and that the developer would not be allowed to connect until any necessary mitigation work was completed.

The allocation text acknowledges that widening of Innes Road and provision of passing places on the approach from the west would be sought. Some of these improvements may require third party land and therefore may constrain development leading to the site not being effective. If these constraints can be overcome, proposals would be assessed against policy T2 Provision of Access which includes consideration of provision of mitigation/modification to ensure the safety and efficiency of the transport network.

The site is not Countryside Around Towns and within the Moray Local Plan 2008 (CD10 page 174) is only protected due to its location outwith the settlement boundary. The land is in private ownership and does not have the characteristics associated with ENV designations. It does not act as a park or play area nor does it serve a landscape function. Given its use for grazing it would not be described as natural or semi natural. There is no justification to designate this as ENV.

The population figures given are based on the census and are included to provide an indication of the scale of the settlement. They are not expected to remain static throughout the plan period and are taken from the best available source at the time of publication which in this case was the last census.

### **Garmouth R1 Conclusion**

The concerns raised by the respondents in respect of deliverability of road improvements have some merit which needs to be weighed up against the suitability of the site in visual and landscape terms and the need to provide a range of sites as required by Scottish Planning Policy (CD01) paragraph 120. It is noted that sufficient land has been identified to meet requirements in the Elgin Housing Market Area including an allowance of 50% to ensure a generous supply is maintained. Should the Reporter be minded to remove the site there would be no need to allocate an alternative site for 10 houses. The concerns and issues raised in respect of waste water provision are recognised however Scottish Water have advised that the foul drainage flows from site R1 would have limited impact on the network and treatment plant.

If the Reporter is so minded, the Council would not object to removal of site R1 from the plan. If removed the settlement boundary in this area should revert to the boundary in the Moray Local Plan 2008.

### **ENV6**

The Council acknowledge the agreed position during preparation of the Moray Local Plan 2008 (CD10) led to the site being identified as white land. At this time the objector had sought an allocation for two houses but this was not supported due to flood risk concerns.

The site falls within the 1 in 200 year flood area on the Scottish Environment Protection Agency Flood Map 2014 (BD/13g/02). Development Plans are required by Scottish Planning Policy (CD01) to have regard to the flood maps prepared by Scottish

Environment Protection Agency (paragraph 260). Scottish Planning Policy states the planning system should promote a precautionary approach to flood risk (paragraph 255) and that piecemeal reduction of the functional flood plain should be avoided given the cumulative effects of reducing storage capacity (paragraph 256). The area falls into the “Medium to High Risk” flood risk category as set out in the flood risk framework in Scottish Planning Policy (paragraph 263). The most recent planning application submitted after consultation on the Proposed Plan closed, 14/00747/APP, has been withdrawn by the applicant. However, it is noted Scottish Environment Protection Agency objected (BD/13g/03) to the application on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy and PAN69.

Given the precautionary approach to flood risk advocated within Scottish Planning Policy (CD01 page57), the objection from Scottish Environment Protection Agency to the planning application (BD/13g/03) and the uncertainty the white land “designation” gives to the community it is considered more appropriate to identify the land as ENV6 and part of the green corridor on the eastern edge of the village where it abuts the golf course.

No modification is proposed.

### **Lhanbryde**

#### **R1 West of St Andrews Road**

The commitment to development of the site is noted. The Key Design Principles are discussed under Issue 17.

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

The Council would have no objection if the Reporter were minded to make the modifications highlighted above.

### **Urquhart**

#### **Objectives**

The Council acknowledges the comments and consider a modern development that respects the traditional character and pattern of development can be achieved on the site. However the Council wishes to avoid sub-urban layouts that do not reflect the historic settlement pattern such as that at Beils Brae.

No modification is proposed.

#### **R1 and LONG1**

Support for the site is noted.

There is no evidence to suggest that it would not be possible for the site layout to reflect the character of older parts of Urquhart but acknowledge it is unlikely to be possible to develop a through road. Council would seek to encourage frontage onto Meft Road in line with policy PP3 Placemaking and Supplementary Guidance on Urban Design, but limiting development to Meft Road frontage only is not justifiable nor would it meet demand for housing. Cognisance to the principles in policy PP3 Placemaking and Supplementary Guidance on Urban Design will help to achieve a layout and design that will respect the context and meet the objectives to retain and enhance the rural and historic character of

Urquhart.

As a third tier settlement with a range of community facilities/services Urquhart has capacity to accommodate growth in proportion to its size and function. A 6% increase in households over the plan period is not excessive or likely to overwhelm the village. There has been no “active” allocation in the 2008 Local Plan (CD10 page 229) which was to allow for a period of consolidation. Taking forward part of the LONG site follows through on the agreed position to consider releasing the site in future reviews as set out in the Moray Local Plan 2008 (CD10 page 229). The lack of effective sites leads to pressure on “infill” sites which can dilute settlement character. Providing for planned growth to meet demand could help relieve pressure on infill sites.

The issues in respect of traffic impact, access provision and footpath connections would be investigated further at the planning application stage and would be considered against the criteria in policy T2 Provision of Access. Policy T2 requires the impact on the existing transport network and any necessary mitigation to be addressed. The text states that “where possible” footpath connections should be made in acknowledgement of the limited existing footpaths.

No modification is proposed.

#### **Not Taken Forward**

This site was not supported at the Main Issues Report stage (see CD04 “Bid Site Checklist” for bid site R4). The site formed part of a larger site that was considered during the Moray Local Plan 2008 examination (CD26 page 2.188 referred to as Site B). The Reporter concluded that the site was strategically important in landscape terms and should not be allocated for housing development. The Reporter also considered that such a designation would be unacceptably detrimental to the character and setting of Urquhart. The Reporter considered the site to be “essentially rural in character” and “strategically important in landscape terms.” The site also has poor access due to the proximity to the existing accesses and visibility restrictions. There has been no change in circumstances since the examination into the 2008 Local Plan and there is no requirement for additional housing over and above the allocations made.

No modification is proposed.

#### **Reporter’s conclusions:**

##### **Garmouth: Water and Drainage**

1. I agree that the text proposed by Scottish Water should be included in order to provide clarity for the community and potential developers. However, I agree that the final sentence is unnecessary as it applies to more detailed procedural matters.
2. Given the proximity of the River Spey Special Area of Conservation where the council’s Habitat Regulation Appraisal recognises the importance of maintaining water quality I agree that reference should also be made to protecting the integrity of this designation.

##### **R1 South of Innes Road**

3. The site is in the countryside area outwith the boundary of the settlement which is

defined in the current Moray Local Plan 2008. However the process of preparing a new local development plan requires the council to address the areas future needs for housing and other development. This often requires established settlement boundaries to be re-visited where a new boundary can be established and where landscape and other impacts can be appropriately mitigated. In this instance the council's landscape study (BD/13G/01) on page 8 finds the site is relatively well contained and related to the village. On my site visit I noted the site had a strong sense of enclosure given its established boundaries, the location of neighbouring housing and existing landscaping.

4. The site is visible on approach from the north-west along Innes Road. However I consider that the site offers potential to achieve a development which integrates well with the village. This will require a layout and design of a quality consistent with the sites location on the edge of the conservation area. I am satisfied that this would be addressed in the context of Policy PP3:Placemaking and the proposed supplementary guidance on urban design. The site would allow for a modest growth of the village of around 10 houses. An individual's right to a view is not a relevant planning consideration. I do not consider the site warrants protection through an environmental designation as it does not function as open space of recreational or amenity value or particular natural green-space value.

5. My only concern relates to the constraints imposed by the narrowness of Innes Road and the need to secure a degree of widening and passing places. Given ownership issues and costs relative to a development of 10 houses, I accept these matters may impact on the effectiveness of the site.

6. Ten houses in this location will only make a minor contribution to the range and choice of sites available in the Elgin Housing Market Area. However, the site does provide the only limited opportunity for growth of this village if the identified road constraints can be addressed. For these reasons I find the site should be retained to be included in the local development plan.

#### ENV6

7. The area designated as ENV6 includes a footpath link and incorporates an attractive green corridor running alongside the golf course. This amenity value and the recognised flood risk associated with this location supports its allocation as a continuation of ENV6. The precautionary approach applied to land in such areas of medium to high risk of flooding further supports its designation as this should ensure that development in this area is avoided.

#### Lhanbryde: R1 West of St Andrews Road

8. I note the potential presence of wetland habitat in or around the site, as identified by the Scottish Environmental Protection Agency. I agree that any application should include a walkover and photographic survey. This is required in order to assess the site for the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependent terrestrial ecosystems. I have addressed the issues raised relating to design principles through Issue 17.

#### Urquhart : Objectives

9. I note that this is not a conservation area and there is some incursion of more modern

development. However, I do not consider the stated objective would presume against good quality contemporary design but rather seeks to secure a quality of development which reflects the character of the village. I understand this wording responds to previous criticism regarding the introduction of a suburban style of development

#### R1 and LONG1

10. Given the shape and scale of the site relative to the road it is unlikely to achieve a linear form of development. However I consider there is potential to integrate the site with the character and quality of the village. Achievement of a strong frontage onto Meft Road will be an important consideration in this respect. Detailed proposals will be considered in the context of Policy PP3: Placemaking and Supplementary Guidance on Urban Design. I find no reason to suggest that the site cannot achieve a layout that will respect the rural and historic character of Urquhart.

11. Urquhart has a range of community facilities including shop, post office, playing field, parish hall, public house and cemetery. It is recognised in the plan as a third tier settlement and I consider that it is a suitable location for some minor housing development. The plan proposes 10 houses over the first five years with some further expansion of 15 houses in the longer term. I do not consider this represents an inappropriate scale of development.

12. I note the issues raised in respect of respect of traffic impact, access provision and footpath connections. The text on R1 includes a requirement for a 2 metre footpath along the Meft Road frontage of the site. I note the text states “where possible” in relation to footpath connections given that existing footpaths are limited. Any prospective development would have to address this matter and compliance with the criteria in Policy T2 Provision of Access. This will also require further investigation in respect of the junction of Meft Road onto Main Street. Whilst I recognise concerns about this junction I have no evidence at this stage to suggest it cannot safely accommodate this scale of development.

#### Not Taken Forward

13. On my site visit I noted the relatively open nature of the site which appeared rural in character. It is relatively detached from the village with its only connection being through the wooded policies of the adjacent property on its northern boundary. The site is close to a bend on a narrow road and to the access serving the adjacent property. For these reasons, I concur with the view of the reporter at the last local plan inquiry. I also share the council’s concerns regarding road safety given the restricted visibility of any potential access. I do not consider that any justification based on increasing the range and choice of sites available in the Elgin housing market area is sufficient to overcome these concerns.

#### **Reporter’s recommendations:**

Modify the proposed plan as follows-

#### Garmouth: Water and Drainage

1. Amend the final paragraph under the heading Water and Drainage on page 209 to read:

There is limited capacity at the Scottish Water treatment plant for Garmouth. It is anticipated that new housing within Garmouth would link to the existing treatment plant and will not require works that could impact on the SAC, SPA and Ramsar interests. Any formal application to connect to Scottish Water networks are subject to assessment of the potential impact the development may have on existing customers and there is an obligation on developers to mitigate any adverse impact their development may present.

Lhanbryde: R1 West of St Andrews Road

2. Add the following at the end of the site specific text for Lhanbryde: R1 West of St Andrews Road on page 233: .

A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems.

Issue 13h	Mosstodloch	
Development plan reference:	Mosstodloch Settlement Statement, page 249-253 <ul style="list-style-type: none"><li>R2 Garmouth Road, page 250</li><li>R2 Garmouth Road, Scottish Natural Heritage – Strategic Environmental Assessment Comment page 250,</li><li>I2 North of Baxter’s, page 250</li><li>I5 Baxter’s, page 251</li><li>ENV6 Balnacoul Wood, page 251</li></ul>	Reporter: Richard Bowden
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Site R2 Garmouth Road</u></b> Crown Estates (0861) Mr William Shaw (0882) Mr &amp; Mrs I Grant (0938) Scottish Natural Heritage – Strategic Environmental Assessment Comment</p> <p><b><u>Site I2 North of Baxter’s</u></b> Crown Estates (0861) Ms Judith Johnston (0733) Mr John Taylor (1008)</p> <p><b><u>Site I5 Baxter’s</u></b> Scottish Environment Protection Agency (0569)</p> <p><b><u>ENV6</u></b> Mr Bob Milton (0016) Crown Estates (0861)</p>		
Provision of the development plan to which the issue relates:	Statement showing sites proposed for development, including descriptive texts outlining their purpose and design requirements, for the third tier settlement of Mosstodloch.	
Planning authority’s summary of the representation(s):		
<p><b><u>Site R2 Garmouth Road</u></b> Crown Estates (0861) Support allocation as contributes towards housing land supply required by Scottish Planning Policy and the Proposed Moray Local Development Plan.</p> <p><b><u>Mr William Shaw (0882)</u></b> Object to increase in traffic. Inability of existing road to cope. Road will be narrowed by pavement. Need to monitor HGV traffic in early hours as part of traffic survey. Queries need for bypass when increasing traffic in village with further development.</p> <p><b><u>Mr &amp; Mrs I Grant (0938)</u></b> Loss of agricultural land. Costly to upgrade water and sewage systems and create access. Queries allocation given proposals to close Mosstodloch Primary School and Milne’s Primary School. Inability of health facilities (Fochabers Medical Practice) to cope with increase in patients.</p>		

**Site I2 North of Baxters****Crown Estates (0861)**

Support for industrial use. Object to restrictive wording in text as precludes use of site by other users. Willing to accommodate any expansion plans for Baxters into masterplanning of site.

**Ms Judith Johnston (0733)**

Proximity to existing housing. Impact on views from residential properties, property value and light in gardens. Rotate site to run across top of field next to Breaks Hill to have less impact on housing. Alternatively, extend ENV6 along rear of houses in Mossmill Park so less impact on views and light.

**Mr John Taylor (1008)**

Object. Increase in rate of water flow and drainage issues will force water into gardens of existing properties. Property will be devalued or made uninhabitable. No access shown. Do not take through Community Woodland as widely used by public. Interrupting path will cut off safe access to Baxter's woods and River Spey. Extend existing site instead of new allocation. Safer for community as industrial traffic, etc contained in one area and restricts amount of industrial traffic within village.

**Site I5 Baxter's****Scottish Environment Protection Agency (0569)**

Likely to have groundwater dependent terrestrial ecosystems on or around site. Recommend applications are supported by results of walkover and photographic survey of habitats to assess presence of potential wetlands.

**ENV6****Mr Bob Milton (0161)**

Re-designate ENV6 to commercial use to support growth of local economy. Respondent wishes to relocate in area to expand current retail business based in Fochabers. Need good access and prominent location. Need large enough site to accommodate long-term expansion plans. No other allocations in the Proposed Plan are a viable option for respondent's requirements.

**Crown Estates (0861)**

Object. Re-designate as opportunity site or for commercial uses to support new economic development opportunities. Allocation of area enclosed by by-pass as open space is at odds with LDP text 'completion of bypass presents opportunities'. This area of open space is disproportionately large. ENV created barrier to recent approach for retail use. This approach confirms bypass is presenting opportunities as set out in Proposed LDP, however, Mosstodloch does not have any opportunity sites to accommodate these. Whilst policy ED5 sets out brownfield sites are best equipped to provide opportunity sites, the bypass creates unique situation where an 'opportunity site' allocation is appropriate. Variety of sites is needed to accommodate range of commercial uses. Re-designation aligns with SPP on sustainable economic growth and the 'Vision for Moray' set out in the Proposed LDP.

**Modifications sought by those submitting representations:****Site R2 Garmouth Road****Crown Estates (0861)**

Support noted.

Mr William Shaw (0882), Mr & Mrs I Grant (0938)

Remove site R2.

**Site I2 North of Baxter's**

Crown Estate (0861)

Support noted. Change wording to 'This allocation allows for any future potential northward expansion of Baxter's, and contributes towards ensuring there is an adequate supply of land to respond positively to new economic opportunities in the town'.

Ms Judith Johnston (0733)

Change orientation of site to run across top of field next to Breaks Hill or extend ENV6 along rear of houses in Mossmill Park.

Mr John Taylor (1008)

Extend allocation rather than designate new allocation.

**Site I5 Baxter's**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

**ENV6**

Mr Bob Milton (0016)

Change ENV6 to allow commercial use.

Crown Estates (0861)

Re-allocate ENV6 as an opportunity site or for commercial uses encompassing classes 1, 4, 5 & 6.

**Summary of responses (including reasons) by planning authority:**

**Site R2 Garmouth Road**

**Transportation**

The site text states that a Transport Assessment will be required and that the extension of the footway along the site frontage and provision of visibility splays is likely to require third party land. Concerns regarding HGV traffic can be addressed at the planning application stage. Policy IMP2 Development Impact Assessments sets out that a Transport Assessment will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. The bypass is a strategic infrastructure improvement to improve travel at the national level with associated local benefits.

**Water & Sewage**

Policy EP10, Foul Drainage, requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint.

**Education Facilities**

A School Estate Review is currently being undertaken. Education Services have been consulted on the Proposed Plan and have raised no objection. Dialogue between Education Services and Development Plan officers is ongoing.

**Health Provision**

It is proposed that developer contributions will be sought to mitigate any impact on health provision that emanates from development in line with policy IMP3 Developer Obligations. This requirement will be set out within the forthcoming Supplementary Guidance on Developer Obligations which will be presented to Committee by the end of 2014 with the intention to adopt, following consultation, in early 2015. Dialogue with NHS Grampian is currently ongoing.

**Environment**

As identified in Scottish Natural Heritage's response to the Strategic Environmental Assessment, there is no reference within the designation to the creation of green corridor and greenspace provision linking subsequent phases of development.

Should the Reporter be so minded, the Council would not object to the inclusion of a paragraph (after "A Transport Assessment will be required".) stating "The development must incorporate a green corridor/greenspace provision linking subsequent phases of development to the north".

**Site I2 North of Baxter's  
Restriction of Use**

In accord with the Moray Economic Strategy (CD28) and associated Vision for Moray, the Local Development Plan seeks to support the growth of established tourism and food businesses. Given the limited scope to expand in close proximity to the existing Baxter's operational complex and that the area is accessed via the existing Baxter's site, it is not intended to allow development by others as this may inhibit the ability to respond positively to any expansion requirements by an established business. This site is effectively an extension to the existing Baxters site (I5). There is an adequate supply of industrial and opportunity sites within Mosstodloch and nearby Fochabers to accommodate businesses that do not need this locational justification.

**Transportation**

Vehicular traffic will be via the existing Baxter's site and will therefore have little to no impact on the remainder of Mosstodloch.

**Residential Amenity**

To protect the amenity of neighbouring properties, the Council is amenable to extending the ENV6 designation to the rear of properties along Mossmill Park as shown on the attached plan (BD/13h/01), should the Reporter be so minded.

**Flooding & Drainage**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. Policy EP10, Foul Drainage, requires the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint.

**Landscape and Community Use**

The footpath from the west to Breaks Hill is a core path (338) and will be retained as part of any development (BD/13h/02). It is proposed to increase the woodlands to contain the development within the landscape, rather than remove trees. Given the topography of the site it is considered more appropriate to develop on the lower slopes where it can be

integrated within the existing built-up area through woodland planting on the higher ground.

No modification is proposed but the Council would not object if the Reporter wished to extend the ENV6 designation to the rear of the properties along Mossmill Park as outlined above.

### **Site I5 Baxter's**

#### **Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands".

If the Reporter is so minded, the Council would not object to the inclusion of text as outlined above.

### **ENV6**

#### **Opportunity Site/Commercial & Industrial Use**

Balnacoul Wood and the surrounding green space contribute to the setting of Mosstodloch and provide a buffer between the bypass and built-up area. Development in this highly visible gateway location would erode the setting and amenity of this village. The ENV6 designation protects this area from inappropriate development.

This is not a brownfield site and does not present an opportunity for the reuse of previously used land as set out in Policy ED5. Although contained within the settlement boundary, the site is isolated from the built-up area by Balnacoul Wood and as such, development would not relate well to the existing village. Given the site is not located within the village centre or well-served by public transport development would encourage car use. This is at odds with the town centre first policy within Scottish Planning Policy (CD01) which seeks to locate retail and commercial uses within town and village centres to support their "... vibrancy, vitality and viability ...", (Scottish Planning Policy, para.60) (CD01) and sustainable modes of travel. Retail and commercial development at this location would not reflect the sequential approach within policy R2 Out of Centre Development of Retail, Commercial and Leisure Proposals. Retail and commercial proposals must consider town centre sites, edge of centre sites, other commercial centres and derelict or vacant land before considering out of centre locations such as this.

Within Mosstodloch, sites I1 and I3 are suitable for classes 4, 5 & 6 and therefore no need to identify additional land for this purpose. Within nearby Fochabers, there is an adequate provision of opportunity sites (OPP1, OPP3, and OPP4) with the required high visibility for marketing purposes to address the need sought. Additional evidence submitted does not satisfactorily substantiate that these sites cannot accommodate the requirements sought.

Development of this scale (4 acres with an additional 1.5 acres for future expansion) should be directed towards Moray's main settlements and/or provided for in a planned rather than ad hoc basis. The retail/commercial use referred to in the representation is a stove store. This type of store does not require this particular location and the majority of other stove stores are located within settlements in Moray. The storage of merchandise could be provided within an industrial estate allowing the retention of the retail element within Fochabers High Street.

The settlement statement objectives do not explicitly state the opportunities the bypass creates, and given the above, should not be used to imply support for commercial uses in out-of-town locations.

This is a new site that has not been subject to consultation or public scrutiny and as such, the full servicing and accessibility of the site has not been ascertained.

No modification is proposed.

### Reporter's conclusions:

#### **Mosstodloch**

#### R2 Garmouth Road

1. Two representations seek deletion of the R2 allocation based on a range of concerns. Another representation is supportive of the allocation – on the basis that it accords with national planning policy on housing land supply and the policies of the new plan.

2. I have considered each of the concerns expressed by objectors. Firstly, with regard to traffic and access issues, I note that policy IMP2 of the proposed plan requires all development applications where there is likely to be significant increase in traffic generation (trips) to provide a Transport Assessment (TA) - where any cumulative effects should also be identified and addressed. Furthermore, the plan text under the sub-heading R2 Garmouth Road explicitly states that development of the R2 site would require a TA.

3. Accordingly, I am satisfied that when any development proposal comes forward for the R2 site all traffic related issues - including with regard to access sight lines, HGV traffic and regarding proximity of the site access to the Mosstodloch Primary School to the south of it - would be addressed as part of the planning application. At present I am unaware of anything at this time to indicate an unacceptable impact that could not be satisfactorily addressed. In any event, these and related matters would form part of the formal assessment and determination by the planning authority through the development management process, prior to any planning permission being granted.

4. Whilst I acknowledge the concern that has been expressed about the loss of good agricultural land, I find that in order to meet the strategic housing land requirements of the development plan and the Scottish Planning Policy (SPP) in paragraph 80, it will be necessary to use some agricultural land, as there are insufficient "brownfield" or infill sites available to meet the need. SPP seeks to direct the right development to the right place through a sustainable, plan led approach. More specifically, it sets out some policy principles in paragraph 40 including the re-use or redevelopment of brownfield land before new development on greenfield sites. It also advocates the principle of using land within or adjacent to settlements as this creates more compact, higher density and accessible settlements overall, which result in a more vibrant core. In this context, whilst the proposed allocation of site R2 would result in the loss of agricultural land, the site concerned is situated on edge of the existing built-up area and close to the village core's services and facilities, including the local school.

5. I note that whilst a school estates review for the whole area is under way, the Education Service, when consulted, raised no objections to the proposed allocation of site R2 based on school capacity or other educational concerns.

6. In terms of water and foul drainage provision, I note that the proposed plan makes reference to the Scottish Planning Policy requirement for new development to take into account the implications that would result for water, air and soil quality as well as supporting water resource management and sustainable water management. Policy EP10 Foul Drainage of the proposed plan requires all developments to connect to the public sewerage system wherever possible. Furthermore, in cases where there are capacity issues developments will only be permitted where Scottish Water has confirmed investment programmes and funding to address any such constraint. Based on all of these considerations I conclude that these matters would be satisfactorily addressed through the development management process prior to any proposal being granted planning approval and implemented.

7. I now turn to explore the concerns raised about local health provision. I note that policy IMP3 Developer Contributions of the new plan includes reference to health care provision, supported where appropriate by associated supplementary guidance on specific matters. Elsewhere in this report under Issue 11a it is noted that the council has confirmed that it will consult with NHS Scotland when preparing that guidance. More generally, policy IMP3 relates to measurable adverse or negative impacts of developments on existing infrastructure, community facilities or amenity – where development contributions would have to be appropriate to reduce, eliminate or compensate for any such impact. I am satisfied that this addresses the concerns expressed by NHS Grampian.

8. In summary, whilst I note the concerns that have been raised, I conclude that, individually and in combination, these do not provide sufficient justification to delete the R2 allocation – for the reasons outlined above.

#### Site I2 North of Baxter's

9. Some representations raise concerns about the perceived adverse effects of the I2 allocation on local property values, residential amenity and drainage - and on this basis argue that the allocation should be deleted or relocated. Whilst almost of the detailed concerns that have been highlighted are examined below, potential impacts on property values are outwith the scope of this Examination.

10. In its response to the objections, the council states that the allocation is intended solely to provide an opportunity for the established Baxter's food business located nearby to expand – arguing there are no other options for delivering this. From the available evidence and my own site visit, I am persuaded that there appear to be no alternative sites that could be allocated to effectively achieve this objective, apart from utilising the site in question. In terms of access and traffic generation, I note the confirmation in the plan text supporting this allocation which states that all vehicular traffic would be required to access the I2 site via the existing Baxter's site. I find that this would avoid or at least minimise the possibility of disturbance to those living in the vicinity that would otherwise have arisen if local residential streets had been authorised to provide direct vehicular access to the I2 site.

11. I note that the council, in responding to the concerns raised about impacts on residential amenity likely to arise from development of the I2 site, is now supportive of a new extension of the ENV6 designation northwards onto the westernmost part of the site shown as I2 in the draft plan. This would provide a buffer between the houses along Mossmill Park and the correspondingly reduced area of the I2 allocation immediately to

the east of that new buffer strip. I consider that such an expansion of the ENV6 area northwards at the western edge of I2 would provide an additional degree of physical separation from what would remain as the (marginally reduced) I2 allocation site. Most importantly, in my view, this would help to safeguard the amenity of those living to the west of the newly defined site I2. The effectiveness of this buffer strip would be enhanced if the new ENV6 extension northwards was augmented through mounding and/or planting for example with trees - so reinforcing its function as a landscaped buffer to reduce visual and noise impacts from future developments and commercial activities on the I2 site.

12. The now suggested extension of the ENV6 land northwards would also have the benefit of offering scope for enhancing the existing nearby network of walks, including the woodland trails, that already exist nearby and which appear to be well used and valued by the local community. These routes were being actively used when I was doing my site visit. I note that one of the existing trails that would remain unaffected by the proposed allocation is a path that forms part of the designated Core Paths Plan network of routes offering links - for various modes, including walking and cycling - that serve the local and wider areas.

13. I am satisfied, for the following reasons, that the concerns expressed by the neighbouring residents regarding drainage matters do not require or merit modifications to the proposed plan. Firstly, the wording of the I2 allocation highlights the possible requirement for an impact assessment to confirm that there are no adverse impacts on the River Spey Special Area of Conservation. In addition, the proposed plan includes policy EP7 that deals specifically with developments in flood risk areas by ensuring that satisfactory mitigation measures are put in place as part of any planning permission being granted - on the basis of detailed assessments required as part of the development management process.

14. I also note that in the proposed plan policy EP10 Foul Drainage requires all developments to connect to the public sewerage system wherever possible. Furthermore, in cases where there are capacity issues, developments will only be permitted where Scottish Water has confirmed investment programmes and funding to address any such constraint. Based on all of these considerations I conclude that these matters would be satisfactorily addressed through the development management process prior to any proposal being granted planning approval and implemented.

#### Site I5 Baxter's

15. The Scottish Environment Protection Agency (SEPA) is concerned that the site and its surroundings are likely to have groundwater dependent terrestrial ecosystems. On this basis they seek additional text in the allocation to ensure that any planning application is required to provide a walkover and photographic survey of habitats to assess the presence of potential wetlands. The council has indicated its willingness to accommodate this particular request and has suggested a possible amendment to the allocation wording to specifically address this. I am persuaded that to ensure consistency of wording across the new plan a change to the wording, along the lines agreed between SEPA and the council for this allocation, should be incorporated when the plan is adopted.

#### ENV6

16. There are two representations lodged, both of which seek re-designation of one of

the areas shown as ENV6 in the proposed plan to become allocated either as an Opportunity Site or for commercial uses to support economic development in the area. The parcel of ENV6 of particular concern and interest to them is the elongated ENV6 site located immediately to the north of the by-pass and east of the roundabout that marks the western end of the by-pass. In their view this area is disproportionately large for environmental purposes and they argue that it represents a prominent, readily accessible location that would be well suited to commercial developments.

17. The longest boundaries of the land parcel in question are defined by the new by-pass to the south and by the old A96 road to the north of that – which still serves as the main east-west access route through Mosstodloch. Its western boundary is a tapering point terminating at the by-pass marking the start of the by-pass when approaching from the Elgin direction. Its eastern boundary coincides with the eastern edge of the Balnacoul Wood and an adjoining grassed paddock.

18. At my site visit I noted that this whole wedge or corridor of partially wooded land represents an attractive and in my view strategically important green buffer between the by-pass to the south and the built-up area of Mosstodloch immediately to the north of it. In this context I am concerned that development of this corridor – whether for retail or other commercial purposes - would be detrimental to the setting and character of Mosstodloch and would detract from the amenity enjoyed by the existing community there.

19. In addition I note that the site in question is undeveloped rather than being a brownfield site, and is relatively remote and clearly detached from the core area of the village – and its isolation is reinforced by the presence of the Balnacoul woodland. Accordingly, in my view any retail, commercial or leisure proposals for the site would not meet the requirements or principles of the sequential approach for such developments set out in policy R2 of the proposed plan. I also note that the terms of this policy accord with national policy principles set out in Scottish Planning Policy.

20. Furthermore, I note there is already provision made in the proposed plan for different classes of commercial development to be accommodated on sites allocated for those purposes in and adjoining Mosstodloch – as well as nearby at Fochabers. I also note that the council's policy is to direct larger scale development proposals – which includes those being canvassed in this case – towards the main settlements of Moray, which does not include Mosstodloch –rather than allowing them to locate on an ad hoc basis at out-of-town locations on the outskirts of villages. I conclude that the principles of the council's approach in this regard are sound and reflect national planning policy set out in Scottish Planning Policy. As well as stressing the sequential approach this encourages the redirection of development pressures to more suitable locations – and advises that existing commercial centres should be identified as the focus for larger developments of the kind being sought here.

21. Based on all of the above considerations I conclude that there is insufficient justification to reallocate the site in question for retail or commercial development or to re-designate it as an Opportunity Site in the terms set out in the representations.

**Reporter's recommendations:**

Modify the proposed plan in the following terms:

1. The ENV6 designation shown on the settlement plan to the east and north of Birnie Place, Mosstodloch should be continued northwards (as shown hatched in red on drawing BD/13h/01) to form an additional rectangular strip of land. For the avoidance of doubt this would occupy the area to the north of the village hall off Birnie Place and immediately to the east of Mossmill Park that is currently shown in the proposed plan as the westernmost part of I6. The remainder, being the major, eastern part of the I6 allocation shown in the proposed plan would be retained as I6 specifically to provide an area for future expansion for the existing Baxter's business complex located to the south of it.
2. At the end of the text under the heading I5 Baxter's in the proposed plan, insert new wording as follows: "To support any proposals a walkover and photographic survey of habitats will be required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependent terrestrial ecosystems."

<b>Issue 13i</b>	<b>Lossiemouth</b>	
<b>Development plan reference:</b>	<b>Lossiemouth Settlement Statement, page 239-245</b> <ul style="list-style-type: none"> <li>• <b>General, page 239</b></li> <li>• <b>R1 Sunbank/Kinneddar, page 240</b></li> <li>• <b>OPP1 Esplanade Area, page 241</b></li> <li>• <b>OPP2 Sunbank, page 242</b></li> <li>• <b>ENV11 Cemeteries, page 242</b></li> <li>• <b>HBR1 and HBR2 Lossiemouth Harbour Area, page 243</b></li> <li>• <b>T2 Caravan Park Extension, page 243</b></li> </ul>	<b>Reporter:</b> Douglas Hope
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>General</u></b>  NHS Grampian Ryden LLP (0300)  Mr and Mrs A E Mitchell (0703)  <b><u>R1 Sunbank/Kinneddar</u></b>  Lossiemouth Community Council (0127)  Scottish Environment Protection Agency (0569)  Sydney And Jutta Hewett (0647)  Janice Bowman (0649)  Hugh Robertson (0651)  Gillian Priestley (0659)  Jackie Jackson (0660)  John Hamilton (0702)  Mr and Mrs A E Mitchell (0703)  Rebecca Robertson (0892)  William Glennie (0893)  Mary Duncan (0894)  Deborah Glennie (0895)  Rachel Glennie (0896)  Sarah Glennie (0897)  Ruth Glennie (0898)  CJ And CRH Dunbar (Pitgaveny) (0908)  John Lally (0911)  Ruth McDowall (0916)  Robert Murdoch (0924)  Lily Mulholland (0925)  Moutter (0931)  David Willmitt (0932)  Mary Millar (0934)  Lindsey Cameron (0935)  Jonathan Priestley (0936)  Anne and Georg Lees Paxton (0937)  David Bowman (0967)  Mr and Mrs David Cranston (0968)  L A Munro (0987)  Mr and Mrs Downing (0990)  Louise Reid (0991)</p>		

<p>Wendy Lally (0999)  Pauline Royan (1007)  Gordon McDonald (1010)  Tulloch of Cummingston (1016)  Mr Allister Mair (1019)  George Reid (1043)  Alexander and May McLeod (1052)  <b><u>OPP1 Esplanade Area</u></b>  Toni White (0628)  Paul Geraghty (0676)  Leigh Russell (0736)  Paul Russell (0737)  Maureen W Halkett (0973)  Lossiemouth Business Association (0974)  Hugh Brown (1034)  <b><u>OPP2 Sunbank</u></b>  Eric Simpson (0644)  Hugh Robertson (0651)  Rebecca Robertson (0892)  Mary Duncan (0894)  Tanya Smith (0927)  Moutter (0931)  <b><u>ENV11 Cemeteries</u></b>  Scottish Environment Protection Agency (0569)  <b><u>HBR1 and HBR2 Lossiemouth Harbour Area</u></b>  Scottish Environment Protection Agency (0569)  <b><u>T2 Caravan Park Extension</u></b>  Eric Simpson (0644)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Site designations within the town of Lossiemouth. These include residential allocations that contribute to achieving the housing land requirements for the Elgin Housing Market Area, sites to provide opportunities for employment and environmental designations to protect open space and safeguard amenity.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>General</u></b>  <u>Mr and Mrs AE Mitchell (0703)</u>  Support statement that intend to "Ensure public access is maintained to beaches and wooded area to support tourism potential." However, the Council is not taking responsibility for East Beach Bridge which conflicts with the statement about maintaining access.</p> <p><u>NHS Grampian(0300)</u>  It is likely that the existing health centre can be expanded on site. The approach adopted in the Proposed Plan is appropriate at this time.</p> <p><b><u>R1Sunbank/Kinnedar</u></b>  <u>CJ and CRH Dunbar (Pitgaveny)(0908)</u>  Support allocation of R1.</p> <p><u>Jackie Jackson (0660), David Willmitt (0932), Jonathan Priestley (0936)</u>  Unhappy did not receive neighbour notification.</p>	

Hugh Robertson (0651), Rebecca Robertson (0892)

The decision has already been made as the developer said 9 months ago they would build.

Hugh Robertson (0651)

Residents will suffer to aid developers looking to profit from the Government help to buy scheme. Development will devalue existing property. Houses will be developed too close together.

### **Site Capacity, Demand, Affordable Housing**

Tulloch of Cummingston (1016)

Capacity should be increased to 279. Developer is in final stages of design of R1 and this indicates capacity for 279 houses. A considerable amount is affordable. The layout includes open space either side of the B9135 entrance and this area should be included within the allocation. Layout continues to make provision for extension to the south as shown in the Main Issues Report (MIR) despite this being removed due to RAF constraints.

John Hamilton (0702), Moutter (0931)

Object to the scale of development, it is too large.

Ruth McDowall (0916)

Large number of houses for a small area.

Mr and Mrs Cranston (0968), George Reid (1043), Mr Allister Mair (1019)

There is no demand for 250-300 properties in Lossiemouth. (0968 There are many unsold properties in Lossiemouth, if older houses remain unsold Lossiemouth will lose its heart and become a suburb of Elgin.)

David Willmitt (0932)

Building 250 houses will drive down property values putting people into negative equity.

John Lally (0911)

Building houses is not good growth. Moray needs more employment but not by building houses.

Alexander and May McLeod (1052)

It is not a good idea to have a mix of private and Council houses.

Sydney and Jutta Hewett (0647), Janice Bowman (0649), David Bowman (0967), Gordon McDonald (1010)

The developer of site R1 has been allowed to transfer the affordable housing requirement from site R3 Inchbroom to this site. This means there will be an increase in the number of low cost/affordable housing. This is unfair and causes segregation. It is not a sustainable model to build a healthy community.

Moutter (0931)

Inclusion of low cost housing would not be in keeping with the surrounding area. Low cost housing will mean no one will buy higher priced properties.

Louise Reid (0991)

Development will cause crime and drug related incidents. Development will impact on the

elderly due to the type of people housed in Council houses.

**Flooding/Drainage, Noise/Odour, Infrastructure, Local Services, Wildlife, Views**

Sydney and Jutta Hewett (0647), Janice Bowman (0649), Hugh Robertson (0651), Jackie Jackson (0660), John Hamilton (0702), Rebecca Robertson (0892), Mary Duncan (0894), Rachel Glennie (0896), Sarah Glennie (0897), Ruth McDowall (0916), Lilly Mulholland(0925), Mary Millar (0934), Anne and Georg Lees Paxton (0937), David Bowman (0967), Mr and Mrs David Cranston (0968), Mr and Mrs Downing (0990), Wendy Lally (0999), Mr Allister Mair (1019), Alexander and May McLeod (1052)

Object to site R1 on some or all of the following grounds.

- The site has a history of flooding. The site has a high water table and drainage problems.
- The site lies on the flight path and close to the RAF runway which will cause noise and fume/odour issues.
- There are only part time emergency services in Lossiemouth, these would be unable to cope with the increase in call outs. Consideration should be given to education provision and medical facilities.
- Additional traffic will impact on roads maintenance.
- To access the cul de sacs roads would require to cross the main sewage pipe. There is major pipework in the site. There is already an odour from the sewage works and increasing house numbers will exacerbate this.
- Wildlife will be displaced.
- Queries capacity of infrastructure and impacts of increased run off.

Mr and Mrs David Cranston (0968)

R1 Should be retained as green belt.

John Lally (0911)

Greenspace should be protected from development. Development will impact on local and migratory species.

Rebecca Robertson (0892), Mary Duncan (0894), Lilly Mulholland (0925), Mr and Mrs David Cranston (0968), Louise Reid (0991), George Reid (1043)

Loss of views over countryside, and disturbance will devalue property.

John Lally (0911)

Amount of litter in the area is a concern.

Scottish Environment Protection Agency (0569)

A small watercourse runs along the north boundary of the site which is a potential cause of flood risk. Small areas of the site may also be at risk from pluvial flooding. Flood risk and drainage should be considered with a Flood Risk Assessment or further information submitted as appropriate. There is some risk of flooding and object unless the designation text is amended to confirm the need for a flood risk assessment and avoidance of the area shown to be at risk from flooding.

**Access via existing cul de sacs**

Sydney and Jutta Hewett (0647), Janice Bowman (0649), Gillian Priestley (0659), Hugh Robertson (0651), Jackie Jackson (0660), John Hamilton (0702), Rebecca Robertson (0892), William Glennie (0893), Mary Duncan (0894), Deborah Glennie (0895), Rachel Glennie (0896), Sarah Glennie (0897), Ruth Glennie (0898), Ruth McDowall (0916), Robert Murdoch (0924), Lily Mulholland (0925), Mary Millar (0934), Jonathan Priestley

(0936), Anne and Georg Lees Paxton (0937), Mr and Mrs David Cranston (0968), LA Munro (0987), Mr and Mrs Downing (0990), Louise Reid (0991), Wendy Lally (0999), Pauline Royan (1007), Alexander and May McLeod (1052)

Object to use of existing cul de sacs to access proposed development on some or all of following grounds.

- The roads are too small to cope with the increase in traffic and this has potential to increase accidents. They are too narrow to allow large vehicles to pass other traffic or parked cars. There is no scope to widen existing cul de sacs.
- Using the cul de sacs will impact on the quality of life of existing residents. Loss of amenity. Traffic and construction traffic has potential to damage houses and foundations.
- Halliman Way is only 5.05m wide and the junction onto Boyd Anderson Drive is onto a corner where cars speed.
- It will devalue property on the cul de sacs. No need to use cul de sacs access can be achieved directly onto the two main roads. This is the position within the 2008 plan. Only two accesses are required not four. Access through cul de sacs is a change from the 2008 plan.
- Buses should not be allowed to go through Halliman Way or Fisher Place.
- Residents bought houses in cul de sacs because there are few houses in the street.
- It is a betrayal of trust to remove cul de sacs and assurances were given when R1 was designated that no access would be taken through to Boyd Anderson Drive.

Lossiemouth Community Council (0127)

Lossiemouth Community Council submitted a petition on behalf of signatories in respect of site R1. Petition signed by 403 people. The Local Development Plan has been altered to allow access to future housing via existing cul de sacs (Fisher Place and Halliman Way), and as such allowing access onto Boyd Anderson Drive. Seek a review of Scottish Government policy including Creating Places and Designing Streets in the case of R1. Further discussion with the community and further consideration of Designing Streets and Creating Places in relation to links with existing development is required. Note decision would be subject to a Transport Assessment and query if this has already been undertaken. Requests statement "Connections through existing built up area onto Boyd Anderson Drive should be considered TSP3" is deleted from the plan. Agree pedestrian/cycle access is acceptable and is more in keeping with the Scottish Government Designing Streets policy. Note that when plots were sold by Moray District Council purchasers were given assurances regarding no through road access. Property enquiries at the time of purchase were informed "There are no road proposals affecting this property."

Robert Murdoch (0924)

All that is required by Designing Streets is footpath and cycle connection. Proposal to use cul de sacs is contrary to Designing Streets aims.

**Impacts on Boyd Anderson Drive, Traffic Impacts, TSP implementation timescales**

Sydney and Jutta Hewett (0647), Janice Bowman (0649), Hugh Robertson (0651), Gillian Priestley (0659), Jackie Jackson (0660), John Hamilton (0702), Mr and Mrs A E Mitchell (0703), Rebecca Robertson (0892), Mary Duncan (0894), . John Lally (0911), Ruth McDowall (0916), Moutter (0931), David Willmitt (0932), . Mary Millar (0934), Jonathan Priestley (0936), Anne and Georg Lees Paxton (0937), David Bowman (0967), LA Munro (0987), Louise Reid (0991), Wendy Lally (0999), Mr Allister Mair (1019), George Reid (1043), Alexander and May McLeod (1052)

Object to access onto Boyd Anderson Drive for some or all of the following reasons.

- The existing road is unsafe. Accidents have already occurred.
- Increased traffic will make existing junctions onto Boyd Anderson Drive more dangerous.
- Boyd Anderson Drive is poorly designed which makes access to Cromarty Place difficult, more traffic will increase risks.
- The junctions of Boyd Anderson Drive onto Coularbank Road are difficult to negotiate due to restricted views. Parked cars on Boyd Anderson Drive result in traffic waiting on Coularbank Road if cars are exiting Boyd Anderson Drive. There are only two access points to Boyd Anderson Drive and increased housing would have implications should an emergency occur.
- Boyd Anderson Drive is a bus route and used by school children, increased traffic would increase risk of danger. Concerned about child safety. Children play on green spaces adjacent to Boyd Anderson Drive. There are minimal passing places.
- Boyd Anderson Drive was not designed for this level of traffic. Development will cause congestion and noise pollution from inconsiderate drivers.
- Concerned about use by construction traffic.

Mr Allister Mair (1019)

The increase in traffic on Kinnedar Road and Boyd Anderson Drive will be dangerously excessive.

Lindsey Cameron (0935)

The main road has always had problems with traffic speed including buses. Development will increase traffic and increase the risk of accidents.

Robert Murdoch (0924)

Council acknowledge improvement required at TSP 2 and TSP 4 and these should be undertaken before any development starts. This should be stated in the plan.

LA Munro (0987)

New access roads onto B9135 and A941 should be in place before development commences.

Gillian Priestley (0659), Jonathan Priestley (0936)

Scottish Government is encouraging people to leave cars at home. It is illogical to squeeze more traffic onto overcrowded unsuitable road. Should concentrate on connectivity for pedestrians and cyclists.

**OPP1 Esplanade Area**

Toni White (0628), Maureen W Halkett (0973)

Object to OPP1 as it is popular with people and families who enjoy the views and park.

Paul Geraghty (0676)

Development of OPP1 would have a negative impact and it should be retained for recreation. Improvement to the play area and gardens would enhance the area. The area is not suitable for development due to its location on the Moray Firth and exposure to the sea. The area would be subject to flooding and salt water spray. This would result in high maintenance costs and buildings would quickly become an eyesore.

Paul Geraghty (0676), Leigh Russell (0736), Paul Russell (0737), Maureen W Halkett (0973), Lossiemouth Business Association (0974)

The land is not underutilised, vacant or derelict. The existing car park is busy and should be retained for shoppers and visitors to the seafront. Removal would lead to traffic

problems and put people off spending time in the town. (0973, 0974) Submits photographs of car park being used.

Maureen W Halkett (0973), Lossiemouth Business Association (0974)

The car park was recently upgraded with tarmac.

Leigh Russell (0736)

Development of OPP1 will obstruct views. If proposal fails what would prevent sale of land for housing.

Leigh Russell (0736), Paul Russell (0737), Hugh Brown (1034)

Visitors only come to Lossiemouth if weather is good and commercial and tourist development will not change this. Concerned about impact on existing businesses, as commercial proposals would compete with these. There are vacant shops and therefore no logic to creating new.

Leigh Russell (0736), Paul Russell (0737)

Unscrupulous to only inform those within 20m when proposal affects whole town. Loss of green space will be to detriment of town. Well developed public amenities would bring tourism without need for shops or cafes. Proposal suggests existing amenities would be removed (toilets, parking, play area).

Paul Russell (0737)

Concerned about the traditional seafront garden area being in hands of private developer. Concerned building would not be in keeping with built heritage. Proposal is only to save Council on maintenance costs and to raise money from sale of land.

Maureen W Halkett (0973), Lossiemouth Business Association (0974)

The car park is the only area for community functions such as farmers markets, gala days, and concerts.

## **OPP2 Sunbank**

Eric Simpson (0644)

Objects to development of Sunbank Quarry for industrial/retail

Moutter (0931)

There is no need for a business park as there are plenty existing empty business parks and others being built. Developing the area would take away one of the only green areas in Lossiemouth that dog walkers can use and has an abundance of wildlife. It should be left for nature.

Tanya Smith (0927)

Sunbank Quarry is an area of natural beauty and well used for walks, dog exercising and horse trekking. There are two lochs within the site and it is a natural habitat for wildlife. The designation is vague as to what the site could be used for. Concerned about the impact on the entrance/gateway to Lossiemouth. Site could be noisy, add light pollution and be unsightly putting off tourist and house buyers.

Hugh Robertson (0651), Rebecca Robertson (0892), Mary Duncan (0894)

Sunbank Quarry is a fire hazard and explosion risk. It should be cleaned up and used for housing. Derelict factories at the harbour should be used for industrial.

### **ENV11 Cemeteries**

Scottish Environment Protection Agency (0569)

Investigations suggest site ENV11 is likely to have groundwater dependent terrestrial ecosystems on or around them. It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

### **HBR1 and HBR2 Lossiemouth Harbour**

Scottish Environment Protection Agency (0569)

Site is within the 1 in 200 year coastal flood extent. As residential proposals will be considered any development should consider flood risk and drainage with a Flood Risk Assessment or further information submitted, as appropriate. There is some risk of flooding and object unless the designation text is amended to confirm the need for a flood risk assessment and avoidance of the area shown to be at risk from flooding.

### **T2 Caravan Park Extension**

Eric Simpson (0644)

Caravan site extension should not have a 12 month licence for residential use.

### **Modifications sought by those submitting representations:**

#### **General**

Mr and Mrs AE Mitchell (0703)

Implied amendment to give a statement regarding responsibility of East Beach Bridge.

NHS Grampian (0300)

Health care provision should be specified under Infrastructure within the settlement statement and promoted as a developer contribution.

#### **R1Sunbank/Kinnedar**

Scottish Environment Protection Agency (0569)

Add text "Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

Lossiemouth Community Council (0127)

Remove statement "Connections through existing built up area onto Boyd Anderson Drive should be considered TSP3" and remove TSP3.

Sydney And Jutta Hewett (0647), John Lally (0911)

Remove R1 from the plan.

Janice Bowman (0649)

Address concerns raised and rethink proposed development plans.

Jackie Jackson (0660)

Relook at or stop proposal.

Hugh Robertson (0651), Rebecca Robertson (0892), Mary Duncan (0894)

Develop Sunbank for housing. Develop the harbour for industrial use.

John Hamilton (0702)

Remove access to site from Halliman Way. Reduce the number of houses to a more

sensible level. Increase the distance from existing properties to the new ones. Provide more landscaping to separate existing houses from new.

Mr and Mrs AE Mitchell (0703)

Implied amendment reconsider access arrangements.

Gillian Priestley (0659), William Glennie (0893), Deborah Glennie (0895), Ruth Glennie (0898), Jonathan Priestley (0936)

Do not use cul de sacs off Boyd Anderson Drive for access to R1.

Rachel Glennie (0896)

Reduce the number of houses proposed on R1. Do not use cul de sacs off Boyd Anderson Drive for access to R1.

Sarah Glennie (0897)

Houses should be kept away from the flight path. Do not use cul de sacs off Boyd Anderson Drive for access to R1.

CJ And CRH Dunbar (Pitgaveny) (0908)

No change

Lily Mulholland (0925)

Fisher Place and Halliman not opened up to through traffic as main roads. No access of any form through Malin Place from R1.

Robert Murdoch (0924)

Remove the proposal to seek vehicular access across to Boyd Anderson Drive. Revert to previous access arrangement in the existing Local Plan and included access to B9135 if necessary. Include all previous conditions in the present plan (2008). If proceed with seeking to use Boyd Anderson Drive it should be a condition that TSP2 and TSP4 are completed prior to commencement.

Moutter (0931)

Reduce R1. It should be a smaller child friendly scheme with lots of green space.

David Willmitt (0932), Ruth McDowall (0916), Mary Millar (0934), Lindsey Cameron (0935), LA Munro (0987), Mr and Mrs Downing (0990), P Royan (1007), Mr Allister Mair (1019), George Reid (1043), Alexander and May Mcleod (1052),

Anne and Georg Lees Paxton (0937)

Do not use the two cul de sacs. Only use B9135 and main Elgin to Lossiemouth Road.

David Bowman (0967)

Remove proposal to use Fisher Place and Halliman Way into feeder routes from R1. Revert back to original design.

Mr and Mrs David Cranston (0968)

Don't allow development until concerns are answered. Concerned about effect on health, property and human rights. Also concerned about effect on drainage, safety, noise, pollution and existing public services.

Louise Reid (0991)

A different location for R1 should be found.

Wendy Lally (0999)

No development on R1 but if retained no access through Fisher Place and Halliman Way or through routes to Boyd Anderson Drive.

Gordon McDonald (1010)

Reduce/remove percentage of affordable housing in R1 development.

Tulloch of Cummingston (1016)

Increase capacity of R1 to around 280 units and redefine R1 site boundaries to include open space parkland and shelter belt screening to the south.

**OPP1 Esplanade Area**

Toni White (0628)

OPP1 should be improved as a park and garden and not built upon.

Paul Geraghty (0676)

Remove OPP1

Leigh Russell (0736)

Remove OPP1 and upgrade landscape and invest in making area attractive.

Paul Russell (0737)

Develop the playpark theme not commercial uses.

Maureen W Halkett (0973), Lossiemouth Business Association (0974)

Upgrade files to show land is not derelict. Upgrade the car park by marking spaces. Improve band stand facilities. Organise fun days.

Hugh Brown (1034)

Explain logic of this proposal, list the consultees and estimate the impact.

**OPP2 Sunbank**

Eric Simpson (0644)

Implied amendment remove OPP2.

Tanya Smith (0927)

Remove OPP2 designation and find alternative location for uses.

Moutter (0931)

Not develop OPP2.

Hugh Robertson (0651), Rebecca Robertson (0892), Mary Duncan (0894)

Allocate for housing.

**ENV11 Cemeteries**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**HBR1 and HBR2 Lossiemouth Harbour**

Scottish Environment Protection Agency (0569)

Add text "Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

**T2 Caravan Park Extension**

Eric Simpson (0644)

Do not allow 12 month licences.

**Summary of responses (including reasons) by planning authority:**

**General**

The support for maintaining access to the beaches and woodland is noted. The issue regarding responsibility for East Beach Bridge/Seatown Bridge is not a Local Development Plan issue. The objectives of the plan would support any planned maintenance. It is also noted that the actions within the Moray Economic Strategy (CD28) include Incremental Infrastructure Improvements with the example of Seatown Bridge in Lossiemouth given.

The comments from NHS Grampian are noted.

**R1 Sunbank/Kinnedar**

Site R1 is carried over from the existing Moray Local Plan 2008 (CD10) and was the subject of examination then (CD26 page 2.166). The Reporter concluded that "there are few if any other opportunities of a significant scale in and around Lossiemouth to provide new housing to meet local demand and Structure Plan requirements." At that time objectors had highlighted aircraft noise, health and safety, pollution, loss of property value, loss of view, increased stress from construction noise, increased litter/vandalism, no requirement for housing and high water table as grounds for R1 to be removed. The Reporter concluded that "based on the available evidence and weighing up the arguments put forward, I conclude that, on balance there is no justification for removing 12.5ha designation R1."

Neighbour notification was carried out in line with the Town and Country Planning (Development Planning) (Scotland) Regulations 2008. Neighbouring land that was conterminous or within 20 metres of the site boundary were sent a schedule 2 form. The objectors' properties are not conterminous with site R1 and are over 20 metres from the site boundary.

The developer submitted Proposal of Application Notice on 7 December 2012 and a planning application has subsequently been submitted on 24 July 2014. The application 14/01486/APP for 278 dwellings and community facilities (four retail units) is currently being considered by the Council.

Impact on private views and property value is not considered to be a material planning consideration. There is no evidence to suggest housing will be close together.

**Site Capacity, Demand, Affordable Housing**

Lossiemouth is a second tier settlement within the Elgin Housing Market Area. The housing requirement for the Elgin Housing Market Area is 1494. As a second tier settlement Lossiemouth is expected to accommodate development at a level appropriate to its sub-Moray role. The Housing Needs and Demand Assessment (CD12), which

assesses future housing need and demand, identified a total annual land requirement in the Elgin Housing Market Area for 240 houses per annum. Whilst the majority of this requirement is allocated in Elgin as a second tier settlement Lossiemouth would be expected to accommodate some of this need and demand. The Housing Need and Demand Assessment (CD12) was found to be “robust and credible” by the Scottish Government’s Centre for Housing Market Analysis on 12 September 2011. Site R1 is carried over from the Moray Local Plan 2008 (CD10 page 200) and within the Housing Land Audit (CD18 page 111) 65 units are shown as effective with the remainder of the site programmed beyond five years. There are over 3000 households in Lossiemouth and 250 houses would represent around an 8% increase in households. When accounting for the other allocations and what remains to be built out within those a 10% increase in households would be anticipated. This is reasonable over the timescales anticipated (2013-2025) and reflects the towns second tier status. It is noted that completions averaged 18 houses per annum for the period 2008-2010. At the Main Issues Report (CD04 page33) the Council had sought to identify a further 100 houses in Lossiemouth to meet housing requirements. However this was not possible due to the physical and environmental constraints around Lossiemouth and the RAF safeguarding constraints. R1 is therefore likely to be the furthest Lossiemouth can expand for the foreseeable future unless constraints can be overcome.

The site is capable of accommodating 250 houses without impacts on amenity. It is noted that the developer has submitted a proposed layout with their submission which is in excess of this. Based on 250 houses the density of the development is approximately 17 houses per hectare. Whilst this is a higher density than the immediately neighbouring land it is not excessive in comparison to other parts of Lossiemouth where higher densities can be found. It is noted that the housing capacities identified with allocations are indicative and as stated within Policy H1 Housing Land “proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1”. Therefore there is potential for a well designed scheme of more than 250 houses to be supported once an application is submitted providing it meets the requirements of the relevant policies. Any such application may require to be treated as a departure and follow appropriate processes.

Provision of affordable housing within developments is a requirement of Policy H8 Affordable Housing and a minimum of 25% of the total units should be affordable. A similar policy has been in operation in the Moray Local Plan 2008 (CD10 page 25) and has been successful in aiding delivery of affordable housing. There is no evidence to suggest that the affordable housing will not be in keeping or that the type of housing will lead to social problems for specific groups of people. Not aware of any evidence to suggest provision of affordable housing reduces demand for higher priced property.

It is noted that affordable housing has been provided at site R3 off of Inchbroom Avenue.

The site boundary to the west (adjacent to B9135) reflects the aircraft noise contours and the limited development that is likely to be permitted within this area. It is not appropriate to include these areas within the R1 allocation due to the restricted development opportunities.

#### **Flooding/Drainage, Noise/Odour, Infrastructure, Local Services, Wildlife, Views**

The site does not fall within the 1 in 200 year flood risk area on SEPA’s map. However as noted by Scottish Environment Protection Agency there is a watercourse within the site that may potentially be a flood risk and also small areas that may be at risk from pluvial

flooding. If the Reporter is so minded the Council would not object to the suggested text by Scottish Environment Protection Agency being added to the designation text. The following wording is considered suitable "Proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site." Planning policy EP5 Surface Water Drainage, EP6 Waterbodies and EP7 Control of Development in Flood Risk Areas will be considered when determining the application.

Consultation with the Ministry of Defence/Defence Infrastructure Organisation is required within the allocation text to establish the extent to which the site can be developed. This is in line with the policy EP13 Ministry of Defence Safeguarding which aims to ensure relevant proposals are subject to consultation with the Defence Infrastructure Organisation. This is to ensure proposals do not impact upon the safe operation of Ministry of Defence facilities. Consideration was given to aircraft noise contours at the examination into the Moray Local Plan 2008 (CD26 page 2.158). Noise will require to be considered in the determination of any planning application in line with policy EP8 Pollution.

In line with policy IMP3 Developer Obligations contributions will be sought from developers in cases where a development will have a measurable adverse impact on existing infrastructure and community facilities, including emergency services and education.

The developer will require to consider the potential impact of crossing any services/pipework including sewage pipes within their layout and design and ensure their proposals are designed to prevent adverse impacts. Existing issues with odour are not a result of the development proposals. When Scottish Water assess and evaluate connection applications, if there is any suggestion new housing may cause new or exacerbate any known existing issues there is a responsibility upon the developer to undertake a Drainage Impact Assessment (DIA). There is also an expectation that the developer will undertake work on the existing network to mitigate any impacts from development on existing customers.

The land is currently farmed and used for arable crops. A habitats survey requires to be submitted with proposals. This requirement was included following a response from Scottish Environment Protection Agency that noted there were potential wetland habitats on part of the site. The site is not greenbelt, nor is it within the Countryside Around Towns designation or protected as ENV. There is some inevitability that land which adjoins neighbouring property may require to be built upon, especially given, the limited availability of brownfield sites, the topography and other constraints in Lossiemouth which severely limit development opportunities.

Loss of private view and impact on property value is not considered a material planning consideration.

#### **Access via existing cul de sacs**

Permeability for all users (pedestrian, cycle, public transport, vehicles) is a key requirement for the design and layout of proposals. This is in line with Policy T2 Provision of Access, Supplementary Guidance on Urban Design and Scottish Government policy (Designing Streets (CD30) and Creating Places). Designing Streets (CD30) is a change in Scottish Government policy stance since the Moray Local Plan 2008 was adopted and the allocation wording has been amended to achieve the six qualities of successful places including a place that is easy to move around and adaptable. Well connected or

permeable street networks encourage walking and cycling and can help avoid segregation of neighbourhoods. Vehicular connections to existing street networks provide better connectivity for all users, provide more route choice and assist in delivering optimal distribution of vehicular traffic across the network. Connections through the built up area onto Boyd Anderson Drive would help maximise connectivity and permeability. This is a key aspect of Designing Streets (CD30) and delivering the qualities of successful places. Street patterns should be fully integrated with surrounding networks to provide flexibility and accommodate change in built and social environments.

Two accesses are a minimum for the level of housing proposed. The potential for additional accesses and connections should be considered to help maximise permeability. As highlighted above this reflects the change in Scottish Government policy stance since the adoption of the 2008 Local Plan when Designing Streets was published in 2010. Greater permeability helps achieve developments that are easy to move around and welcoming. As a Scottish Government policy document Designing Streets, is a relevant consideration in the preparation of the development plan and is already a material consideration in the determination of planning applications. Potential access points onto the B9135 and the A941 are identified within the allocation and as TSP1 and TSP5 respectively. These are anticipated to be the primary access points to the development.

A Transport Assessment is required to accompany proposals in line with policy IMP2 Development Impact Assessment. This will assess and quantify the impacts of development and identify appropriate mitigation. Any proposals brought forward to connect through to Boyd Anderson Drive would be considered in this way at the planning application stage with consideration against policy T2 Provision of Access also. TSP 3 should be retained to allow developers to explore options for connectivity through the built up area onto Boyd Anderson Drive to help maximise site permeability. The suitability of such connections is best assessed at the planning application stage with reference to the Transport Assessment and plan policies.

#### **Impacts on Boyd Anderson Drive, Traffic Impacts, TSP implementation timescales**

The likelihood of impacts from development on the transport network is acknowledged within the allocation and identification of TSPs. The plan acknowledges that offsite junctions and road improvements may be required. These are also identified in the TSP list, for example TSP2, TSP4, and TSP 7 Boyd Anderson Drive/Coulardbank Road and Coulardbank Road/Elgin Road. The modifications/mitigation required and their timing will be subject to the results of the Transport Assessment. Proposals would be considered at the planning application stage against the Transport and Accessibility policies and Transport Assessment.

TSPs are identified to be of assistance to developers when considering their proposals. It is acknowledged that the TSP's are based on information available in 2013/14 and circumstances may change between the plan publication and planning application submission that could mean other junctions may require to be considered. At the scoping stage of a Transport Assessment the junctions that would require assessment would be clarified but the TSPs provide some advance guidance to developers on likely requirements. The approach taken for identifying the TSP locations in various settlements has been to identify;

- g) existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with MLDP Policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing

Streets Policy;

- h) existing locations on the transport network where the development of specific sites would require the impact of the development traffic to be assessed in accordance with MLDP Policy IMP2 (b) and necessary mitigation/modifications to ensure the impact of new development to be delivered to adequately address the safety and efficiency of the transport network (walking and cycling infrastructure; bus stop infrastructure; passing places; road widening; junction enhancement; road drainage infrastructure).

### **Conclusion R1 Sunbank**

The R1 allocation should be retained. Site R1 is carried over from the Moray Local Plan 2008. The relevant planning issues raised will be considered through the planning application and against the relevant policies of the plan. It is reasonable and appropriate for the allocation to suggest access through the built up area is explored to encourage greater permeability in line with the Scottish Government policy. In order to provide greater clarity to applicants if the Reporter was so minded the Council would not object to amending the designation text to include the wording “Proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site.”

The Council would have no objection if the Reporter were minded to make the modification highlighted above in respect of a Flood Risk Assessment.

### **OPP1 Esplanade Area**

The opportunity site has been identified, as whilst the site is not derelict or vacant it is considered to be underused. There is potential for uses to be enhanced to support the town’s tourism role in line with the Moray Economic Strategy (CD28).

In line with PP3 Placemaking and Supplementary Guidance on Urban Design the Council would expect any proposals to consider the context of the built heritage of Lossiemouth in its design.

There are no detailed proposals and therefore no evidence to suggest the site will compete with existing commercial interests. The opportunity site allocation has been identified to support the town’s tourism role and the uses could complement existing businesses.

The allocation text acknowledges the location beside the sea may constrain the site and that the dynamic nature of the coast will need to be considered. These issues would require to be addressed when proposals were submitted.

Neighbour notification was carried out in line with the Town and Country Planning (Development Planning) (Scotland) Regulations 2008. Neighbouring land that was conterminous or within 20 metres of the site boundary were sent a schedule 2 form. The Proposed Plan was widely publicised and an information event was held in Lossiemouth to raise awareness of the proposals and the consultation.

No modification is proposed.

### **OPP2 Sunbank**

The site is essentially carried over from the Moray Local Plan 2008 where it was identified in three separate allocations; retail, business park and industrial. These sites have been combined and wording amended to allow greater flexibility between these uses. This flexibility should make the site more attractive to investment. The OPP designation is also

more reflective of the brownfield nature of the site given its former use as a quarry.

There is a limited supply of industrial/employment sites within Lossiemouth. With the exception of the sites at Sunbank, the Employment Land Audit 2014(CD19 page 18-19) only identifies a small 0.22ha site available at I1 Coularbank. The only other available opportunities are redevelopment of existing industrial/business areas within the town. As a second tier settlement Lossiemouth is expected to accommodate growth in line with its sub-Moray role. There are limited opportunities for Lossiemouth to expand due to topography and other constraints and therefore some inevitability to development expanding into green spaces.

No modification is proposed.

### **ENV11 Cemeteries**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands being added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **HBR1 and HBR2 Harbour Areas Lossiemouth**

If the Reporter is so minded, the Council would not object to the suggested text by Scottish Environment Protection Agency being added to the site designation text for HBR1 and HBR2. The following wording is considered suitable “Proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site.”

### **T2 Caravan Park Extension**

Policy H10 Residential Caravans and Sites states that the Council will not permit caravans to become permanent residences. Issues about the length of occupation and site licences fall outwith the development plan.

No modification is proposed.

## **Reporter's conclusions:**

### **General**

1. Whilst noting the comments made about the access to beaches and woodlands as well as regarding bridge maintenance, I find that these particular matters fall outwith the scope of this Examination. I am also satisfied that the general nature of the supportive comments received from NHS Grampian does not require further exploration as part of the Examination.

### **R1 Sunbank/Kinneddar**

2. The council has provided a comprehensive response to the issues raised in relation to the continued designation of this site for 250 houses. I note that site R1 has been carried forward from the adopted Moray Local Plan 2008 and that the developer is in the final stages of the design of the development. A proposed layout was submitted with the developer's submission (see comment SD1016d/1/004a). I also note that a planning application for the erection of 278 dwellings and community facilities (four retail units) is

currently being considered by the council.

3. Having considered all the concerns raised in the representations, I must conclude that there have been no changes in circumstances since the examination of the existing local plan in November 2007 that would warrant the removal of this site from the proposed plan. As a second tier settlement, Lossiemouth is an appropriate location for further housing development and with the completion of site R3, Inchbroom, there are few, if any, other opportunities for the scale of housing required. As the council indicates, the Housing Need and Demand Assessment 2011 identifies a total annual housing land requirement for the Elgin Housing Market Area of 240 houses per annum. Whilst the majority of this requirement is allocated to Elgin, Lossiemouth is expected to accommodate its share. There are over 3000 households in Lossiemouth and an additional 250 houses would represent an increase of 8% over the period 2013-2025. I consider this to be reasonable.

4. The density of development proposed, 17 houses per hectare, is higher than the neighbouring housing area but is not excessive in comparison to other parts of Lossiemouth, where higher densities can be found. The provision of a minimum of 25% affordable housing is a requirement on this site and there is no evidence to suggest that the provision of such housing will lead to any particular social problems. There is potential for a well-designed housing development on this site, in accordance with Principle Policy PP3: Placemaking.

5. As regards the request to increase the capacity of the site, as stated in policy H1, site capacity figures are indicative and specific house numbers are determined on submission of a planning application against the requirements of the relevant planning policies. I am satisfied that the figure of 250 houses remains an appropriate capacity for this site.

6. In relation to the other issues raised, the site does not fall within the 1:200 year flood risk area but there is the potential risk of pluvial flooding from a watercourse within the site. In these circumstances, I agree that proposals should be supported by a Flood Risk Assessment (FRA) or further information, as appropriate, the outcome of which may affect the developable area of the site. My recommended modification reflects this. In relation to aircraft noise, the designation text refers to the need to consult with the Ministry of Defence to establish the exact extent to which the site can be developed and does not, therefore, require to be modified. I note that a habitats survey is required and an archaeological evaluation must be undertaken prior to development commencing.

7. I note that, in line with policy IMP3: Developer Obligations, contributions will be sought from the developer where the development adversely affects existing infrastructure and community facilities. In this respect, the proposed plan makes clear (see page 239) that developers are advised to contact Scottish Water as early as possible to confirm there is sufficient drainage capacity. Where the development may exacerbate any known drainage issues, a drainage impact assessment is usually required. In view of the perceived inadequacies of the existing sewage works, I consider that the requirement for a drainage impact assessment should be a requirement of this development. My recommended modification reflects this.

8. In relation to access, I note that a Transport Assessment is required to assess and quantify the impacts of the development on the surrounding roads network and identify appropriate improvements/mitigation measures to address any road safety issues. Two accesses to the development are required; potentially from the B9135 to the west (TSP1)

and through site OPP2 to the east to a new junction on the A941 (TSP5). The designation text also refers to the need to consider potential connections through the existing built-up area on to Boyd Anderson Drive (TSP3). This requirement has raised concerns from existing residents in the neighbouring residential area. Vehicular connections to the existing street network would maximise connectivity and permeability for all users (private vehicles, public transport, cycle and pedestrian), provide more route choice and assist in delivering optimal and safe distribution of vehicular traffic across the road network. This is a key aspect of Scottish Government policy and is in line with policy T2 of the proposed plan. Such connections would also help to avoid the segregation of residential neighbourhoods.

9. I note that the proposed masterplan submitted with the developer's submission (see comment SD1016d/1/004a) incorporates two vehicular connections and one footpath link. Whether the solution put forward in the masterplan is acceptable in connectivity and road safety terms is a matter for the council to decide through the planning application process but the provision of a multi-use connection or connections to Boyd Anderson Drive is consistent with Scottish Government policy on Designing Streets and Creating Places (CD30). I consider, therefore, that proposal TSP3 should be retained to allow the developer the opportunity to explore options for connections with Boyd Anderson Drive. The acceptability of any particular solution would be dependent on the outcome of the Transport Assessment.

#### OPP1 Esplanade Area

10. This generally open area is situated immediately to the south of the harbour and faces eastwards along the waterfront. This site, which adjoins the town centre core, is used primarily as a public car park with toilet facilities and has a children's play area – with the remainder surfaced with soft and hard landscaping and offering some public seating. These facilities appear to be all well used by local people and visitors. Indeed the site is valued locally as a seafront recreational amenity, despite the exposed nature of the site making it vulnerable to storms, sea spray damage and flooding. It has also been pointed out that it provides the only open area available for use as a farmer's market and for galas and concerts.

11. It is in this context that concerns have been raised about its designation as an Opportunity site – in particular that the public amenity value and open character of this area would be compromised significantly if it was developed as a commercial complex, even if this was tourism-related. For the reasons outlined below, I share those concerns and note that there appear to be already sufficient development opportunities and vacant units elsewhere in Lossiemouth offering scope for commercial enterprises, without losing this important waterfront asset.

12. I acknowledge that flood risk and the exposed nature of this seafront site represent potential constraints to any development of the site. I am satisfied, however, that these matters – together with other environmental concerns such as possible impacts on the Moray Firth Special Area of Conservation and contamination issues noted by the council – could all potentially be addressed and mitigated satisfactorily, where appropriate, to enable some built development to be achieved on the site. Nevertheless, for the following reasons I find that the case made by the council for allocating this site in the terms expressed under OPP1 in the proposed plan is not persuasive.

13. I am satisfied that the site, whilst it may be underutilised in the off-season, performs

valuable functions in a strategically important location within Lossiemouth. Its high profile position on the seafront in the heart of Lossiemouth, adjoining the harbour and town centre core area, makes it an important townscape feature. Furthermore, it provides strategically well located public car parking, play and recreation opportunities and other facilities including public toilets – all of which are used by local people and visitors - as well as offering scope for hosting special events, such as markets and concerts.

14. Accordingly, in my view this land and its primary uses should be safeguarded and enhanced, if possible, rather than risk being lost through redevelopment to become a commercial development complex, even if that had a tourism component. Most importantly, I am concerned that any underutilisation of this esplanade area today is not sufficient justification for allowing this important site to be transformed into a major commercial complex, particularly when there is no evidence of a shortage of site options for such purposes in Lossiemouth. I also note that the council confirms that there are no detailed proposals - and I have not been made aware of any other indications of strong market interest in this site - from commercial developers.

15. In summary I conclude that - no matter how much emphasis was placed on ensuring a high standard of design and sympathetic consideration of the built heritage of the surrounding area - any form of major new commercial complex would be inappropriate at this location. Based on all of these considerations I conclude that the site in question should not be designated as an Opportunity site but instead should become a northern extension of the ENV8 Esplanade area shown in the proposed plan.

16. I acknowledge, however, that in principle over the plan period there may well be scope for one or more smaller scale built developments or redevelopment opportunities on parts of the site in question. This would be subject to any such proposal demonstrating satisfactorily its conformance with Policy E5 of the plan and its compatibility with the esplanade location and its public amenity roles - as well as being of a scale and design that is in keeping with this setting and the wider townscape heritage. These would be amongst the detailed matters – including other site constraints, such as those outlined earlier - that would all be assessed through the Development Management process when any planning application was lodged and prior to its determination.

#### OPP2 Sunbank

17. The proposed designation of this large, overgrown former quarry site alongside the A941 road is carried forward as a consolidation from the adopted local plan where it comprised 3 separate allocations for retail, business park and industrial developments. The council confirms that the present combined designation is intended to allow a greater degree of flexibility between those possible uses.

18. Whilst noting the concerns expressed by the objectors, I find that the council has made a persuasive case for offering this as an Opportunity site in the terms set out in the proposed plan. This is based on its assessment of the availability of sites to meet projected market demand and its strategy to promote and facilitate growth in Lossiemouth over the plan period.

19. I note that this is a brownfield site that is located along the main road from Elgin at the gateway to Elgin. In summary, in my view this site is strategically well located for delivering a range of business park, retail and industrial uses, if and when there is market demand over the plan period.

20. Whilst such development would be likely to result in a loss of some trails currently used by walkers and others – as well as potentially affecting some habitats - I find that these and related matters could and should be explored in more detail when a development brief is prepared – as outlined in the text accompanying the proposed designation. At that time, given the large total geographical area of the site, I would expect any proposed development scheme to incorporate retention of many of the recreational and amenity features of this area - and to demonstrate how its ecological interest would be safeguarded to an acceptable degree. Indeed I note that these and related matters are specifically addressed in the text accompanying the OPP2 designation – for example where reference is made to requirements for and scope of a comprehensive landscape plan, as well as a habitats survey and retention of a network of paths.

21. Accordingly, based on all of the available evidence and my own site visit, I conclude that there is insufficient justification to delete or modify this particular designation. Furthermore, I conclude that appropriate consideration has been set out in the text accompanying the designation to provide appropriate safeguards to satisfactorily address most of the key concerns expressed by those lodging representations, with regard to retaining much of the important amenity and ecological value of the land concerned.

#### ENV11 Cemeteries

22. The Scottish Environment Protection Agency (SEPA) are concerned that the site and its surroundings are likely to have groundwater dependent terrestrial ecosystems. Whilst not objecting to the allocation SEPA seeks inclusion of additional text in the plan to ensure that any planning application is required to provide a walkover and photographic survey of habitats to assess the presence of potential wetlands. The council has indicated its willingness to accommodate this particular request and has suggested a possible amendment to the allocation wording to specifically address this. I am persuaded that in order to ensure consistency across the new plan a change to the wording, along the lines agreed between SEPA and the council for this allocation, should be incorporated when the plan is adopted.

#### HBR1 and HBR2 Lossiemouth Harbour

23. Scottish Environment Protection Agency (SEPA) point out that these two harbour sites are situated within the 1 in 200 year coastal flooding zone. On this basis SEPA contends that it should be made clear in the new plan that proposals for residential development here should be required to address flood risk and drainage implications. The council has indicated its willingness to accommodate this particular request and has suggested a possible amendment to the allocation wording to specifically address this. I am persuaded that to ensure consistency across the new plan the wording agreed between SEPA and the council for this allocation, should be incorporated when the plan is adopted.

#### T2 Caravan Park Extension

24. The representation lodged seeks to ensure that 12 months licences are not granted for residential use of the caravans on the site in question.

25. I note that the proposed plan includes policy H10: Residential Caravans and Sites. At the outset this policy makes explicit that the council will not permit caravans to become

permanent residences. As the council points out, matters relating to site licences, including the length of occupation of individual caravans on caravan parks, fall outwith the scope of the development plan. Accordingly, based on all of these considerations I conclude that the matters raised in the representation do not require to be considered further in this Examination.

#### **Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the designation text for R1 Sunbank/Kinneddar: "Proposals should be supported by a flood risk assessment (FRA). A Drainage Impact Assessment is also required."
2. Delete the OPP1 designation and re-allocate the site as part of ENV6 Esplanade (that would therefore be extended northwards to include the whole area currently shown as OPP1 in the proposed plan) when the plan is adopted.
3. At the end of the text under the heading ENV11 Cemeteries in the proposed plan insert new wording as follows: *"Planning applications for development of the site should be accompanied by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands."*
4. At the end of the text under the headings HBR1 and HBR2 Harbour Areas Lossiemouth insert the following new wording: *"Proposals should be supported by a flood risk assessment (FRA) the outcome of which may affect the developable area of the site."*

Issue 14a	Forres Housing Land Issues and associated Transportation improvements	
Development plan reference:	<b>Forres Settlement Statement, page 190-208</b> <ul style="list-style-type: none"> <li>• General</li> <li>• R1 Knockomie (South) pg 191</li> <li>• R3 Ferrylea pg 191</li> <li>• R4 Lochyhill &amp; LONG1 pg 191</li> <li>• R5 Burdshaugh pg 192</li> <li>• R6 Mannachy pg 192</li> <li>• R8 Balnakeith pg 192</li> <li>• R9 Plantation Cottage pg 192</li> <li>• R10 Dallas Dhu pg 192</li> <li>• R11 Former Rifle Range pg 193</li> <li>• LONG2 Dallas Dhu pg193</li> <li>• LONG3 West Park Croft pg193</li> <li>• Not Taken Forward (NTF) site LONG2 from Main Issues Report</li> <li>• TSP13 pg 205</li> <li>• TSP16 pg 205</li> <li>• TSP17 pg 205</li> <li>• TSP19 pg 205</li> </ul>	Reporter: Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>General</u></b>  Mr I S Suttie (0467)  John Scott (0370)  Scottish Environment Protection Agency (0569)  Jacqueline Barrere (0884)</p> <p><b><u>R1 Knockomie (south)</u></b>  Forres Community Council (0123)  The Ellis Group (0878)  William And Esther Reid (1009)</p> <p><b><u>R3 Ferrylea</u></b>  Forres Community Council (0123)  Alex Ross (0711)  Ann Milston (0740)  Springfield Properties Plc (0010)</p> <p><b><u>R4 Lochyhill &amp; LONG1</u></b>  Mr And Mrs Mark And Beverly Ellis (0442)  Scottish Government (0490)  Mr A Sayers (0983)  Mr Ian Rhind (1038)  Mrs Evelyn Rhind (1039)</p> <p><b><u>R5 Burdshaugh</u></b>  Mr I S Suttie (0467)  Scottish Environment Protection Agency (0569 )</p> <p><b><u>R6 Mannachy</u></b>  Stephen Hull (0371)  Karen Hannen (0706)</p>		

**R8 Balnageith**

C M Design (0065)

David McRobie (0457)

Scottish Environment Protection Agency (0569)

Anne Bates (0984)

**R9 Plantation Cottage**

Raymond Webber (0352)

David McRobie (0457)

Scottish Natural Heritage (1027)

**R10 Dallas Dhu**

Stephen Hull (0371)

Mr I S Suttie (0467)

Scottish Environment Protection Agency (0569)

**R11 Former Rifle Range**

Mr And Mrs Laing (0698)

Richard Watson (0714)

**LONG2 Dallas Dhu**

Scottish Environment Protection Agency (0569)

Stephen Hull (0371)

**LONG3 West Park Croft**

Scottish Environment Protection Agency (0569)

Flora Dempster (0407)

**Not Taken Forward (NTF) 2**

Altyre Estate (0215)

**TSP13**

Raymond Webber (0352)

**TSP16**

Raymond Webber (0352)

**TSP17**

The Ellis Group (0878)

**TSP19**

Springfield Properties Plc (0010)

The Ellis Group (0878)

**Provision of the development plan to which the issue relates:**

The residential designations within the Forres settlement statement identify the sites to meet the requirements set out in the strategic housing land requirements.

**Planning authority's summary of the representation(s):****General**Mr I S Suttie (0467)

Reduce the number of houses to reflect the actual demand. There are many unsold and new houses being built in Forres.

John Scott (0370)

Extended developments down the Grantown Road and at Forbeshill create suburbs which deserve a measure of facilities common to town centres. These locations will need to find their way to the A940 and A96 without finding their way through or round the town centre. Note plan will provide for cyclists. Must be some ratio between land for housing and employment purposes. Assume Council are aware of risk on budget in the early phases of development.

**Scottish Environment Protection Agency (0569)**

There are specific constraints in Forres and recommend that the settlement statement specifically includes reference for the need to ensure early engagement with Scottish Water to overcome any capacity issues.

**Jacqueline Barrere (0884)**

The Local Plan should take into account the proposed dualling of the A96 which should be complete by 2030. However, it does not take this into consideration. More information should be available to allow the Plan to be comprehensive.

**R1 Knockomie (South)**

**Forres Community Council (0123)**

Accept the requirement for more housing but if there is any breach in the skyline it should be sympathetically landscaped to maintain the existing country feel of Forres.

**The Ellis Group (0878)**

R1 has a maximum stated capacity of 85 houses reflecting the intention for a medium to low density. Helpful if the Plan caveated that limit on the number of houses by reference to a layout that reflected the design principles in the Plan, which might result in slightly more than 85. The setting of the "B" listed hotel has already been changed by the development of the Springfield Homes development to the north. Retention of woodland fronting the hotel should be sufficient. Provision of a cycle route can only be delivered within the site itself. Question why a badger survey is needed for this site. No objection to the requirement to plant feature trees along the Grantown Road. Development will take a lead in this regard from any similar line of trees planted in connection with the development of site R3. Plan shows an area of retained woodland. No objection to idea of creating landscape feature, however, the combination of junction spacing, sightlines and the line of a gas pipeline might mean that simplistic retention of existing woodland might not be possible.

**William and Esther Reid (1009)**

In 2009 the Reporter ruled against an application as it was contrary to the Local Plan. Site should not be zoned for residential use. Site is good agricultural quality and development here contradicts objective to develop on brownfield land. Forres has suffered development sprawl eroding the countryside. Area around Knockomie Stables remains largely rural in character. Area provides good habitat for wildlife. Transportation improvements relating to R1 and TSP19 and OPP8 are unclear and unsatisfactory and do not address potential road safety hazards. Unclear how Knockomie Stables will be accessed if U83E access to A940 is stopped up.

**R3 Ferrylea**

**Forres Community Council (0123)**

Sites east and west of the Grantown Road. Accept the requirement for more housing but ask if there is any breach in the skyline that it is sympathetically landscaped to maintain the existing country feel of Forres.

**Alex Ross (0711)**

Can footpaths be provided linking the area R3/ENV6 to the existing informal footpaths south of the road at junction of ENV6.

**Ann Milston (0740)**

To reduce car traffic it is essential that one of the commercial enterprises built into the

residential development is a food/pharmacy. Is it possible for the Council to lean on Springfield Properties to ensure this vital facility is provided. The junction from Orchard Road will be a nightmare unless traffic lights are introduced.

Springfield Properties plc (0010)

Fully support continued inclusion of this site, however request that the approved masterplan is more accurately reflected in the zoning, particularly in relation to the approved structure planting and development pockets (SD0010\_3\_011).

**R4 Lochyhill & LONG1**

Mr and Mrs Mark and Beverly Ellis (0442)

A drainage impact assessment needs to be completed to assess drainage impact on housing at Cassieford in accordance with EP5.

Scottish Government (0490)

Transport Scotland has been in discussion since 2010 on the principle of a new roundabout on the A96 to access site R4. Agreement in principle has been reached, subject to further information being provided on the stopping up of relevant junctions along the A96. To date further information has not been received. Transport Scotland should be involved in the STAG appraisal.

Mr A Sayers (0983)

Concerned that if the road is extended from Earlsland Crescent to R4 LONG it will be quite busy for all users. Site is close to golf course and raises a safety issue. Footpaths border the fields which are used for access and should be safeguarded. Proposed site is close to existing housing.

Mr Ian Rhind (1038)

Concern at the loss of privacy resulting from the proposed footpaths coming from the industrial site through Lochyhill housing and leading onto the footpath at Forbeshill. House is on the Forbeshill footpath which is the Lochyhill farm road leading to steadings and farm houses. Bedroom windows are on this path and passers by will see right into house. Trees to screen Forbeshill from the new estate defeat the purpose if the new path connects so far up the farm track. Houses at bottom of farm track have well established trees and privacy from the path. Consider moving the path further down the hill.

Mrs Evelyn Rhind (1039)

Considers the junction at TSP8 to be unsuitable for extra traffic as it is too close to the roundabout where there have been accidents. Not a good junction for HGV's. TSP9 crosses the footpath already in place and the proposed roundabout has not been given permission yet. Surprised to see TSP32 on the map as this junction was only to be for emergencies. Concerned about old water pipes in Forbeshill and problems with rising water.

**R5 Burdshaugh**

Mr I Suttie (0467)

Site should remain undeveloped as an environmental asset for the community.

Scottish Environment Protection Agency (0569)

Object unless a developer requirement stipulating that a buffer strip between development and the watercourse is required.

**R6 Mannachy**

Stephen Hull (0371)

Developments are an unnecessary intrusion into the countryside belt around Forres and will create urbanisation of the Dava Way.

Karen Hannen (0706)

Edge of site cannot be built on and is green land in title deeds. Site should be kept as environmental as it is popular with wildlife.

**R8 Balnakeith**

CM Design (0065)

Conditions of the designation require new footpaths, road widening, cycle paths and passing places will render this development financially impossible to implement. Housing allowance needs to be increased to allow for the inevitable share in the costs of improvements to serve this development and R9, but R8 should not bear the full costs.

Developer is ready to progress immediately, but cannot do so with such onerous financial burdens.

David McRobie (0457)

This is an attractive area of countryside when viewed from the western A96 approach to Forres which is undeveloped and should remain so. Development would have a real effect on visitors first impression of our town. Red squirrels and bats in the area, possibly badgers.

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Anne Bates (0984)

Site is a former sawmill and contamination issues arise, also former RAF airfield. Nesting birds, Mundole road is used as a shortcut by vehicles, junction on A940 is dangerous and will be worse with additional traffic.

**R9 Plantation Cottage**

Raymond Webber (0352)

Plantation Cottage site could provide Forres with an enhanced small development if sufficient landscaping is included, a lot of which already exists. Site is a haven for wildlife and has many damaged conifers and mature broad leaved trees along the southern and eastern boundaries with a stream entering the site in south east corner. Need to consider the environmental impact of future developments. Site also improves visual impact when approaching Forres from the west.

David McRobie (0457)

Any proposal should be in accordance with previous CAT status of the area. Queries who decides that CAT no longer applies. The site was not designated as LONG and respondent questions how would this be allowed under the terms of any other Local Plan policies.

Area is mostly mixed mature woodland but is described as brownfield under bid site checklist. Hope that development will carefully follow existing policies. This area of woodland allows the larger and ongoing housing development at Balnakeith to integrate

more sensitively into the landscape when viewed from A96 approach to Forres. Development would affect visitors first impression of our town.

Concern for wildlife in this woodland, red squirrels, bats and possibly badgers.

Scottish Natural Heritage (1027)

Species survey is required here (bat, badger) as noted in SEA.

### **R10 Dallas Dhu**

Stephen Hull (0371)

Developments are an unnecessary intrusion into the countryside belt around Forres and will create urbanisation of the Dava Way, an important route out of Forres for countryside recreation.

Mr I S Suttie (0467)

Site should remain undeveloped as an environmental asset for the community.

Scottish Environment Protection Agency (0569)

Welcome that the Plan has stated that a Drainage Impact Assessment would be required and that a minimum protection level and finished floor levels should be applied.

Masterplan would include details of proposed land uses within the reserved reservoir area associated with flood storage however the Plan should clearly state that all development should consider flood risk and a Flood Risk Assessment or further information should be submitted as appropriate.

### **R11 Former Rifle Range**

Mr and Mrs Laing (0698)

Proposal will impact adversely on residential amenity. Loss of privacy due to overlooking, loss of light by overshadowing, increase in noise pollution all affecting standard of living. Water pressure will be even lower. Highway safety, inadequate access and parking concerns. Pilmuir Road is narrow with a poor junction onto Ferry Road, which is regularly congested. Another 80 cars using the road and proximity to infants from the nursery and local residences raises likelihood of accidents. The local ecosystem will also be adversely affected by any development.

Richard Watson (0714)

There is an active rifle club using the site and want to know how they stand in the planning proposals. Designation text should state that the club will not be forced out. Seek clarification of traffic signal arrangement for Orchard Road/ Thornhill Road/ Grantown Road, which should not impact upon access to existing properties.

### **LONG2 Dallas Dhu**

Scottish Environment Protection Agency (0569)

The Plan should clearly state that all development should consider flood risk and a Flood Risk Assessment or further information should be submitted as appropriate.

Stephen Hull (0371)

Developments are an unnecessary intrusion into the countryside belt around Forres and will create urbanisation of the Dava Way, an important route out of Forres for countryside recreation.

### **LONG3 West Park Croft**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Flora Dempster (0407)

Request designation LONG3 be extended to include ground containing kennels and cattery at West park Croft.

### **Not Taken Forward (NTF) site LONG2 from Main Issues Report**

Altyre Estate (0215)

Requests designation of housing site at Chapelton (see attached Plan BD/14a/01). Site is an agricultural plateau formed upon completion of the flood alleviation scheme, which is supported by a Landscape Study commissioned and completed by the Council in 2005. The site was identified as preferred as a LONG designation in the Main Issues Report, but removed at Committee in June 2013 and not included within the Proposed Plan.

The proposed site at Chapelton should be identified for housing use with a requirement that it should be included in a masterplan for the Forres south area, which is being developed by Altyre Estate, the Council , Architecture Design Scotland and other partners. Site should be allocated in the 0-5 year period, although reinstatement as a LONG term allocation may be acceptable as a compromise.

Masterplan should be required to set out specific proposals for vehicular access, core paths, landscape setting, layout, design and materials to ensure that the amenity of the surrounding countryside and residential areas is fully protected and enhanced.

### **Transport Network Improvements**

#### **TSP13**

Raymond Webber (0352)

The U83E is to be widened at Balnakeith, however this road has a blind bend between R8 and R9 and should be realigned during the process.

#### **TSP16**

Raymond Webber (0352)

New access proposed to the A940 from OPP8 and concerned that traffic will still be able to use the U83E to access the A96 and the west of Forres. U83E is a narrow dangerous road. Why not provide a link road by extending the new road through OPP8 to join up the Mundole Road, helping relieve congestion along the Grantown Road.

#### **TSP17**

The Ellis Group (0878)

TSP17 requires the improvement of the A940/ Mannachie/ Pilmuir road junction. No objection to principle of this improvement. However, Plan contains no detail of the design principles nor does it identify who is to fund or carry out this improvement. Interaction between this improvement and the new access to R1 is not addressed, nor is the potential interaction between the junction design and the area of trees to be preserved. Much more detail is needed. Speed limit should also be reduced.

#### **TSP19**

Springfield Properties (0010)

Springfield Properties attended a long and expensive inquiry into this site and the

adjacent R2 where the Reporter established a requirement to access R1 through R2 and Springfield were required to leave an access to facilitate this. Further clarification and justification for this change is sought in relation to the revised access arrangements to R1 through TSP19.

The Ellis Group (0878)

TSP19 provides direct access to R1 and requires widening of the A941 along the frontage of the R1 site, which should state A940. No explanation given as to why this applies only to R1 and not R3. No objection to this requirement being a shared obligation on both sites. TSP requirement should also reflect a house in separate ownership that fronts the A940. Road cannot be widened on the western side unless Council proposes to use CPO powers. Resolution might involve Council securing a contribution from the developers of R1 and R3 and implementing a widening project.

**Modifications sought by those submitting representations:**

**General**

Mr I S Suttie (0467)

Infers that housing land requirement for Forres should be lower.

John Scott (0370)

Implies local facilities are required to support new suburban developments which should also avoid going through the town centre and be well provided for by cycle routes.

Scottish Environment Protection Agency (0569)

Implies additional text to be added highlighting specific reference to be added stating the need to ensure early engagement with Scottish Water to overcome any capacity issues.

Jacqueline Barrere (0884)

Implies that the information on the A96 dualling should be available to inform the Plan.

**R1 Knockomie (South)**

Forres Community Council (0123)

Infer that buildings should not breach the skyline and be sympathetically landscaped to maintain the existing country feel of Forres.

The Ellis Group (0878)

The Plan should say, "around 85 houses" as the site capacity. Requirement to plant feature trees on the Grantown Road frontage of R1 to be adjusted to reflect what is provided on R3. Requirement to retain the existing woodland at south east corner of R1 to be replaced with a requirement for a landscape feature. Infers removal of requirement for badger survey.

William and Esther Reid (1009)

Withdraw R1 from list of sites to be zoned for residential development.

**R3 Ferrylea**

Forres Community Council (0123)

Infer that buildings should not breach the skyline and be sympathetically landscaped to maintain the existing country feel of Forres.

**Alex Ross (0711)**

Infer that footpaths should be provided linking the area R3/ENV6 to the existing informal footpaths south of the road at junction of ENV6.

**Ann Milston (0740)**

Infer that a food/pharmacy should be provided and traffic lights are required at Orchard Road junction.

**Springfield Properties plc (0010)**

Reflect the approved masterplan on the designation.

**R4 Lochyhill & LONG1**

**Mr and Mrs Mark and Beverly Ellis (0442)**

Lochyhill masterplan for R4, LONG1 and BP2 needs to include a drainage impact assessment and mitigate drainage impact on housing at Cassieford.

**Scottish Government (0490)**

Amend Plan to read "The STAG appraisal must be undertaken in consultation with the Council, Transport Scotland and the local community."

**Mr A Sayers (0983)**

Make an alternative access to the proposed site on R4 LONG. Footpaths kept for access.

**Mr Ian Rhind (1038)**

Move the new path connecting with Lochyhill farm track down where there is less disturbance because the houses already have well established trees in place.

**Mrs Evelyn Rhind (1039)**

The roundabout should be in place before any work is started. As for the water problem it needs to be looked at very carefully where there is a hill and lots of concern you will get a huge amount of water at the bottom .

**R5 Burdshaugh**

**Mr I Suttie (0467)**

Change designation to ENV.

**Scottish Environment Protection Agency (0569)**

Insert a developer requirement stipulating that a buffer strip of at least 6 m between development and the watercourse is required.

**R6 Mannachy**

**Stephen Hull (0371)**

Infers that site should not be developed.

**Karen Hannen (0706)**

Reconsider purchase of this section of the site and leave it for nature.

**R8 Balnageith**

**C. M. Design (0065)**

Increase capacity to 10 to allow for developers costs and agree share of improvements prescribed on a pro rata basis with R9. Contribution should be invited on a site by site basis of the entire designation.

David McRobie (0457)

Develop elsewhere and preserve the external appearance of the town.

Scottish Environment Protection Agency (0569)

Insert text requiring applications to be supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Anne Bates (0984)

Careful consideration of environmental issues, shield development when viewed from A96. Monitor traffic on the U8E road, make one way with speed limit.

**R9 Plantation Cottage**

Raymond Webber (0352)

Carry out wildlife survey along with a tree survey, reduce number of houses to make landscaping a priority.

David McRobie (0457)

Ensure new housing is constrained, to preserve the existing natural environment for the wildlife and maintain its present attractive appearance within the surrounding landscape.

Scottish Natural Heritage (1027)

Add requirement for species survey in second sentence of text for Forres R9

**R10 Dallas Dhu**

Stephen Hull (0371)

Infers site should not be developed.

Mr I S Suttie (0467)

Reduce planned number of houses to reflect demand.

Scottish Environment Protection Agency (0569)

Insert "Proposals should be submitted with a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

**R11 Former Rifle Range**

Mr and Mrs Laing (0698)

A tree lined border of 3 metres between boundary and any new settlement is required. No pathway between property and the new settlement as this would add to extra disturbance. Any bordering property should be bungalows only, as this would help with loss of privacy, as well as fitting into the character of Pilmuir Road West. Access to any new development should be looked at in greater details as the existing road will not allow for expansion.

Richard Watson (0714)

Designation text should state that the club will not be forced out. Plan should clarify traffic signal arrangement for Orchard Road/ Thornhill Road/ Grantown Road, which should not impact upon access to existing properties.

**LONG2 Dallas Dhu**

Scottish Environment Protection Agency (0569)

Plan should clearly state that all development should consider flood risk and a Flood Risk Assessment or further information should be submitted as appropriate.

**Stephen Hull (0371)**

Infers that site should not be developed.

**LONG3 West Park Croft**

**Scottish Environment Protection Agency (0569)**

All applications should be supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**Flora Dempster (0407)**

Infers that site LONG3 should be extended to include adjacent ground.

**Not Taken Forward (NTF) site LONG2 from Main Issues Report**

**Altyre Estate (0215)**

Restore the proposed allocation of the site at Chapelton for housing use with a requirement that it should be included in a masterplan for the Forres south area, which is being developed by Altyre Estate, the Council, Architecture Design Scotland and other partners. Site should be allocated in the 0-5 year period, although reinstatement as a LONG term allocation may be acceptable as a compromise.

Masterplan should be required to set out specific proposals for vehicular access, core paths, landscape setting, layout, design and materials to ensure that the amenity of the surrounding countryside and residential areas is fully protected and enhanced.

**TSP13**

**Raymond Webber (0352)**

Realign the U83E between R8 and R9 during road widening.

**TSP16**

**Raymond Webber (0352)**

Extend the new road through OPP8 to the Mundole Road providing a link road between the A940 and the A96.

**TSP17**

**The Ellis Group (0878)**

More detail of the TSP17 requirement to be provided including an analysis of the interaction with the access to R1 and the woodland. Provisions of TSP19 to be shared obligation with R3, detailed requirement to be adjusted so that house in private ownership does not become an impediment to the design and implementation of the scheme.

**TSP19**

**Springfield Properties (0010)**

Further clarification and justification is required in relation to the revised access arrangements to R1 through TSP19.

**The Ellis Group (0878)**

TSP19- provides direct access to R1 and requires widening of the A941 along the frontage of the R1 site, which should state A940. No explanation given as to why this applies only to R1 and not R3. No objection to this requirement being a shared obligation on both sites. TSP requirement should also reflect a house in separate ownership that fronts the A940. Road cannot be widened on the western side unless Council proposes to use CPO powers. Resolution might involve Council securing a contribution from the developers of R1 and R3 and implementing a widening project.

**Summary of responses (including reasons) by planning authority:****Overview/General**

The housing strategy for Forres over the previous 2 Local Plans has aimed to consolidate growth to the south of the town along the Grantown Road, while promoting longer term expansion to the east at Lochyhill. The Strategic Housing Land Background Paper (CD21) identifies a requirement for sites for 365 additional homes to be designated in the Forres Local Housing Market Area, of which 360 are proposed to be designated in Forres. Sites R1 to R6 are carried forward from the Moray Local Plan 2008, with sites R2 and R3 under construction and site R7 is now complete. Site R4 includes LONG term site brought forward to meet the housing land requirement, along with sites R8, R9 and R11. Site R10 is designated in the Moray Local Plan 2008 as a LONG term site which is proposed to be brought forward in the new Local Development Plan.

In terms of the representation from John Scott, there is no ratio for providing housing and employment land. The requirements set out in the Plan reflect the Housing Need and Demand Assessment, Strategic Housing Land Requirements and the Moray Economic Strategy.

Large new areas of expansion will provide for cyclists and will also provide local facilities. Site R3 Ferrylea is providing neighbourhood shops and a dentist facility. Neighbourhood shops should be of a suitable scale to respect the aim of protecting and promoting the vitality and viability of the town centre.

In terms of the response from Scottish Environment Protection Agency, the Council considers that the settlement statement already highlights the waste water capacity issue to potential developers.

Information on the route of the proposed dualled A96 is not available in time to inform the Plan and the Council currently has no indication of the proposed route.

No modification is proposed.

**Grantown Road sites- landscape integration**

Landscape mitigation and enhancement measures have been identified in the current and Proposed Plans for sites R1, R2 and R3 adjacent to the Grantown Road. The capacity of each of these sites reflects their edge of settlement location as the town transitions towards the countryside. All of the sites will include significant structural landscaping to soften the effects of development and retain the wooded character of the town.

No modification is proposed to the Plan.

**R1 Knockomie (South)****Status and TSP's**

The site is carried forward from the current statutory Moray Local Plan 2008. The approach taken for identifying the TSP locations in various locations includes identifying existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with Moray Local Development Plan policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement) and Designing Streets Policy. Transportation improvements identified in the Plan are intended to identify potential road improvements which are intended to be of assistance to developers and advise generally of improvements that are likely to be

needed to service the site, along with the need for any off- site improvements. These are not exhaustive and do not pre-empt anything arising from a Transport Assessment or detailed consideration of any planning application.

No modification is proposed.

### **Capacity**

The proposed capacity of 85 units is intended to be indicative. Policy H1 of the Proposed Plan states that “Capacity figures indicated within site designations are indicative and proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1.

No modification is proposed to the Plan.

### **Biodiversity**

Scottish Natural Heritage indicated that a badger survey would be required for this site during preparation of the Moray Local Plan 2008. The landscaping shown reflects the 2005 Landscape Study commissioned by the Council and is intended to help integrate new developments into the landscape.

No modification is proposed to the Plan.

### **R3 Ferrylea**

#### **Access Connections**

The Moray Access Manager is consulted on planning applications and will promote connections to existing footpaths and the creation of new networks through the development management process. This issue can also be raised through discussions with the developer on future phases of the Masterplan for Ferrylea.

If the Reporter is so minded the Council would not object to a requirement being added to site LONG3 requiring “footpath connections to be provided into the adjacent woods”.

#### **Commercial uses**

The approved consent for site R3 includes a number of commercial units. The developer (Springfield Properties) is currently in negotiation with potential occupants of these units.

No modification is proposed to the Plan.

### **Structure Planting**

If the Reporter is so minded the Council would not object to the suggestion to revise the structure landscaping as approved in the respondent’s approved “masterplan” to provide a more accurate reflection of the longer term provision of open space. (SD0010\_3\_011).

### **R4 Lochyhill & LONG1**

#### **TSP’s**

The junction at TSP 8 is the existing A96/Findhorn Road Roundabout and the TSP identifies it as requiring inclusion in Transport Assessments.

The approach taken for identifying the TSP locations in various settlements has been to identify;

- i) existing locations on the transport network where connections to specific sites are anticipated in order to satisfy policy compliance with MLDP Policy T2 (maximise connections), Supplementary Guidance Urban Design (p4 Movement), and Designing

Streets Policy;

- j) existing locations on the transport network where the development of specific sites would require the impact of the development traffic to be assessed in accordance with MLDP Policy IMP2 (b) and necessary mitigation/modifications to ensure the impact of new development to be delivered to adequately address the safety and efficiency of the transport network (walking and cycling infrastructure; bus stop infrastructure; passing places; road widening; junction enhancement; road drainage infrastructure)

The text within the Local Plan states that the provision of TSP9 (Drumduan Road link) is a “potential connection” and “subject to the outcome of a Transport Assessment”. Any footpath diversions or crossings required would need to be considered through the detailed design of any link.

Since the development of Forbeshill there have been many changes in planning policy and the approach taken to street design. Designing Streets which is current planning policy encourages well connected development. The details of the nature of the connection at TSP32 are yet to be agreed and a link would provide alternative routes for traffic from either Lochyhill or Forbeshill, which would help distribute traffic across the network and allow access in case of emergency.

The issue raised by the Scottish Government regarding the position on a live planning application is noted, however this does not affect the wording proposed in the Plan and no modification is proposed to the Plan in this regard.

On the issue of STAG appraisal, the request for Transport Scotland to be directly involved is supported by the Council and if the Reporter is so minded, then the Council would not object to the designation text being revised to include “Transport Scotland” in terms of direct involvement with STAG.

The current Lochyhill farm access track is a Core Path. The footpaths and other aspects of the key design principles diagram are indicative and are intended to guide developers in preparing their detailed submissions. Full details of exact routes will be set out in future planning applications which will be subject to neighbour notification and public consultation.

No modification is proposed to the Plan, other than the revision to Transport Scotland being directly involved in the STAG as outlined above

### **Drainage**

A Drainage Impact Assessment (DIA) will be required for all planning applications of 10 or more houses under the terms of Proposed Plan policy EP5. This will be required to accompany a planning application at the development management stage.

No modification is proposed to the Plan.

### **R5 Burdshaugh**

This site has been granted planning consent for the erection of 3 blocks of 4 apartments and 4 semi detached bungalows. The consent was granted on 6<sup>th</sup> February 2014, application reference 08/00576/FUL (BD/14a/02).

In terms of the buffer strip issues raised by Scottish Environment Protection Agency, if the Reporter is so minded the suggested additional text should be added into the site

designation text. The following wording is considered suitable “buffer strip of at least 6m between development and the watercourse is required.”

### **R6 Mannachy**

This site is carried forward from the Moray Local Plan 2008 and is supported by the 2005 Landscape Integration Study. The Countryside Around Town boundary has been amended to accommodate the level of growth required as set out in the Housing Land Background Paper and to support the Moray Economic Strategy. The Dava Way will be safeguarded with new walking and cycling connections created across the wider Chapelton area.

The landowner has had preliminary discussions with the Council and a developer regarding the housing mix and design for this site. It is likely that the development will be at a lower density than the site capacity and this will be developed as part of a masterplan for the wider area, including sites at Dallas Dhu and the flood storage area.

The Council has agreed to modify the boundary of the site to exclude land to the rear of 2-4 Mannachie Avenue as a non notifiable modification.

No modification is proposed to the Plan

### **R8 Balnageith**

#### **Site capacity**

The site extends to 1.15 hectares and will help to provide a range and variety of house sites. The Council recognises that the site involves significant development costs and under the term of Policy H1, the capacity figures are indicative and if the developer proposes a higher number of houses which are considered suitable in terms of design and layout, on and off site transportation improvements and conformity with all other relevant policies, then this will be treated on its merits.

No modification is proposed to the Plan.

#### **Transportation/Contamination**

The text of the site designation recognises that the previous uses on the site require a Standing Building survey to be carried out. Transportation section has no objection to the principle of housing on this site and has identified improvements required to the road network.

No modification is proposed to the Plan.

#### **Habitats**

The Council is required to meet housing land requirements and to ensure there are a range of sites available. The site designation text requires a badger and bat survey to be carried out.

If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **R9 Plantation Cottage**

#### **Landscape Integration**

The Council recognises the role the mature trees play within the landscape, notably when

viewed from the A96. Development proposals on this site would be required to comply with the Council's Trees and Development Guidance. The site extends to 3 hectares and is proposed for 25 houses and the text states that a tree survey will be required and tree coverage should be retained to integrate this development into the landscape and recognise the softening effect it has on adjacent developments when viewed from the A96.

No modification is proposed to the Plan.

### **Countryside Around Towns**

The Countryside Around Town designation is reviewed as part of the review of each Local Development Plan. Forres has insufficient brownfield land to accommodate the level of growth identified in the Housing Land Background Paper and Moray Economic Strategy.

No modification is proposed to the Plan.

### **Biodiversity**

The text in the Proposed Plan requires badger and bat surveys to be carried out. However, if the Reporter is so minded the Council has no objection to changing this to require species surveys on this site.

### **R10 Dallas Dhu**

#### **Housing Land Requirement**

Site R10 is identified as a LONG term housing designation in the Moray Local Plan 2008 and is considered suitable for a low density residential development. This site along with adjacent sites is subject to a Masterplan being prepared for the wider area. The Dava Way will be safeguarded and the Masterplan is exploring a network of trails leading from the Dava Way into wider areas, locally across Chapelton and Sanquar and into the wider countryside south of Forres.

No modification is proposed to the Plan.

### **Drainage/Flood Risk Assessment.**

Previous consultation with Scottish Environment Protection Agency indicated that a Drainage Assessment would be required, however, if the Reporter is so minded, the Council would not object to the text of R10 and the associated text on Masterplan being updated to refer to a Flood Risk Assessment.

### **R11 Former Rifle Range**

#### **Transportation**

The site designation text states that a Transportation Statement will be required with footway/cycleway improvements around Balnakeith Road/ Pilmuir Road West junction, footway provision Pilmuir Road West beyond playing fields to Primary School.

The Plan identifies TSP23 Orchard Road/ Thornhill Road/Grantown Road as having an indicative signal scheme prepared in relation to the initial development at R3 Ferrylea. Impact on this junction from development of sites needs to be considered in Transport Assessments.

No modification is proposed to the Plan beyond the non-notifiable change regarding the name of the site as highlighted above.

**Biodiversity**

Scottish Natural Heritage has not objected to this site being included within the Plan.

No modification is proposed to the Plan.

**Siting and Design**

Policy IMP1 sets out a range of criteria to assess planning applications to ensure they are sensitively sited, designed and serviced. Policy EP8 also provides safeguarding against Pollution (including noise) concerns.

No modification is proposed to the Plan.

**Site Name/current use**

The Council recognises that the rifle club is still active and that the site should be renamed. The Council has agreed to rename the site as “Pilmuir Road West” as a non notifiable modification.

The designation does not force the club out of using the site, it highlights the potential for the site to be developed for residential use.

No modification is proposed to the Plan.

**LONG2 Dallas Dhu**

This is a new site and is considered to consolidate the adjacent proposed residential developments which will be part of a masterplan covering the wider Chapelton/ Dallas Dhu area.

The Council does not consider that these developments will result in the urbanisation of the Dava Way and the site will be sensitively developed to provide a transition from town to country, with a low density development respecting the edge of settlement location.

No modification is proposed.

In terms of the comment from Scottish Environment Protection Agency, if the Reporter is so minded the Council would support inserting text into the designation and associated Masterplan text stating that all development should consider flood risk and a Flood Risk Assessment or further information should be submitted as appropriate.

**LONG3 West Park Croft**

The Council considers that there is no need to extend the LONG 3 designation to include the land covered by the adjacent kennels and cattery. This land is currently “white land” within the settlement boundary and residential development could be considered on this site subject to meeting the detailed terms of Local Development Plan policies. Extending the site, without reference to the developer of the site may create ownership and development difficulties.

No modification is proposed.

In terms of the representation from Scottish Environment Protection Agency, if the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a

walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

**Not Taken Forward (NTF) site LONG2 from Main Issues Report**

This site was subject to an objection to the Moray Local Plan 2008 which was withdrawn prior to Examination, as the Council provided a commitment to review the status of the site as part of the preparation of the next Local Plan (the current Local Development Plan).

Part of the site was identified as suitable for housing development in landscape terms in the Landscape Integration Study (ref CD23). The study recognised that opportunities for immediate settlement expansion within the level fields and knolls landscape character type are constrained by the strong sense of detachment from the existing settlement. The exception to this was “ a small area of land adjacent to Chapelton farm, which is elevated above the low lying land and provides the opportunity for detached houses in wooded settings, reflecting the character of this settlement edge.” The study further recognised that “expansion across this area would not relate to the existing settlement form, although it would be relatively well contained visually and physically by the knolls and hills which surround it. As a result the area does offer long term opportunities for settlement expansion which creates a new pattern of development for Forres while still maintaining the quality and character of the wider landscape setting of the town.”

The area south of Sanguhar woodlands has been the focus of extensive flood alleviation works during the period since approval of the Moray Local Plan 2008 and the preparation of the Main Issues Report. Officers from Planning and Development and the Council’s Flood Team have been in regular contact regarding the extent of the flood storage area and the implications for the Local Development Plan.

The open agricultural plain acts as a reservoir area in times of flooding, with the new sluice gate at Chapelton protecting Forres from the Mosset Burn in times of spate and resulting in the agricultural land flooding. The extent of the flood storage area is shown on the Local Development Plan Proposals map and this includes an additional safety buffer and a further buffer to take account of wave action.

The site is currently open space and agricultural grazing land with an access track leading to the Chapelton dam. The open aspect leads to the distinctive knoll of Wright’s Hill. To the north of the site is low density housing.

In preparing the Main Issues Report the Council took account of the findings of the landscape study and the final extent of the flood storage area and identified an area at Chapelton as LONG 2. This reflected the previous commitment to review the status of the site upon completion of the flood scheme. The intention was for a small low density housing development adjacent to the existing built edge of the town, with open space and a green corridor linking the built environment to Wright’s hill.

The development of this site was proposed to be masterplanned as part of a Country Park to include the wider area under the ownership of Altyre estate, including development sites at Dallas Dhu and Mannachy and a range of recreation, education, environmental and community uses being explored within and adjacent to the flood reservoir area.

During the consultation on the Main Issues Report, the Council received 14 representations opposed to development at the LONG 2 site raising concerns about how

the site would be accessed, the loss of this open space and opposing residential development on this site.

Following consideration of the representations, planning officers still supported including this site within the Proposed Plan. However at the Special Meeting of the Planning and Regulatory Services Committee on 6<sup>th</sup> June 2013, the Committee (CD06) agreed not to include the site within the Proposed Plan on the grounds of landscape impact and impact upon adjacent residential properties.

The Council considers that after a long period of construction works associated with the flood alleviation scheme, the area at Chapelton should remain as it is, an attractive open space with the existing settlement boundary providing the long term boundary for Forres in this area. This safeguards the open space leading to Wrights hill and the now popular recreational route along the access track to the dam, which then leads into the woods and the recently constructed bird hide.

In terms of housing land, there is sufficient short and LONG term housing land identified in the Proposed Plan and generally a good variety in terms of scale and location to meet the requirements of Scottish Planning Policy and the Council's housing land requirements.

The Council and partners have continued to work collaboratively with Altyre Estate on the masterplan for the Chapelton/Dallas Dhu area (excluding the Estate's proposals for housing at Chapelton). Early projects have been delivered within the area, including a car park for visitors and a bird hide.

Architecture and Design Scotland are involved in carrying out a design forum review of the masterplan process.

No modification is proposed to the Plan.

### **TSP13**

The Plan identifies TSP13 and TSP14 improvements along the U83E, with the road to be widened, additional passing places added and extension of footway and cycleway to serve designations R8 and R9.

No modification is proposed to the Plan.

### **TSP16**

The Plan identifies a number of network improvements affecting the U83E. TSP16 requires a new junction access to designation OPP9 with the existing U83E to Whiterow access onto the A940 to be stopped up and new connection to be made with A940. TSP13 requires widening of the U83E/ additional passing places to be provided and extension of footway and cycleway to serve designations R8 and R9.

No modification is proposed to the Plan.

### **TSP17 & TSP19**

Discussion with the previous developer and landowner of the R1 Knockomie south site highlighted the potential impact on TSP locations beyond the site (TSP22 and 23) and also the requirement to contribute (pro rata based on permitted house numbers) towards a Forres bus service. The R1 Knockomie site is expected to have a primary access with the A940 and subject to the scale of development may require a secondary access. The

details for the primary access and mitigation will be determined at the development management stage.

The previously submitted Transport Assessment included a number of junctions remote from the site.

The site text includes TSP17 and TSP19 due to their proximity to the R1 site. The scoping for the Transport Assessment would clarify the full extent of the junctions that would need to be considered and these are likely to extend to the A96. The Transport Assessment would confirm any requirement for mitigation.

Previous discussion with the developer and landowner for an access at TSP19 was latterly on the basis of a priority junction without land from the R3 Ferrylea site. This approach is anticipated to remain the case.

The R2 Knockomie North site has a primary access with the A940 and a secondary connection with the existing residential site to the north. In addition a requirement to safeguard a connection between the R2 Knockomie North site has been secured through the permitted development.

The R1 Knockomie site is expected to have a primary access with the A940 and subject to the scale of development may require a secondary access. The details for the primary access will be determined at the development management stage.

No modification is proposed to the Plan.

## **Reporter's conclusions:**

### General

1. The general comments on the scale and direction of growth in Forres are noted. In this respect, I note that housing sites R1 to R6 are carried forward from the adopted Moray Local Plan 2008, with sites R2 and R3 under development. Site R4 includes a LONG site in the adopted local plan brought forward to meet the 2013-2025 housing land requirement. Site R10 is also a LONG site in the adopted local plan brought forward to meet the 2013-2025 housing land requirement. Sites R8, R9 and R11 are the only completely new sites. Overall housing land supply is dealt with under Issue 4a. The conclusion to be drawn in relation to the overall housing land supply is that there is some justification for the release of suitable additional land if it were demonstrated to be effective over the first 5 year timeframe but that very few options have been presented in representations. In relation to the Forres Housing Market Area, the Strategic Housing Land Background Paper (CD2) identifies a requirement for land for 365 additional houses, 360 of which are proposed for Forres.

2. In relation to the more specific comments, policy T1 promotes the dualling of the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised. The proposed plan indicates that the council will collaborate with Transport Scotland to ensure early delivery of key sections of the A96 trunk road within Moray. However, the council has no indication, as yet, of the proposed route of any improvements planned for Moray. In relation to other matters of concern, the settlement statement highlights that developers should contact Scottish Water as early as possible in the development process in order to address any drainage capacity issues. No modification is therefore

required in response to the comments of the Scottish Environment Protection Agency on this issue. In relation to the concerns regarding the provision of facilities within the southern expansion area, I note that the masterplan for site R3 Ferrylea includes the provision of neighbourhood shops. I also note that the masterplan for this area and the design principles for the eastern expansion area at Lochyhill provide for pedestrian/cycle connectivity with the adjacent built-up area to maximise access to local facilities.

### R1 Knockomie (South)

3. This site has been carried forward from the adopted Moray Local Plan 2008. In relation to the concerns regarding the visual impact of site R1 on the Grantown Road, I note that landscape mitigation and enhancement measures are included in the proposed plans for the site. The landscaping requirements reflect the findings of the council's 2005 Landscape Study. Significant structure planting is proposed, including an avenue of trees along the Grantown Road, to soften the effects of development and retain the wooded character of the surrounding area. I also note that the setting of the 'B' listed Knockomie Hotel will be safeguarded. Concerns have also been expressed in relation to use of good agricultural land and the effect of the development of this site on wildlife. A badger survey was a requirement of Scottish Natural Heritage in the designation of the site in the adopted Moray Local Plan 2008. In view of the concerns expressed, I consider that it would be advisable to establish if any other protected species are present and that the designation text should make reference to the requirement for a species survey in addition to a badger survey. My recommended modification reflects this.

4. As regards the capacity of the site, as stated in policy H1, site capacity figures are indicative and specific house numbers are determined on submission of a planning application against the requirements of the relevant planning policies. I am satisfied that the figure of 85 houses remains an appropriate capacity for this site. In relation to the other issues raised, I note that the provision of the cycle route referred to in the designation text can only be delivered within the site itself.

5. As regards access requirements, I note that the Transportation Improvements (TSP) identified in the proposed plan show where potential road improvements are likely to service sites, including off-site improvements. These are not exhaustive and do not pre-empt the conclusions of the relevant Transport Assessments. It is intended that site R1 would have a primary access to the A940 (TSP19), the details of which would be determined at the planning application stage. Subject to the scale of development proposed, a secondary access may be required. Direct access to site R2 to the north has also been secured. As regards off-site improvements, I note that the proposed plan refers to improvements to the junction of the U83E and the A940 (TSP17) to the south due to its proximity with site R1. Consequently, access to Knockomie Stables would not be adversely affected. The required Transport Assessment would clarify the full extent of the improvements required at this junction. In this respect, I also note that, as and when opportunity site OPP8 is developed, this would incorporate a new junction with the A940 (TSP16 *[where there is an incorrect reference to OPP9]*), which requires the stopping up of the existing U83E junction with the A940. Nevertheless, access to Knockomie Stables would be retained via the new junction and road connection with the U83E through site OPP8.

6. In conclusion, I can find no justification for the removal of this site from the proposed plan.

### R3 Ferrylea

7. In relation to the concerns regarding the visual impact of site R3 on the surrounding area, I note that landscape mitigation and enhancement measures are included in the proposed masterplan for the site (SD0010/3/011). Significant structure planting is proposed, including an avenue of trees along the Grantown Road, to soften the effects of development and retain the wooded character of the surrounding area. The council suggests that the structure landscaping shown on the Forres Settlement plan should be amended to reflect the approved masterplan. I would concur with this view and my recommended modification reflects this.

8. As regards the other matters raised, I note that the masterplan for site R3 includes the provision of a number of commercial units. It would not be appropriate for the proposed plan to specify the potential occupants of these units. I also note that pedestrian/cycle connectivity with the adjacent built-up area is promoted in the masterplan in accordance with Principle Policy PP3: Placemaking. In this respect, the masterplan for site R3 shows linkages with the residential area to the north and the LONG3 site to the south, which are also referred to in the designation text for LONG3. The council suggests that a reference to a requirement that these linkages be extended through site LONG3 to the woodland beyond (ENV6) be included in the designation text for LONG3. My recommended modification in relation to LONG3 reflects this.

### R4 and LONG1

9. In relation to access, I note that agreement in principle has been reached with Transport Scotland on the principle of a new roundabout junction on the A96 (TSP10) subject to further information being provided on the stopping up of other relevant junctions along the A96. The designation text refers to the requirement for a STAG appraisal, which must be undertaken in consultation with the council and the local community. In view of the fact that the A96 is a trunk road, I endorse the views of the Scottish Government that reference should also be made in the designation text to Transport Scotland being a consultee on the STAG appraisal. My recommended modification reflects this.

10. In relation to the potential connection with Drumduan Road (TSP9), the provision of this connection is dependent on the outcome of the Transport Assessment. In relation to the potential connection from Earlsfield Crescent (TSP32), I note that this link would provide connectivity between Lochyhill and Forbeshill, in accordance with Scottish Government policy on Designing Streets and Creating Places (CD30) and would reflect the requirement of Primary Policy PP3: Placemaking. A Transport Assessment is a requirement for this site and this would be required to quantify the impacts of the development on the surrounding roads network, including Earlsfield Crescent, and identify appropriate improvements/mitigation measures to address any road safety issues. The details of the exact nature of the connection would be a matter for consideration at the planning application stage, and would be the subject of further consultation with the local community.

11. As regards the use of the existing Lochyhill Farm access track, I note that this is a designated Core Path. I also note that there is little screening between the rear of the existing houses in Forbeshill and the farm track in the upper part of the estate. The other footpaths shown on the 'Key Design Principles' Plan on page 207 are indicative only. The precise location of these routes and any associated landscaping/screening, including

that along the Lochyhill Farm track, would be a matter for consideration at the planning application stage, and would be the subject of further consultation with the local community.

12. In relation to the concerns relating to drainage impact on surrounding areas, I note that policy EP5 requires a Drainage Impact assessment for developments of 10 or more houses. Nevertheless, as with some other sites, I consider that it would be prudent, in this instance, to emphasise this requirement in the designation text. My recommended modification reflects this.

#### R5 Burdshaugh

13. I note that planning permission has been granted for the development of this site. I also note the proximity of a watercourse and accept the view of the Scottish Environment Protection Agency that a minimum setback of 6 metres between any development and the watercourse is required in this instance. My recommended modification reflects this.

#### R6 Mannachy

14. I note that this site has been carried forward from the Moray Local Plan 2008 and is supported by the 2005 Landscape Integration Study. The designation text requires planting/landscaping long the eastern boundary and I am, therefore, satisfied that a development on site R6 will have minimal impact on the Dava Way, which lies below the site in a former railway cutting. The council has agreed to modify the site boundary at the rear of 2-6 Mannachie Avenue (see BD/14a/09, the excluded area to be incorporated in designation ENV6. My recommended modification reflects this.

#### R8 Balnageith

15. Site R8 formed part of the former Forres RAF base. It has been previously used as a sawmill and comprises a rough scrub area of ground backed by a low bank. The designation text recognises that there may be contamination issues arising from its previous use as an airfield. The text also requires badger and bat surveys and a standing building survey in recognition of the site forming part of the RAF base. The designation text also requires the small pond/wetland on the site to be protected and the watercourse passing through the site to be de-culverted. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

16. In relation to the capacity of the site, a capacity of 5 houses on a site in excess of 1 hectare in area does appear low. However, I would expect a high standard of landscaping and tree planting in this peripheral location. I note the requirement to improve the public road along the frontage of the site and provide passing places and a footway/cycleway on the road leading to the site to serve designations R8 and R9 (TSP13). With regard to the effect of these requirements on the viability of site R8, policy Scottish Government guidance in Circular 3/2012 on planning obligations indicates that developer contributions must be related in scale and kind to the development and must be reasonable; they should not be unduly onerous. As stated in policy H1, site capacity figures are indicative and specific house numbers are determined on submission of a

planning application against the requirements of the relevant planning policies. I am satisfied that the figure of 5 houses remains an appropriate capacity for this site with the final figure to be determined during the planning application process against site requirements and the relevant planning policies.

#### R9 Plantation Cottage

17. Site R9 is included with the area designated 'Countryside Around Towns' in the adopted Moray Local Plan 2008, as is site R8 and a large part of site R4 and site BP2. Its designation for housing purposes is a result of the need for green field land to accommodate the level of growth identified for Forres in the Strategic Housing Land Background Paper (CD2) (see paragraph 1 above). I note the woodland nature of this site and the requirements for a tree survey in order to integrate any housing development into the landscape. Scottish Natural Heritage requests a species survey of the site (e.g. of bats and badgers), as noted in the Strategic Environmental Assessment (SEA). Concerns have also been expressed in relation to the effect of any development on red squirrels and I consider that the designation text should make reference to the requirement for a species survey, in addition to a tree survey, in order to comply with the SEA. My recommended modification reflects this.

#### R10 Dallas Dhu

18. Site R10 is identified as a Long site in the Moray Local Plan 2008 and has been brought forward to meet housing needs in the timeline of the proposed plan. A masterplan is required for the whole Mannachy/Dallas Dhu area comprising sites R6, R10 and LONG2. I note that the masterplan for the area requires extensive structural landscaping in order to integrate the site into the surrounding area. The council indicates that the Dava Way, which bounds the site to the east, will be safeguarded but I consider that the proposed plan should expressly recognise the need to protect the character and amenity of this important core path. My recommended modification reflects this.

19. I also note that the site includes a significant area reserved for the Mosset Burn flood storage reservoir, which is excluded from residential development. Accordingly, the designation text indicates that the site must provide protection to a level of 31.5 metres AOD and a minimum finished floor level of 3.5 metres AOD. Nevertheless, I endorse the views of the Scottish Environment Protection Agency (SEPA) that proposals should be supported by a flood risk assessment (FRA) or further information as appropriate, the outcome of which may affect the developable area of the site. My recommended modification reflects this.

#### LONG 2 Dallas Dhu

20. The LONG2 site has been identified to consolidate and complete the comprehensive development of the Dallas Dhu area. A significant part of the site is reserved for the Mosset Burn flood storage reservoir, which is excluded from residential development and the masterplan text indicates that the site must provide protection to a level of 31.5 metres AOD and a minimum finished floor level of 3.5 metres AOD. Nevertheless, I endorse the views of SEPA that proposals should be supported by a flood risk assessment (FRA) or further information as appropriate, the outcome of which may affect the developable area of the site. My recommended modification reflects this.

21. In relation to the concerns regarding the impact on the Dava Way of the

development of the LONG2 site, in combination with site R10, I am aware of the potential for the urbanisation of the section of route between the two sites. The council indicates that the Dava Way will be safeguarded but I consider that the proposed plan should expressly recognise the need to protect the character and amenity of this important core path. My recommended modification reflects this.

#### R11 Former Rifle Range

22. This site comprises part of the former Forres RAF base. One of the buildings on the site is used as an indoor rifle range. To reassure the rifle club that designation of the site does not directly affect the club's occupancy of the building but indicates the potential of the whole site for residential development as it becomes available, the council has agreed to rename the site "Pilmuir Road West". I would concur with this change.

23. As regard the impact of any development on the surrounding road system, I note that the designation text refers to the need for a Transportation Statement and to improvements to the footway/cycle way at the Balnakeith Road/Pilmuir Road West junction and along Pilmuir Road West to the Pilmuir Primary School (TSP15). I am satisfied that these measures will ensure that safe access for all users is provided to the development on site R11 in accordance with the requirements of policy T2 and ensure that the safety and efficiency of the existing transport network is not adversely affected.

24. As regards the impact on the residential amenity of existing neighbouring houses, policy IMP1 sets out a range of criteria that all developments must comply with to ensure that new development is sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. There is nothing to suggest that the concerns raised in relation to loss of privacy, overlooking, loss of light and noise impact cannot be addressed at the detailed planning stage.

#### LONG3 West Park Croft

25. As intimated in paragraph 8 above, the council suggests that a reference to a requirement that the pedestrian linkages from site R3 to the LONG3 site be extended through site LONG3 to the woodland beyond (ENV6) be included in the designation text for LONG3. My recommended modification reflects this.

26. In relation to the representation from the Scottish Environment Protection Agency (SEPA), regarding the potential presence of groundwater dependant terrestrial ecosystems in or around site LONG3, I agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

27. As regards the inclusion in site LONG3 of the cattery and associated land at West Park Croft, this area of ground forms part of the 'white land' located between site LONG3 and the woodland designated ENV6. This area of ground is in separate ownership from site LONG3 and no compelling evidence has been put forward to justify including this area within site LONG3. As 'white land' within the settlement boundary, infill housing would be acceptable in accordance with policy H1 of the proposed plan. Consequently, exclusion from site LONG 3 does not restrict the possibility of small-scale housing at West Park Croft.

MIR site LONG2 Not taken forward

28. The Chapelton area has been the subject of extensive flood alleviation works. As confirmed by my site inspection, MIR site LONG2 forms part of this area and comprises an attractive open space and agricultural area wrapping round Wright's Hill. The newly formed access track to the Chapelton dam and woods beyond is clearly a popular footpath. I am conscious of the fact that the council's Landscape Integration Study (CD23) recognised that a small area of land immediately adjacent to Chapelton Farm, which is elevated above the low lying land to the south, provides the opportunity for a small number of detached houses backed by woodland; roughly the area of ground above and to the north-west of the access track. The Landscape Integration Study concludes that this small area offered long term opportunities once landscape mitigation measures have been established.

29. MIR site LONG2 extends south-eastwards beyond the access track and buffer to encompass much of the low lying ground below Wright's Hill. I consider that a residential development on this more extensive open agricultural area would be totally unrelated to the existing built form of this part of Forres; it would amount to a considerable incursion into open countryside. I find that the rear boundary of the existing housing in this part of Forres forms a defensible long term boundary for the built-up area, a boundary that should not be breached. I am aware that MIR site LONG2 lies outwith the area reserved as a flood storage reservoir on the Mosset Burn but do not consider this sufficient reason to designate the site for housing development. I consider that the landscape and visual impact of any development on the surrounding area would be such that a residential development on MIR site LONG2 would not appropriate.

30. As indicated in paragraph 1 above, the conclusion to be drawn in relation to the assessment of the overall housing land supply under Issue 4a is that there is some justification for the release of suitable additional land if it were demonstrated to be effective over the first 5 year timeframe. However, for the reasons stated in paragraph 29 above, I consider that MIR site LONG 2 is not a suitable area for development. In relation to the designation of the site as a LONG site, the proposed plan identifies, in total, over 400 hectares of land to meet housing requirements in the longer term. Consequently, there is no justification for identifying additional LONG sites at this time.

TSP13

31. In relation to the concerns regarding the blind bend on the U83E between sites R8 and R9, as noted in paragraph 16 above, TSP13 relates to improvements to the U83E to serve both site R8 and site R9. The form these improvements will take is a matter for subsequent detailed consideration as and when sites R8 and R9 are developed.

TSP16

32. In relation to the concerns regarding the condition of the U83E between the A940 and Balnakeith and the possibility of providing a new road link between the A940 and the Mundole Road to avoid this route, no substantive evidence has been submitted to justify such a proposal. Should traffic issues arise on the U83E as a result of the proposed housing developments on the Grantown Road, it will be a matter for the council to consider what future action to take.

**TSP17 & TSP19**

33. As noted in paragraph 5 above, the Transport Assessment required in relation to the development of site R1 will determine the full extent of the junctions required to provide access to the site and the extent of any improvements to the junction of the A940 and U83E. [I note the erroneous reference to the A941 in TSP19.] Whilst previous discussions have taken place between the council and the prospective developer and landowner on access solutions, the specific details of the access requirements for the proposed development are matters to be determined at the planning application stage. The council has confirmed that previous discussions with the developer and landowner on the provision of an access to site R1 (TSP19) was on the basis of a priority junction without the need for land from site R3 and this approach is anticipated to remain the case.

**Reporter's recommendations:**

Modify the local development plan as follows:

1. After the second sentence in the second paragraph of the designation text of site R1 add the following words: 'A species survey and protection plan should accompany any planning application for development on the site.'
2. On the Forres Settlement Plan on page 201, amend the distribution of new woodland structure planting on site R3 to reflect the approved masterplan for the site (SD0010/3/011).
3. Amend the second sentence of the second paragraph of the designation text of site R4 Lochyhill to read: "The STAG appraisal must be undertaken in consultation with the Council, Transport Scotland and the local community."
4. Add the following to the designation text for site R4 Lochyhill: "A drainage impact assessment is required."
5. Add the following to the designation text for site R5 Burdshaugh: "A buffer strip of at least 5 metres between the development and the watercourse is required."
6. On the Forres Settlement Plan on page 201, amend the boundary of site R6 to exclude land to the rear of 2-6 Mannachie Avenue as shown on document BD/14a/09. Incorporate the excluded area within ENV6.
7. Add the following to the designation text for site R8 Balnakeith: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."
8. Add the following to the designation text for site R9 Plantation Cottage: "A species survey and protection plan should accompany any planning application for development on the site."
9. Add the following to the designation text for site R10 Dallas Dhu: "Proposals should be supported by a Flood Risk Assessment (FRA), the outcome of which may affect the developable area of the site."

10. In the text of the Dallas Dhu/Mannachy masterplan on page 195, insert the following after the second sentence of the first paragraph: "The route and the amenity of the Dava Way will be maintained and enhanced."

11. Amend the heading 'R11 Former Rifle Range' to read 'R11 Pilmuir Road West'. Make consequential changes elsewhere in the proposed plan where appropriate.

12. Amend the fourth sentence of the designation text for site LONG3 to read: "Pedestrian connections will be required to adjacent developments, the adjacent woods (ENV6) and to pedestrian/cycle networks." And add the following: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

Issue 14b	Forres employment land and Opportunity sites	
Development plan reference:	<p><b>Forres settlement statement, page 190-208</b></p> <ul style="list-style-type: none"> <li>• BP1 Enterprise Park, Forres, page196</li> <li>• BP2 Enterprise Park, Forres Extension, page196)</li> <li>• I1 Greshop West, page196</li> <li>• I2 Greshop East, page196</li> <li>• I3 Former Waterford Sawmill, page196</li> <li>• I4 Waterford Road, page196</li> <li>• I5 Ben Romach distillery, page196</li> <li>• I6 Railway Marshalling Yard, page 196</li> <li>• I7 Springfield West, page 196</li> <li>• I8 Springfield East, page196</li> <li>• OPP1 Caroline Street, page198</li> <li>• OPP2 Bus depot, North Road, page198</li> <li>• OPP3 Castlehill Health Centre, page198</li> <li>• OPP4 Cathay, page198</li> <li>• OPP5 Leancoil Hospital, page 199</li> </ul>	Reporter: Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>BP1 Enterprise Park, Forres</u></b>  Franz Rolinck (0709)  Forres Events Ltd (0887)  Mr and Mrs Mark and Beverly Ellis (0442)  <b><u>BP2 Enterprise Park, Forres</u></b>  Franz Rolinck (0709)  Mr and Mrs Mark And Beverly Ellis (0442)  Mr and Mrs M Miller (0995)  Mr and Mrs P Hudson (1011)  Highlands and Islands Enterprise (0109)  <b><u>I1 Greshop West, I2 Greshop West, I3 Former Waterford Sawmill, I4 Waterford Road, I5 Ben Romach distillery, I6 Railway Marshalling Yard</u></b>  Scottish Environment Protection Agency (0569)  <b><u>I7 Springfield West</u></b>  Franz Rolinck (0709)  Mr I S Suttie (0467)  Scottish Environment Protection Agency (0569)  <b><u>I8 Springfield East</u></b>  Forres Community Council (0123)  Findhorn and Kinloss Community Council (0124)  Mr B Shoult (0372)  Lorretta Oliphant (0401)  Mr and Mrs Mark and Beverly Ellis (0442)  David McRobie (0457)  Mr I S Suttie (0467)  Alan Croll (0580)  Kathleen Munro (0619)  Susan Hemiston (0621)</p>		

Greig Munro (0622)  
 Robin Alfred (0625)  
 Elizabeth Cowie (0626)  
 Findhorn Village Conservation Company (0629)  
 Joanna Darling (0634)  
 Adrian Hutchins (0635)  
 Mr A Hughes (0638)  
 Martin Slack (0614)  
 Catherine Bain (0642)  
 Malcolm Campbell (0643)  
 Suzan M Teasdale (0645)  
 Gary Hunt (0648)  
 Daniel Roberts (0663)  
 Andrea Turner (0664)  
 R J Hellyer (0689)  
 Bill Barber (0693)  
 Stephanie Hunt (0694)  
 Colin Dalgarno (0697)  
 Franz Rolinck (0709)  
 K Ross (0710)  
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 Mr George Storm (0713)  
 Pam Watson (0715)  
 Dr Almut R Brandl (0719)  
 Mari Ann Backa (0746)  
 Kenneth McDonald (0753)  
 Ted Percy (0754)  
 Rachel Stewart (0756)  
 Martin Booth (0757)  
 Louise Lightowler (0758)  
 Helen Cowie (0759)  
 Craig Stewart (0760)  
 Ronald Maclean (0761)  
 Wendy Galloway (0762)  
 Robin Van Zelst (0763)  
 Barbara Percy (0764)  
 K Paterson (0765)  
 Joan S Widdowson (0766)  
 John S Widdowson (0767)  
 Andrew Hall (0768)  
 Gordon Bruce (0769)  
 M Goldny (0770)  
 Ann Shernicki (0771)  
 Leslie Raeburn (0772)  
 Anne Jenkins (0773)  
 Dagmar Paduchova (0774)  
 Robbie Dow (0755)  
 J McCart (0775)  
 Gareth Whymant (0776)  
 M Thomson (0777)  
 Anne Wilson (0778)  
 Miss V Black (0779)

D Matheson (0780)  
 Carolyn Farr (0781)  
 Peter Munro (0782)  
 A Watson (0783)  
 Mr R Bawman (0784)  
 J Macrae (0785)  
 Andrew Hutchinson (0786)  
 John W Laing (0787)  
 Mrs George Scott (0788)  
 Mr and Mrs Stewart (0789)  
 Linda Gordon (0790)  
 Bryan Young (0791)  
 David Symon Reid (0792)  
 Graham MacKenzie (0793)  
 Liz Price (0794)  
 F M Thomson (0795)  
 G H Menzies (0796)  
 Doreen Grant (0797)  
 Ewen Riddick (0798)  
 Jack Fitchie (0799)  
 James S Watson (0800)  
 Mr B Reynolds (0801)  
 Michelle Gooding (0802)  
 Mrs N P Reeves (0803)  
 Amanda David (0804)  
 Ian Greenhouse (0805)  
 John Robertson (0806)  
 Warde (0807)  
 Karen Morton/Maran Krishnan (0808)  
 John Smith (0809)  
 Gretel McEwen (0810)  
 B Jamieson (0811)  
 Michael Thornhill (0812)  
 Sue Kessell (0813)  
 Dorothy Allan (0814)  
 Mrs P Campbell (0815)  
 Ms R Warde (0817)  
 H Paterson (0818)  
 Fiona Meiklejohn (0819)  
 Helen Riddoch (0820)  
 Brian Laird (0821)  
 G John Watson (0822)  
 John King (0823)  
 Murray (0824)  
 Jane Ouston (0825)  
 Louise Price (0826)  
 Sandra MacIver (0827)  
 Pam Machin (0828)  
 Susan Seymour (0829)  
 Emma Lee (0830)  
 Ann and Malcolm Partington (0831)  
 John Teasdale (0832)

Alan Paterson (0833)  
 Jill Mckenzie (0834)  
 Mrs C Love (0835)  
 Christopher Ian Stone (0836)  
 Obenon Ahura Star (0837)  
 Mary Vines (0838)  
 John Campbell (0839)  
 Pippa Hall (0840)  
 William and Margaret Ogilvie (0841)  
 Lily Hendry (0843)  
 Mrs Margaret Dallberg Anderson (0842)  
 Joe Pirnie (0844)  
 Mrs Frances Stephen (0846)  
 Mr Ian Alexander Stephen (0847)  
 Mrs G Crane (0848)  
 Ronald Ogg (0849)  
 Mr A Forbes (0850)  
 Mr and Mrs I Wiseman (0851)  
 Jacqueline Barrere (0884)  
 Gordon Seaton (0889)  
 Thomas Balch (0891)  
 David MacGillivray (0912)  
 Sue Kessell (0813)  
 Gordon Thornton (0816)  
 Alex J Massie (0918)  
 David Willing (0923)  
 Thomas Blackwood (0926)  
 Carla Hornsby (0940)  
 Judith Berry (0941)  
 Margaret Murdoch (0988)  
 Christine Ainley (1001)  
 Mrs Chloe MacGillivray (1006)  
 Margaret Smith (1014)  
 Sheryl Richardson (1022)  
 Pauline Robson (1030)  
 Mary Seaton (1040)  
 Mr Robert Leonard Fox (1042)  
 Annita More (1054)  
 Mrs Lindsey Woolley (1055)  
 Isabel Taylor (1056)  
 A Schmechel (1057)  
 K and A Ross (1058)  
 H McLennan (1059)  
 Rosanna Birnie Reid (1060)  
 C B Hastie (1061)  
 Janet Thomson (1062)  
 D Mackenzie (1063)  
 Katherine Smith (1064)  
 Annerle Douglas (1065)  
 Catriona Davis (1066)  
 Lyndsay Mackenzie (1067)  
 Jacob Numan (1068)

Robin Walker (1069)  
 Holly Dittman (1070)  
 B Barr (1071)  
 A Coneen (1072)  
 Fionnuala Seaton (1073)  
 Mr and Mrs K Parker (1074)  
 Jennifer Cloves (1075)  
 W D Munro (1076)  
 Deborah McKerron (1077)  
 Kenneth Douglas (1078)  
 Kirsten Livsey (1079)  
 Alexander Taylor (1080)  
 Robert Mark Jones (1081)  
 Nicola Apel (1082)  
 Colin Lipscomb (1083)  
 Lorraine Abernethy (1084)  
 Doreen Henderson (1085)  
 A J Faville (1086)  
 Liz Lawson (1087)  
 Bruno Cawley (1088)  
 Tracy Julie Millar (1089)  
 Grant (1090)  
 Margaret Nicol (1091)  
 Daniel Ward (1092)  
 M Walker (1093)  
 Mrs Ellen Shoult (1094)  
 Anna Mackay (1095)  
 Keith Grant-Peterkin (1096)  
 Mrs M Guthrie (1097)  
 D Carr (1098)  
 Sandra Davidson (1099)  
 Stella Murray (1100)  
 Marlyn Somers (1101)  
 Stephen Linturn (1102)  
 J E Pinner (1103)  
 Tony Pinner (1104)  
 Henrietta Grant-Peterkin (1105)  
 Robert Hobbs-Toovey (1106)  
 N Sinclair (1107)  
 Oguzhan Eskikoy (1108)  
 Mrs J Sinclair (1109)  
 Stuart Elliott (1110)  
 Ms Pauline Holton (1111)  
 Dr Douglas Murray (1112)  
 William Neil (1113)  
 Mrs Edna Lee (1114)  
 Sara Neil (1115)  
 R Gibson (1116)  
 Mrs Faith Swann (1117)  
 Scott Collins (1118)  
 Karen Ahfield (1119)  
 Catherine Ellis (1120)

<p><b><u>OPP1 Caroline Street</u></b>  Franz Rolinck (0709)  Jacqueline Barrere (0884)  <b><u>OPP2 Bus depot, North Road</u></b>  Scottish Environment Protection Agency (0569)  Susan Henderson (0707)  Gary MacNamara (0708)  <b><u>OPP3 Castlehill Health Centre</u></b>  Forres Community Council (0123)  NHS Grampian (0300)  <b><u>OPP4 Cathay</u></b>  Scottish Environment Protection Agency (0569)  Alan Croll (0580)  R G MacDonald (0976)  <b><u>OPP5 Leancoil Hospital</u></b>  Forres Community Council (0123)  NHS Grampian (0300)  Mr I S Suttie (0467)  Scottish Environment Protection Agency (0569)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>The employment land designations safeguard the existing sites for employment related uses and propose new designations to meet future need.  The Opportunity site designations highlight opportunities for redevelopment of sites which are vacant or derelict or those which are known may become vacant during the lifetime of the Plan.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>BP1 Enterprise Park, Forres</u></b>  Franz Rolinck (0709)  Considers that BP1 and BP2 need to ensure no high rise buildings are visible from distance. Current ATOS roof is visible from Findhorn which is not desirable.   <u>Forres Events Ltd (0887)</u>  Fortunate in using empty fields at Enterprise Park, Forres as a car park and park and ride facility for Piping Hot Forres event. However, HIE are open for business and how long would it be before they no longer have empty fields available for use. If Grant park is to host similar events in the future pose the question where could available space for car parking up to 5,000 cars be provided. Need to plan into the Local Plan dedicated area that could be used for car parking as one of the dedicated sites many uses.   <u>Mr and Mrs Mark and Beverly Ellis (0442)</u>  BP1 is under- utilised and could include general industrial use. The high tech, high end clients it is designed to support and encourage can also benefit from general industrial businesses co-locating to provide supporting services.   <b><u>BP2 Enterprise Park Forres Extension</u></b>  Franz Rolinck (0709)  Considers that BP1 and BP2 need to ensure no high rise buildings are visible from distance. Current ATOS roof is visible from Findhorn which is not desirable.</p>	

Mr and Mrs Mark and Beverly Ellis (0442)

A drainage impact assessment needs to be completed to assess drainage impact on housing at Cassieford in accordance with EP5.

Mr and Mrs M. Miller (0995)

Object as proposed site will surround Tarras House and neighbouring properties, leaving a pocket of residential development within wider business area. There is no demonstrable need for an extension to the Park. Allocation will have a detrimental impact on home and amenity it currently enjoys.

As at January 2014, there remain 23.34 ha of undeveloped land available within the Park. More than half original Park allocation has not yet been built out. Structure Plan Economic Strategy requires Plan to maintain a supply of 5-10 hectares at any one time in Forres. Draft Employment Land Audit indicates a take up rate of 1.83ha in 2013, meaning 12 years supply of employment land in the Park alone. Taking into account I5-I6 and I6-I8, there is well over 20 years supply. No need to identify BP2 as a longer term employment site.

One of the landowners indicated he did not wish to see his land used for an extension to the Park.

Council requires to put forward strong reasoning which demonstrates that the land is no longer deserving of CAT protection. Allocating BP2 runs contrary to the conclusions of the 2005 Landscape study and previous spatial strategy for Forres, avoiding ribbon development along the line of the A96.

Strenuously disagree with proposition that BP2 is required to create a sense of arrival. Should a gateway feature be required this could be provided through landscape features. Concerns raised by planning officer in report to committee 18/8/97 on landscape impact equally apply to BP2.

Development of BP2 cannot be viewed as an extension given the landscaping buffer zones. Extensive landscaping east and west of Tarras House would be required. Park should expand to south if required. Topography means overlooking is inevitable. A new access increases risk of accidents.

Inappropriate to allocate BP2 for development prior to A96 dualling being confirmed. Archaeology, ecological and flooding studies should have been carried out prior to designation.

Mr and Mrs P Hudson (1011)

Three properties adjacent to BP2, all three are well in excess of a hundred years old. BP2 will virtually surround these properties leaving a pocket of residential development within an extremely large business area. BP2 will have a significantly intrusive and detrimental impact on life and amenity. There is no need for an extension to the Park. Support the statements made by Mr and Mrs Miller.

One of the landowners indicated in response to MIR that he did not wish to see his land used for an extension to the Park. Landowner wishes to wait until the land is zoned for residential development. If such a development were proposed, objection would be on stronger grounds. Buffer zones would need to constitute a considerable portion of the land available.

Topography means inevitable overlooking by business units. Tarras is an important wildlife corridor. There is no need for the site. Proposal may prejudice the A96 dualling.

**Highlands and islands Enterprise (0109)**

HIE has no current intention to acquire or develop BP2. Recognise that development should be high quality consistent with gateway site. Uses should not detract from neighbouring sites and should support and enhance the existing BP. HIE incurred significant costs and held land aside to minimise impact on Tarras House, same conditions should be imposed on new development.

**I1 Greshop West, I2 Greshop East, I3 Former Waterford Sawmill, I4 Waterford Road, I5 Ben Romach Distillery, I6 Railway Marshalling Yard**

**Scottish Environment Protection Agency (0569)**

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**I7 Springfield West**

**Franz Rolinck (0709)**

Questions why enlarge I7 with I8 and ownership of the sites. Consider it is totally unsuitable for industrial development. Scottish Environment Protection Agency should be consulted to move I7 and I8 into area between Greshop industrial estate and River Findhorn.

**Mr I S Suttie (0467)**

Fields should not be built on as much cherished view will be lost.

**Scottish Environment Protection Agency (0569)**

Western corner of site is at risk from Findhorn until Flood Alleviation Scheme is complete, development should not take place unless the scheme is operational. Development should consider flood risk and a Flood Risk Assessment or further information submitted as appropriate.

**I8 Springfield East**

**Impact on agricultural Land/Environment**

**Martin Slack (0614), Kathleen Munro (0619), Susan Hermiston (0621), Mr A Hughes (0638), Catherine Bain (0642), David McRobie (0457), Stephanie Hunt (694), Elizabeth Cowie (0626), Pam Watson (0715), Margaret Murdoch (0988), Margaret Smith (1014), Mrs Frances Stephen (0846), Mr Ian Alexander Stephen (0847), Ronald Ogg (0849), Mr A Forbes (0850), Mr and Mrs I Wiseman (0851)**

Industrial use of agricultural land in this location is inappropriate.

**Thomas Balch (0891)**

Objects to use of prime agricultural land for development. Planning authority should be preserving prime agricultural land as part of children's heritage.

**David MacGillivray (0912), Loretta Oliphant (0401), Mr and Mrs Mark and Beverly Ellis (0442), R J Hellyer (0689), Robert Mark Jones (1081)**

Considers proposal to be contrary to ER6 which states that the Council will presume against irreversible development on prime agricultural land unless the site is required for settlement expansion and there is no other suitable alternative.

**Pauline Robson (1030)**

Forres needs to attract passing motorists. Western approach is already compromised by untidy industrial buildings and an ugly football ground. If eastern approach is spoilt question who would want to shop and visit Forres. View from Forres to Findhorn would be spoilt by industrial buildings, especially the view from Nelson's tower, run by volunteers.

**Impact upon Tourism**

Gary Hunt (0648), Martin Slack (0614), Kathleen Munro (0619), Susan Hermiston (0621), Mr A Hughes (0638), Catherine Bain (0642), David McRobie (0457), Stephanie Hunt (694), Elizabeth Cowie (0626), Margaret Murdoch (0988), Margaret Smith (1014), Mrs Frances Stephen (0846), Mr Ian Alexander Stephen (0847), Ronald Ogg (0849), Mr A Forbes (0850), Mr and Mrs I Wiseman (0851), Greig Munro (0622), Bill Barber (0693), Findhorn Village Conservation Society (0629), Adrian Hutchins (0635), Joanna Darling (0634), Alex J Massie (0918)

Council should maintain and enhance the existing tourism infrastructure of Moray, including the principal approach and vista to Findhorn Bay nature reserve. Industry on I8 would have a significant impact on tourism business in Findhorn.

Mr B Shoult (0372), Alan Croll (0580), Robin Alfred (0625), Malcolm Campbell (0643), Mari Ann Backa (0746), Suzan M Teasdale (0645), K Ross (0710), Kenneth McDonald (0753), Ted Percy (0754), Robbie Dow (0755), Rachel Stewart (0756), Martin Booth (0757), Louise Lightowler (0758), John S Widdowson (0767), Elizabeth Cowie (0626), Helen Cowie (0759), Sandra MacIver (0827), Craig Stewart (0760), Ronald Maclean (0761), Robin van Zelst (0763), K Paterson (0765), A Watson (0783), R Bawman (0784), Mr J Macrae (0785), Andrew Hutchinson (0786), John W Laing (0787), Ann and Malcolm Partington (0831), Alan Paterson (0833), Jill McKenzie (0834), Andrew Hall (0768), Joan S Widdowson (0766), Barbara Percy (0764), Gordon Bruce (0769), M Goldny (0770), Ann Shernicki (0771), Leslie Raeburn (0772), Anne Jenkins (0773), J McCart (0775), Gareth Whyment (0776), M Thomson (0777), Anne Wilson (0778), Miss V Black (0779), D Matheson (0780), Carolyn Farr (0781), Peter Munro (0782), Mr and Mrs Stewart (0789), Mrs Linda Gordon (0790), Bryan Young (0791), David Symon Reid (0792), Graham Mackenzie (0793), Liz Price (0794), F M Thomson (0795), G H Menzies (0796), Doreen Grant (0797), Ewen Riddick (0798), Jack Fitchie (0799), James S Watson (0800), Mr B Reynolds (0801), Michelle Gooding (0802), Mrs N P Reeves (0803), Amanda David (0804), Ian Greenhouse (0805), John Robertson (0806), Warde (0807), Karen Morton and Maran Krishnan (0808), John Smith (0809), Gretel McEwen (0810), B Jamieson (0811), Michael Thornhill (0812), Sue Kessell (0813), Dorothy Allan (0814), Mrs P Campbell (0815), Gordon Thornton (0816), Ms R Warde (0817), H Paterson (0818), Fiona Meiklejohn (0819), Helen Riddoch (0820), Brian Laird (0821), John Watson (0822), John King (0823), G Murray (0824), Jane Ouston (0825), Louise Price (0826), Mrs C Love (0835), John Teasdale (0832), Pam Machin (0828), Susan Seymour (0829), Emma Lee (0830), Christopher Ian Stone (0836), Obenn Ahura Star (0837), Mary Vines (0838), John Campbell (0839), Pippa Hall (0840), William and Margaret Ogilvie (0841), Mrs Margaret Dallberg Anderson (0842), Lily Hendry (0843), Joe Pirnie (0844), Mrs G Crane (0848), Sheryl Richardson (1022), Wendy Galloway (0762), Judith Berry (0941), Mr Robert Leonard Fox (1042), Annita More (1054), Mrs Lindsay Woolley (1055), Isabel Taylor (1056), A Schmechel (1057), K and A Ross (1058), H McLennan (1059), Rosanna Birnie Reid (1060), C B Hastie (1061), Janet Thomson (1062), D Mackenzie (1063), Katherine Smith (1064), Annerle Douglas (1065), Catriona Davis (1066), Lyndsay Mackenzie (1067), Jacob Numan (1068), Robin Walker (1069), Holly Dittman (1070), B Barr (1071), A Coneen (1072), Fionnuala Seaton (1073), Mr and Mrs K Parker (1074), Jennifer Cloves (1075), W D Munro (1076), Deborah McKerron (1077), Kenneth Douglas

(1078), Kirsten Livsey (1079), Alexander Taylor (1080), Colin Lipscomb (1083), Lorraine Abernethy (1084), Doreen Henderson (1085), A Faville (1086), Liz Lawson (1087), Bruno Cawley (1088), Julie Millar (1089), Tracy Grant (1090), Margaret Nicol (1091), Daniel Ward (1092), M Walker (1093), Mrs Ellen Shoult (1094), Anna Mackay (1095), Keith Grant-Peterkin (1096), Mrs M Guthrie (1097), D Carr (1098), Sandra Davidson (1099), Stella Murray (1100), Marilyn Somers (1101), Stephen Linturn (1102), J E Pinner (1103), Tony Pinner (1104), Henrietta Grant-Peterkin (1105), Robert Hobbs- Toovey (1106), N Sinclair (1107), Oguzhan Eskikoy (1108), Mrs J Sinclair (1109), Stuart Elliot (1110), Ms Pauline Holton (1111), Mr Douglas Murray (1112), William Neil (1113), Mrs Edna Lee (1114), Sara Neil (1115), R Gibson (1116), Mrs Faith Swann (1117), Scott Collins (1118), Karen Ahfield (1119), Catherine Ellis(1120)

Recognise Forres has to expand and requires additional land. This proposal would obliterate the attractive gateway and first opening vista of Findhorn Bay to the thousands of visitors to this area of Moray. The proposal contradicts the primary policy on Sustainable Economic Growth.

#### Forres Community Council (0123)

Good within the Plan for the development of a Business Park and industrial sites for those coming into the town. However I8 borders the gateway to Forres and this could have a very detrimental effect on tourism not only to Forres but to Kinloss and Findhorn as it will detract from the character of the town.

#### Andrea Turner (0664)

If I8 is developed for industrial use it will ruin the outlook from Forres to Findhorn and make Forres feel isolated from the beauty of the landscape towards the sea and making Forres less attractive to visitors and impact on people living nearby.

#### Alex Ross (0711)

View to Findhorn is significant, accept the constraints on finding suitable industrial land. Therefore the layout of I8 must take cognisance of the view and its significance to the community.

#### Dr Almut R Brandl (0719)

Contradicts the Development Plan Settlement Statement of Forres, which states the need to "safeguard existing open spaces " and the council's recognition of the "role the natural environment plays in providing... Sustainable economic activity". This is particularly important for tourism for Findhorn and Kinloss.

#### Jacqueline Barrere (0884)

Main route into Forres is green and should remain so protecting the heritage and cultural aspects of this floral and transition town. It would be marred by allowing an industrial development and would negatively impact on the towns frontage and destroy the landscape view to Findhorn.

#### Christine Ainley (1001)

Site should be left as it is showing the view to Findhorn bay as this is good for tourism. It keeps industrial sites away from the town centre. Plan objectives states" safeguard existing open spaces and provide new high quality well-connected open spaces."

#### Mrs Chloe MacGillvray(1006)

Old Findhorn Road forms an important section of the attractive Coastal Way. Assuming the Scottish Government still regards Tourism as vitally important to the economy, it

would seem a conflict of interest that side by side to coastal attraction to see an industrial development, changing forever the attractive countryside to our visitors.

Carla Hornsby (0940)

Findhorn Bay is a nature reserve, which is in close proximity to an industrial estate contradicts the development plan for Forres which acknowledges the need to safeguard existing open spaces. This development would have an impact upon tourism industry. Industrial estate would obliterate the views to Findhorn Bay.

Thomas Blackwood (0926)

Object as this is the only place you get a superb view of Findhorn Bay. East end of the Springfield site is only half a mile from Findhorn bay, a local nature reserve with national and international designations for the protection of its diverse wildlife and ecology. Development here could threaten flora and fauna of the reserve. It would greatly detract from an outstanding landscape that until now has been largely preserved by the sensitive location of industrial and commercial development in the Forres area.

David MacGillivray (0912), Loretta Oliphant (0401), Mr and Mrs Mark and Beverly Ellis (0442), R J Hellyer (0689), Robert Mark Jones (1081), Nicola Apin (1082) Object as there is no case for I8 to be included. Contrary to Scottish Planning Policy which states that planning system should "protect and enhance the quality of the natural and built environment as an asset for that growth". Moray Economic Strategy identifies Moray as having considerable strengths and opportunities and recognises Findhorn Foundation's world- wide profile as a key sector that could be developed. Also recognise the significant natural and industrial assets of Moray and the need to develop these as a high profile, high value sector." Site provides a gateway vista to Findhorn and the Moray Firth and coast. Any adverse effect on this significant asset could affect tourism numbers.

Proposal is contrary to Policy ED1 which states that any development of new employment land will ensure that the visual appearance does not have a negative effect on the wider area. Strength of feeling from local communities confirms the significance.

Contrary to Policy E7, which states "proposals which are likely to result in a significant adverse impact on the landscape will not be supported. Confusion over the description of the categorisation of the land.

George Scott (0788)

Would affect tourism to Forres and Kinloss adversely.

Findhorn and Kinloss Community Council (0124)

Support Mrs Ellis' objection. View to Findhorn is a gateway vista to this area of natural beauty.

**Drainage/Flooding**

Martin Slack (0614), Kathleen Munro (0619), Susan Hermiston (0621), Mr A Hughes (0638), Catherine Bain (0642), David McRobie (0457), Stephanie Hunt (694), Elizabeth Cowie (0626), Margaret Murdoch (0988), Margaret Smith (1014), Mrs Frances Stephen (0846), Mr Ian Alexander Stephen (0847), Ronald Ogg (0849), Mr A Forbes (0850), Mr and Mrs I Wiseman (0851)

Should consider other areas, such as beyond Greshop which is now safe from flooding.

Gary Hunt (0648)

Flood risk still to be assessed. Drainage, water table and pollution risks have not been considered.

Franz Rolinck (0709)

Scottish Environment Protection Agency should be consulted to move I7 and I8 into area between Greshop Industrial Estate and Findhorn River.

Mr B Shoult (0372), Alan Croll (0580), Robin Alfred (0625), Malcolm Campbell(0643), Mari Ann Backa (0746), Suzan M Teasdale (0645), K Ross (0710), Kenneth McDonald (0753), Ted Percy (0754), Robbie Dow (0755), Rachel Stewart (0756), Martin Booth (0757), Louise Lightowler (0758), John S Widdowson (0767), Elizabeth Cowie (0626), Helen Cowie (0759), Sandra MacIver (0827), Craig Stewart (0760), Ronald Maclean (0761), Robin van Zelst (0763), K Paterson (0765), A Watson (0783), R Bawman (0784), Mr J Macrae (0785), Andrew Hutchinson (0786), John W Laing (0787), Ann and Malcolm Partington (0831), Alan Paterson (0833), Jill McKenzie(0834), Andrew Hall (0768), Joan S Widdowson(0766), Barbara Percy (0764), Gordon Bruce (0769), M Goldny (0770), Ann Shernicki (0771), Leslie Raeburn (0772), Anne Jenkins (0773), J McCart (0775), Gareth Whymant (0776), M Thomson (0777), Anne Wilson (0778), Miss V Black (0779), D Matheson (0780), Carolyn Farr (0781), Peter Munro (0782), Mr and Mrs Stewart (0789), Mrs Linda Gordon (0790), Bryan Young (0791), David Symon Reid (0792), Graham Mackenzie (0793), Liz Price (0794), F M Thomson (0795), G H Menzies (0796), Doreen Grant (0797), Ewen Riddick (0798), Jack Fitchie (0799), James S Watson (0800), Mr B Reynolds (0801), Michelle Gooding (0802), Mrs N P Reeves (0803), Amanda David (0804), Ian Greenhouse (0805), John Robertson (0806), Warde (0807), Karen Morton and Maran Krishnan (0808), John Smith (0809), Gretel McEwen (0810), B Jamieson (0811), Michael Thornhill (0812), Sue Kessell (0813), Dorothy Allan (0814), Mrs P Campbell (0815), Gordon Thornton (0816), Ms R Warde (0817), H Paterson (0818), Fiona Meiklejohn (0819), Helen Riddoch (0820), Brian Laird (0821), John Watson (0822), John King (0823), G Murray (0824), Jane Ouston (0825), Louise Price (0826), Mrs C Love (0835), John Teasdale (0832), Pam Machin (0828), Susan Seymour (0829), Emma Lee (0830), Christopher Ian Stone (0836), Obenn Ahura Star (0837), Mary Vines (0838), John Campbell (0839), Pippa Hall (0840), William and Margaret Ogilvie (0841), Mrs Margaret Dallberg Anderson (0842), Lily Hendry (0843), Joe Pirnie (0844), Mrs G Crane (0848), Sheryl Richardson (1022), Wendy Galloway (0762), Judith Berry (0941), Mr Robert Leonard Fox (1042), Annita More (1054), Mrs Lindsay Woolley (1055), Isabel Taylor (1056), A Schmechel (1057), K and A Ross (1058), H McLennan (1059), Rosanna Birnie Reid (1060), C B Hastie (1061), Janet Thomson (1062), D Mackenzie (1063), Katherine Smith (1064), Annerle Douglas (1065), Catriona Davis (1066), Lyndsay Mackenzie (1067), Jacob Numan (1068), Robin Walker (1069), Holly Dittman (1070), B Barr (1071), A Coneen (1072), Fionnuala Seaton (1073), Mr and Mrs K Parker (1074), Jennifer Cloves (1075), W D Munro (1076), Deborah McKerron (1077), Kenneth Douglas (1078), Kirsten Livsey (1079), Alexander Taylor (1080), Colin Lipscomb (1083), Lorraine Abernethy (1084), Doreen Henderson (1085), A Faville (1086), Liz Lawson (1087), Bruno Cawley (1088), Julie Millar (1089), Tracy Grant (1090), Margaret Nicol (1091), Daniel Ward (1092), M Walker (1093), Mrs Ellen Shoult (1094), Anna Mackay (1095), Keith Grant-Peterkin (1096), Mrs M Guthrie (1097), D Carr (1098), Sandra Davidson (1099), Stella Murray (1100), Marilyn Somers (1101), Stephen Linturn (1102), J E Pinner (1103), Tony Pinner (1104), Henrietta Grant-Peterkin (1105), Robert Hobbs- Toovey (1106), N Sinclair (1107), Oguzhan Eskikoy (1108), Mrs J Sinclair (1109), Stuart Elliot (1110), Ms Pauline Holton (1111), Mr Douglas Murray (1112), William Neil (1113), Mrs Edna Lee (1114), Sara Neil (1115), R Gibson (1116), Mrs Faith Swann (1117), Scott Collins (1118),

Karen Ahfield (1119), Catherine Elis(1120)

There has been insufficient assessment of the I8 area for flood risk or suitability for development. No assessment has been made of Surface Water Drainage even though it is known that the area suffers from poor drainage and a high water table. The Supplementary Guidance states that the nature of the proposed use will require consideration of flooding and biodiversity issues as there are a number of nearby watercourses draining into Findhorn Bay LNR.

Dr Almut R Brandl (0719)

The area is known for recurrent flooding; therefore it is not suitable for any sort of building projects.

Thomas Balch (0891)

As part owner of I7 and I8, do not consider these areas suitable for building due to high water table which makes drainage difficult. Also a number of natural springs. As part owner of Springfield farm would not be willing to sell farm for the creation of another industrial estate.

**Designate alternative site**

Greig Munro (0622), Bill Barber (0693), Findhorn Village Conservation Society (0629), Adrian Hutchins (0635), Joanna Darling (0634), Alex J Massie (0918)

Forres already has established industrial land located in and around Greshop and Waterford industrial estates. Future business zoning should be concentrated in this location.

Daniel Roberts (0663), David Willing (0923), Mr I S Suttie (0467)

If there is really any need for more industrial units in Forres then they should be built in one of the two existing and partially empty industrial estates or the enterprise park.

Forres Community Council (0123)

If a site could be found abutting the existing industrial sites at Greshop and Waterford then there would be less objections.

Mr B Shoult (0372), Alan Croll (0580), Robin Alfred (0625), Malcolm Campbell(0643), Mari Ann Backa (0746), Suzan M Teasdale (0645), K Ross (0710), Kenneth McDonald (0753), Ted Percy (0754), Robbie Dow (0755), Rachel Stewart (0756), Martin Booth (0757), Louise Lightowler (0758), John S Widdowson (0767), Elizabeth Cowie (0626), Helen Cowie (0759), Sandra MacIver (0827), Craig Stewart (0760), Ronald Maclean (0761), Robin van Zelst (0763), K Paterson (0765), A Watson (0783), R Bawman (0784), Mr J Macrae (0785), Andrew Hutchinson (0786), John W Laing (0787), Ann and Malcolm Partington (0831), Alan Paterson (0833), Jill McKenzie(0834), Andrew Hall (0768), Joan S Widdowson(0766), Barbara Percy (0764), Gordon Bruce (0769), M Goldny (0770), Ann Shernicki (0771), Leslie Raeburn (0772), Anne Jenkins (0773), J McCart (0775), Gareth Whyment (0776), M Thomson (0777), Anne Wilson (0778), Miss V Black (0779), D Matheson (0780), Carolyn Farr (0781), Peter Munro (0782), Mr and Mrs Stewart (0789), Mrs Linda Gordon (0790), Bryan Young (0791), David Symon Reid (0792), Graham Mackenzie (0793), Liz Price (0794), F M Thomson (0795), G H Menzies (0796), Doreen Grant (0797), Ewen Riddick (0798), Jack Fitchie (0799), James S Watson (0800), Mr B Reynolds (0801), Michelle Gooding (0802), Mrs N P Reeves (0803), Amanda David (0804), Ian Greenhouse (0805), John Robertson (0806), Warde (0807), Karen Morton and Maran Krishnan (0808), John Smith (0809), Gretel McEwen (0810), B Jamieson (0811), Michael Thornhill (0812), Sue Kessell (0813), Dorothy Allan (0814), Mrs P

Campbell (0815), Gordon Thornton (0816), Ms R Warde (0817), H Paterson (0818), Fiona Meiklejohn (0819), Helen Riddoch (0820), Brian Laird (0821), John Watson (0822), John King (0823), G Murray (0824), Jane Ouston (0825), Louise Price (0826), Mrs C Love (0835), John Teasdale (0832), Pam Machin (0828), Susan Seymour (0829), Emma Lee (0830), Christopher Ian Stone (0836), Obenn Ahura Star (0837), Mary Vines (0838), John Campbell (0839), Pippa Hall (0840), William and Margaret Ogilvie (0841), Mrs Margaret Dallberg Anderson (0842), Lily Hendry (0843), Joe Pirnie (0844), Mrs G Crane (0848), Sheryl Richardson (1022), Wendy Galloway (0762), Judith Berry (0941), Mr Robert Leonard Fox (1042), Annita More (1054), Mrs Lindsay Woolley (1055), Isabel Taylor (1056), A Schmechel (1057), K and A Ross (1058), H McLennan (1059), Rosanna Birnie Reid (1060), C B Hastie (1061), Janet Thomson (1062), D Mackenzie (1063), Katherine Smith (1064), Annerle Douglas (1065), Catriona Davis (1066), Lyndsay Mackenzie (1067), Jacob Numan (1068), Robin Walker (1069), Holly Dittman (1070), B Barr (1071), A Coneen (1072), Fionnuala Seaton (1073), Mr and Mrs K Parker (1074), Jennifer Cloves (1075), W D Munro (1076), Deborah McKerron (1077), Kenneth Douglas (1078), Kirsten Livsey (1079), Alexander Taylor (1080), Colin Lipscomb (1083), Lorraine Abernethy (1084), Doreen Henderson (1085), A Faville (1086), Liz Lawson (1087), Bruno Cawley (1088), Julie Millar (1089), Tracy Grant (1090), Margaret Nicol (1091), Daniel Ward (1092), M Walker (1093), Mrs Ellen Shoult (1094), Anna Mackay (1095), Keith Grant-Peterkin (1096), Mrs M Guthrie (1097), D Carr (1098), Sandra Davidson (1099), Stella Murray (1100), Marilyn Somers (1101), Stephen Linturn (1102), J E Pinner (1103), Tony Pinner (1104), Henrietta Grant-Peterkin (1105), Robert Hobbs- Toovey (1106), N Sinclair (1107), Oguzhan Eskikoy (1108), Mrs J Sinclair (1109), Stuart Elliot (1110), Ms Pauline Holton (1111), Mr Douglas Murray (1112), William Neil (1113), Mrs Edna Lee (1114), Sara Neil (1115), R Gibson (1116), Mrs Faith Swann (1117), Scott Collins (1118), Karen Ahfield (1119), Catherine Elis(1120)

There are now more suitable accessible sites adjacent to the existing Greshop Industrial Estate (I3 and I6) originally discounted due to being designated as being at risk of flooding at the time this proposal was initiated. These sites now benefit from the Flood Alleviation Scheme which will be completed in February 2015, resulting in these sites being suitable for development. This fact has been completely overlooked in the Development Plan.

David MacGillivray (0912), Loretta Oliphant (0401), Mr and Mrs Mark and Beverly Ellis (0442), R J Hellyer (0689), Robert Mark Jones (1081)

More suitable area convert unused BP1 to industrial land, continue discussion with SEPA about identifying industrial land use adjacent to Waterford.

George Storm (0713)

Does not think this is a suitable site.

### **Need/Demand**

Franz Rolinck (0709)

Question the need to enlarge I7 by I8.

Dr Almut R Brandl (0719)

Many of the local shops on the High Street in Forres are struggling financially. A shopping centre that close to the High Street might mean the end of many of the small local shops.

Thomas Balch (0891)

Disagree with proposal as Forres is a residential town with good tourism potential and not the industrial hub of Moray.

Mary Seaton (1040)

Unnecessary when prime industrial land is available elsewhere with absolutely minimal impact on housing.

**Countryside Around Town**

Greig Munro (0622), Bill Barber (0693), Findhorn Village Conservation Society (0629), Adrian Hutchins (0635), Joanna Darling (0634), Alex J Massie (0918)

CAT areas were established to protect the visual amenity, character and setting of our towns and countryside within the National Planning Framework.

Daniel Roberts (0663), David Willing (0923), Mr I S Suttie (0467)

Lovely bit of countryside which should be preserved.

Gary Hunt (0648)

Allowing a town to sprawl by ribbon development and piecemeal re-designation of land on the outskirts will degrade the livelihood of the town centre for those who have retail and domestic premises and spoil the landscape asset this area has. CAT should be rigorously defended around the whole town as it currently stands.

Colin Dalgarno (0697)

Object, land is currently used for agriculture. Under impression land was Green belt and there would be no building on it. Object to building an industrial estate bringing noise, pollution, offensive smells, disrupting nice, tranquil residential area.

**Procedure**

Gordon Seaton (0889)

Content of the formal replies to objections to MIR appear to have been mislaid or discounted in the LDP2014. This is a serious error of procedure and must be reviewed immediately. Numerous public responses, yet a natural agricultural and rural, highly visible amphitheatre that links Forres and a small settlement of 18 houses (most dating from the 1920's), could be destroyed, despite Council being virtually unanimous in the same view during earlier formalities in 2013.

Mary Seaton (1040)

Several residents of Roseview challenged the suggested re-zoning of these sites from CAT to Industrial during the Main Issues Report of 2013, and in June 2013 the Moray Council Principal Planning Officer responded in writing by that the Planning Committee had formally noted their concerns and endorsed their suggestions that Greshop./Waterford should be the first option for an industrial development. The MDP2014 has failed to include these formal Planning Committee processes, and is therefore open to formal legal challenge.

Roseview (3 dwellings) are several metres below the ground level of most of the IND8 site as well as being surrounded by it, right to the very boundaries of their own front gardens, and there are 12 other dwellings immediately adjacent, most dating from the 1920s. It is not appropriate that this mature hamlet of prime residential area should be dominated by an industrial estate, especially when the suggested re-zoning of the IND site has been met with very substantial objections.

David MacGillivray (0912), Loretta Oliphant (0401), Mr and Mrs Mark and Beverly Ellis (0442), R J Hellyer (0689), Robert Mark Jones (1081)

Confusion over the description of the categorisation of the land. In checklists there is

reference to an Opportunity site, I8 is currently CAT not an OPP. Inconsistency gives impression site was already designated as an OPP.

Confusion over site bid describing it as a 4.5 hectare field, which does not match the map. Site I8 has not been included in the Habitats Regulations Appraisal report.

Checklist makes reference to site being included to consider the potential impacts of the site upon the Moray and Nairn Coast SPA.

### **OPP1 Caroline Street**

Franz Rolinck (0709)

Considers that the Bogton Road development is in the wrong place.

Jacqueline Barrere (0884)

Seems appropriate that the Town Centre boundary be moved to the south to reflect the changes in extension of the town to the south at Grantown Road and Mannachie.

Remove the OPP1 site from the Town Centre and re-designate as a potential site for housing. This would protect an area bordering a conservation zone and ENV1 land from inappropriate development and encourage developers to look at developing sites on the High Street.

### **OPP2 Bus depot**

Scottish Environment Protection Agency (0569)

Site may be protected by the Forres Flood Alleviation Scheme, however, development should not take place unless the scheme is operational. As residential proposals will be considered, any development should consider flood risk and a Flood Risk Assessment or further information submitted as appropriate.

Susan Henderson (0707)

Object to this piece of land being re-designated for residential/ retail purposes as property bounds the development area. Loss of peace, quiet and privacy. Query border.

Gary MacNamara (0708)

Object to development as house is located directly adjacent to the site.

### **OPP3 Castlehill Health Centre**

Forres Community Council (0123)

Considers that proposal should be discussed with the people of Forres if it is situated on Common Good Land.

NHS Grampian (0300)

Welcome allocation of Castlehill Health Centre as an opportunity site for mixed use development on completion of the new facility at Thornhill, which is currently under construction. Appropriate uses on vacated NHS sites should respect adjoining uses and amenity of the surrounding environment.

### **OPP4 Cathay**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**Alan Croll (0580)**

OPP4 designation is not vacant or derelict and should be removed from the Plan.

**R. G. McDonald (0976)**

Site is now within 4 ownerships, Cathay house and lodge within 8 acres owned by Mr and Mrs Croll; Cathay nursing home, car park and 2 acres of land to the north; Scania owned by Norma Shewan; 17.5 acres of woodland owned by R McDonald.

Understand that Mr and Mrs Croll do not wish their area to be within the OPP site and Mrs Shewan likewise. Respondent wishes to retain designation on the 17.5 acre woodland.

**OPP5 Leancoil Hospital**

**Forres Community Council (0123)**

Considers that proposal should be discussed with the people of Forres.

**NHS Grampian (0300)**

Welcome allocation of Leancoil hospital as an opportunity site for mixed use development. Appropriate uses on vacated NHS sites such as Castlehill and Leancoil hospital should respect adjoining uses and amenity of the surrounding environment.

**Mr I S Suttie (0467)**

TPO is important to conserve the fine wood to the rear of the hospital. Pinewood orchids grow below the older trees on west side. Retain open aspect of hospital.

**Scottish Environment Protection Agency (0569)**

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**Modifications sought by those submitting representations:**

**BP1 Enterprise Park, Forres**

**Franz Rolinck (0709)**

Ensure no high rise buildings.

**Forres Events Ltd (0887)**

Identify parking area for events at Grant Park.

**Mr and Mrs Mark and Beverly Ellis (0442)**

Areas of BP1 should also be designated for general industrial use.

**BP2 Enterprise Park Forres Extension**

**Franz Rolinck (0709)**

Ensure no high rise buildings.

**Mr and Mrs M Miller (0995)**

Implies delete BP2 and retain site as Countryside Around Town.

**Mr and Mrs Mark and Beverly Ellis (0442)**

Lochyhill masterplan for R4, LONG1 and BP2 needs to include a drainage impact assessment and mitigate drainage impact on housing at Cassieford.

**Mr and Mrs P Hudson (1011)**

Remove BP2 in its entirety. If BP2 is to remain allocated, the masterplan on page 194 should be updated to reflect the required landscape buffering requirements to protect residential amenity. Residents should be proactive stakeholders in all discussions over developing BP2.

**Highlands and Islands Enterprise (0109)**

Development should be consistent with the gateway nature of the site and cognisant of the surrounding properties.

**I1 Greshop West, I2 Greshop East, I3 Former Waterford Sawmill, I4 Waterford Road, I5 Ben Romach Distillery, I6 Railway Marshalling Yard**

**Scottish Environment Protection Agency (0569)**

Include text requiring applications to be supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**I7 Springfield West**

**Franz Rolinck (0709)**

Implies don't enlarge site I7 with I8.

**Mr I S Suttie (0467)**

Remain as fields or environmental areas for the community.

**Scottish Environment Protection Agency (0569)**

Insert, "Proposals should be supported by a flood risk assessment (FRA) the outcomes of which may affect the developable area of the site."

**I8 Springfield East**

Forres Community Council (0123), Findhorn and Kinloss Community Council (0124), Mr B Shoult (0372), Lorretta Oliphant (0401), Mr and Mrs Mark and Beverly Ellis (0442), David McRobie (0457), Mr I S Suttie (0467), Alan Croll (0580), Kathleen Munro (0619), Susan Hemiston (0621), Greig Munro (0622), Robin Alfred (0625), Elizabeth Cowie (0626), Findhorn Village Conservation Company (0629), Joanna Darling (0634), Adrian Hutchins (0635), Mr A Hughes (0638), Martin Slack (0614), Catherine Bain (0642), Malcolm Campbell (0643), Suzan M Teasdale (0645), Gary Hunt (0648), Daniel Roberts (0663), Andrea Turner (0664), R J Hellyer (0689), Bill Barber (0693), Stephanie Hunt (0694), Colin Dalgarno (0697), Franz Rolinck (0709), K Ross (0710), Alex Ross (0711), Mr George Storm (0713), Pam Watson (0715), Dr Almut R Brandl (0719), Mari Ann Backa (0746), Kenneth McDonald (0753), Ted Percy (0754), Rachel Stewart (0756), Martin Booth (0757), Louise Lightowler (0758), Helen Cowie (0759), Craig Stewart (0760), Ronald Maclean (0761), Wendy Galloway (0762), Robin Van Zelst (0763), Barbara Percy (0764), K Paterson (0765), Joan S Widdowson (0766), John S Widdowson (0767), Andrew Hall (0768), Gordon Bruce (0769), M Goldny (0770), Ann Shernicki (0771), Leslie Raeburn (0772), Anne Jenkins (0773), Dagmar Paduchova (0774), Robbie Dow (0755), J McCart (0775), Gareth Whyment (0776), M Thomson (0777), Anne Wilson (0778), Miss V Black (0779), D Matheson (0780), Carolyn Farr (0781), Peter Munro (0782), A Watson (0783), Mr R Bawman (0784), J Macrae (0785), Andrew Hutchinson (0786), John W Laing (0787), Mrs George Scott (0788), Mr and Mrs Stewart (0789), Linda Gordon (0790), Bryan Young (0791), David Symon Reid (0792), Graham MacKenzie (0793), Liz Price (0794), F M Thomson (0795), G H Menzies (0796), Doreen Grant (0797), Ewen Riddick (0798), Jack Fitchie (0799), James S Watson (0800), Mr B Reynolds (0801), Michelle Gooding (0802), Mrs N P Reeves (0803), Amanda David

(0804), Ian Greenhouse (0805), John Robertson (0806), Warde (0807), Karen Morton/Maran Krishnan (0808), John Smith (0809), Gretel McEwen (0810), B Jamieson (0811), Michael Thornhill (0812), Sue Kessell (0813), Dorothy Allan (0814), Mrs P Campbell (0815), Ms R Warde (0817), H Paterson (0818), Fiona Meiklejohn (0819), Helen Riddoch (0820), Brian Laird (0821), G John Watson (0822), John King (0823), Murray (0824), Jane Ouston (0825), Louise Price (0826), Sandra MacIver (0827), Pam Machin (0828), Susan Seymour (0829), Emma Lee (0830), Ann and Malcolm Partington (0831), John Teasdale (0832), Alan Paterson (0833), Jill Mckenzie (0834), Mrs C Love (0835), Christopher Ian Stone (0836), Obenon Ahura Star (0837), Mary Vines (0838), John Campbell (0839), Pippa Hall (0840), William and Margaret Ogilvie (0841), Lily Hendry (0843), Mrs Margaret Dallberg Anderson (0842), Joe Pirnie (0844), Mrs Frances Stephen (0846), Mr Ian Alexander Stephen (0847), Mrs G Crane (0848), Ronald Ogg (0849), Mr A Forbes (0850), Mr and Mrs I Wiseman (0851), Jacqueline Barrere (0884), Gordon Seaton (0889), Thomas Balch (0891), David MacGillivray (0912), Sue Kessell (0813), Gordon Thornton (0816), Alex J Massie (0918), David Willing (0923), Thomas Blackwood (0926), Carla Hornsby (0940), Judith Berry (0941), Margaret Murdoch (0988), Christine Ainley (1001), Mrs Chloe MacGillivray (1006), Margaret Smith (1014), Sheryl Richardson (1022), Pauline Robson (1030), Mary Seaton (1040), Mr Robert Leonard Fox (1042), Annita More (1054), Mrs Lindsey Woolley (1055), Isabel Taylor (1056), A Schmechel (1057), K and A Ross (1058), H McLennan (1059), Rosanna Birnie Reid (1060), C B Hastie (1061), Janet Thomson (1062), D Mackenzie (1063), Katherine Smith (1064), Annerle Douglas (1065), Catriona Davis (1066), Lyndsay Mackenzie (1067), Jacob Numan (1068), Robin Walker (1069), Holly Dittman (1070), B Barr (1071), A Coneen (1072), Fionnuala Seaton (1073), Mr and Mrs K Parker (1074), Jennifer Cloves (1075), W D Munro (1076), Deborah McKerron (1077), Kenneth Douglas (1078), Kirsten Livsey (1079), Alexander Taylor (1080), Robert Mark Jones (1081), Nicola Apel (1082), Colin Lipscomb (1083), Lorraine Abernethy (1084), Doreen Henderson (1085), A J Faville (1086), Liz Lawson (1087), Bruno Cawley (1088), Tracy Julie Millar (1089), Grant (1090), Margaret Nicol (1091), Daniel Ward (1092), M Walker (1093), Mrs Ellen Shoult (1094), Anna Mackay (1095), Keith Grant-Peterkin (1096), Mrs M Guthrie (1097), D Carr (1098), Sandra Davidson (1099), Stella Murray (1100), Marlyn Somers (1101), Stephen Linturn (1102), J E Pinner (1103), Tony Pinner (1104), Henrietta Grant-Peterkin (1105), Robert Hobbs-Toovey (1106), N Sinclair (1107), Oguzhan Eskikoy (1108), Mrs J Sinclair (1109), Stuart Elliott (1110), Ms Pauline Holton (1111), Dr Douglas Murray (1112), William Neil (1113), Mrs Edna Lee (1114), Sara Neil (1115), R Gibson (1116), Mrs Faith Swann (1117), Scott Collins (1118), Karen Ahfield (1119), Catherine Ellis (1120)

The objectors state or imply some or all of the following;

- Do not designate I8. Retain area as Countryside Around Town. Consider alternative sites for I8 adjacent to existing industrial sites at Greshop and Waterford which are protected by the £45 million Flood Scheme.
- Preserve the important vista and gateway to the coastal environment of Moray and preserve this prime agricultural land.
- Consider converting some of the unused Business Park at BP1 to industrial land. Retain site I8 Springfield East as CAT to safeguard Moray's natural and built environment and continue to contribute to the significant natural asset of Moray.
- Continue discussions with SEPA about identifying industrial use land adjacent to Waterford and adjacent to existing Greshop estate that were originally discounted due to being designated as being at risk of flooding at the time this consultation and proposal was initiated. These now benefit from the £45 million investment in the Forres Flood Alleviation Scheme which will reduce the flood risk to less than 0.5% chance of flooding, classing them as suitable for development according to Policy EP7. Objectors consider this fact has been completely overlooked in the

Development Plan.

- Re-designate the site for agricultural use or tourist facilities only. Create a major tourist viewpoint with car parking, cafe, toilets, picnic area, observation tower, walks and cycleways or environmental areas for community use.

### **OPP1 Caroline Street**

Franz Rolinck (0569)

Implies retail development should not take place at Bogton Road.

Jacqueline Barrere (0884)

Delete OPP1 and designate for housing.

### **OPP2 Bus depot, North Road**

Scottish Environment Protection Agency (0569)

Insert "proposals should be supported by a flood risk assessment (FRA), the outcomes of which may affect the developable area of the site."

Susan Henderson (0707)

Delete designation.

Gary MacNamara (0708)

Implies delete designation.

### **OPP3 Castlehill Health Centre**

Forres Community Council (0123)

Discuss future of site with people of Forres.

NHS Grampian (0300)

Proposed uses should respect adjoining uses.

### **OPP4 Cathay**

Scottish Environment Protection Agency (0569)

Insert text requiring that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Alan Croll (0580)

OPP4 designation should be removed from the Plan.

R G McDonald (0976)

Request retention of designation on 17.5 acre woodland.

### **OPP5 Leancoil Hospital**

Forres Community Council (0123)

Proposal should be discussed with the people of Forres.

NHS Grampian (0300)

Proposed uses should respect adjoining uses.

Mr I S Suttie (0467)

Hospital building and woodland to be maintained for community use.

**Scottish Environment Protection Agency (0569)**

Insert text requiring that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

**Summary of responses (including reasons) by planning authority****Context**

The Moray Economic Strategy identifies a need for 10 hectares of general industrial land to be identified in Forres. The Moray Local Plan 2008 identified site I7 Springfield to address this shortfall, however the site remains undeveloped. The Council's strategy for employment land in Forres is to cluster such uses north of the A96 and direct more high technology uses to the Enterprise Park Forres (BP1).

The Moray Employment Land Audit 2014 (CD19) recognises that there is a limited effective supply of land for general industrial use.

Within the Enterprise Park, 25 acres of land have been appointed Enterprise Area status for Life Sciences, which supports National Planning Framework 3.

The Enterprise Park, Forres is a long term aspiration to attract inward investment and support the A96 Life Sciences corridor identified in the National Planning Framework 3.

**BP1 Enterprise Park, Forres**

The BP1 and BP2 designations are intended to provide high amenity business park environments to attract inward investment opportunities in Moray. The existing Enterprise Park has significant structural landscaping to reduce visual impact and this helps to integrate the development in the landscape. The proposed extension at BP2 would have to be developed to the same high standard.

The Council recognises and supports the value of Piping Hot Forres for the local community. HIE Moray allows the event to use the Enterprise Park, Forres for car parking under a license arrangement on a year to year basis on the day of the event only. The arrangement is on the basis that the land is available.

HIE has indicated that they are not willing to enter into a longer term agreement for a five year period and this has been discussed with Piping Hot Forres. The Council does not consider it appropriate to identify land for event car parking for one day per annum in the Local Development Plan. However, the Council will continue to monitor this situation and whether the need for dedicated car parking space increases if further large scale events are promoted at Grant Park.

BP1 is a long term Business Park and although general industrial uses would be acceptable within the terms of the planning consent, it is promoted as a high end , high technology centre in support of life sciences as identified in the National Planning Framework 3.

The Council's strategy for employment land has been and will continue to be to promote more general industrial uses in the existing and new proposed industrial estates north of the A96.

No modification is proposed.

**BP2 Enterprise Park Forres Extension**

The BP1 and BP2 designations are intended to provide high amenity business park environments to attract inward investment opportunities in Moray. The existing Enterprise Park has significant structural landscaping to reduce visual impact and help to integrate the development in the landscape and the proposed extension at BP2 would be required to be developed to the same high standard.

A drainage impact assessment would be required as part of the development management process under the terms of Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS).

The Council is taking a long term view of housing and employment land requirements to support the future growth of Forres. The Council received a bid prior to Main Issues Report stage from Robertson Property seeking land at Cassieford Farm and Tarras Farm, Forres to be designated for industrial and residential development as shown on the attached plan. This proposal stated “Field A would be business park development with a landscaped area and connected to the residential schemes and the Enterprise Park.” The plan accompanying the bid submission identifies field A as being the field to the north east of Tarras House. (BD/14b/01).

The Council identified the proposed Business Park extension in the Main Issues Report as BP1, covering the two fields immediately north east and north west of Tarras House. No representations were received to this proposal.

The Council considers business use to be the preferred use for both fields which make up designation BP2. The site enjoys good access to the A96 and provides a longer term reserve to, or in support of the Enterprise Park which could be developed by either the private or public sector. While the Council recognises that HIE Moray have no current plans to acquire the site, it is considered prudent to safeguard land for the longer term which will connect future employment land with housing land. There may also be private business uses interested in developing on the site, particularly in support of the Life Sciences corridor along the A96 as promoted in the National Planning Framework3.

Although there is considerable land still available at the Enterprise Park, recorded as 13.48ha immediately available in the Council’s Employment Land Audit 2014, the long term expansion of Lochyhill for residential use would leave a pocket of land at BP2 which would come under pressure for residential use. As well as providing a logical extension to the existing Business Park and clustering of business uses, the designation also creates the opportunity to create an attractive well landscaped gateway entrance into Forres in the long term, softening the initial transition from the Tarras roundabout to the distinctive knoll at Lochyhill.

In terms of the landownership issue, the claim that the owner does not support business use appears to be at odds with the “bid” put forward prior to publication of the Main Issues Report and as stated above the Council proposes that the site is most suited, given its location, as an extension to the existing Business Park in the longer term.

The Council accepted in the Moray Local Plan 2008 that expansion to the east of Forres was not the ideal solution in landscape terms and therefore commissioned additional work to explore possible mitigation measures. These mitigation measures have played an important role in discussions with the developer of R4 Lochyhill. Extensive landscaping would be required on BP2 to continue this network of green spaces and to replicate the character of the existing Enterprise Park.

Landscaping to mitigate the impacts upon the existing residential properties would be required and would minimise the effects of overlooking.

The Council does not have any details of the proposals for the dualling of the A96. Irrespective of this, the Council considers that the logical site for a long term expansion of business uses in Forres is on BP2.

The objection from Mr and Mrs Miller considers that archaeological, ecological and flooding studies should have been carried out prior to designation of this site. However, this is incorrect as these consultations have been carried out and have informed the Main Issues Report and Proposed Plan.

The Regional Archaeologist advised that an archaeological evaluation would be required within the bid site prior to development commencing. This text has been included within the Proposed Plan.

Scottish Natural Heritage was consulted and text has been included within the Proposed Plan requiring a species survey to assess whether these fields are important feeding grounds for geese and whether this could impact upon the Moray and Nairn Coast SPA.

In terms of flooding, the Council's Flood Alleviation Team and SEPA have both been consulted and have not raised any objection to designation of this site. The 2014 Flood maps published by SEPA indicate an advisory area of surface water west of Tarras cottages and another area in the south west corner of the site. Drainage and surface water disposal would be considered in detail at the development management stage under the terms of Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS).

The Council notes HIE's position. The site is intended to safeguard land for business use in the longer term. The development of this site would be complementary to the existing Business Park in terms of the uses, design and layout of buildings, landscaping and infrastructure.

If the reporter is so minded, the Council would not object to additional wording being added clarify that extensive landscaping will be required on BP2, to complement and respect the existing Business Park, integrate development into the landscape and mitigate impacts upon adjacent residential properties. The following additional wording is suggested;

"Extensive structural landscaping and open spaces must be provided to integrate development into the landscape, complement the existing Business Park and mitigate impact on adjacent residential properties."

### **I1 Greshop West**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should be added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

### **I2 Greshop East**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should

be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I3 Former Waterford Sawmill**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I4 Waterford Road**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I5 Ben Romach Distillery**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I6 Railway Marshalling Yard**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **I7 Springfield West**

There is limited general industrial land available in Forres and this issue has been highlighted in the Moray Economic Strategy and through the Council’s annual Employment Land Audit. Site I7 was identified in the Moray Local Plan 2008 to meet this requirement, but no proposals for development on this site have been progressed, possibly due to ownership and access issues.

Site I8 has been identified to meet the need for general industrial land and may also help to resolve access issues to site I7 if development proposals were to be progressed on this site.

A number of alternative sites have been considered and discounted due to flooding issues or are not supported by SEPA.

In terms of flooding, if the Reporter is so minded, the Council would not object to adding text to the designation requiring “flood risk to be considered and that a Flood Risk Assessment or further information should be submitted as appropriate.”

**I8 Springfield East****Impact on agricultural land/environment****Context**

The Council identified site I7 in the Moray Local Plan 2008 to meet an identified need for additional general industrial land in Forres. However, this site has not been developed and the need for general industrial land in Forres has been reinforced through the Moray Economic Strategy (CD28).

Part of site I8 was subject to a bid submitted by Robertson Property prior to the Main Issues Report being prepared. The bid identified the southern parts of the site as “Field G”, for residential use, with the northern part being commercial, which would allow access to the Springfield land. In subsequent correspondence, Robertson Property amended their initial bid, which included a revision to commercial uses on the whole of Field G. The north part of the site which links into site I7 Springfield West was identified by the Council as a means of providing better access to I7.

At the outset of the preparation of the Local Development Plan, planning officers considered a number of sites around Forres for new industrial land provision, principally to the north of the A96. These sites were discounted due to flooding concerns, although in some cases the flooding concerns would be addressed upon completion of the flood alleviation scheme. However, the sites would then be classed as “greenfield behind the flood defences” and would still be subject to objection from Scottish Environment Protection Agency under the terms of the previous Scottish Planning Policy.

Contrary to the claim by objectors, the Council has investigated alternative sites and has continued dialogue with Scottish Environment Protection Agency and the Moray Flood Alleviation Team throughout the Plan process. The outcome of these ongoing discussions in light of the publication of the new Scottish Planning Policy, which was published in June 2014, are summarised in the section below on “Designate alternative sites”.

**Impact on agricultural land/environment**

The Council accepts that development at I8 would result in the loss of prime agricultural land, however, the wider benefits gained from meeting the need for general industrial land to support employment within Forres is considered to outweigh the loss of agricultural land in this instance.

The settlement pattern within Moray and location of prime agricultural land along the coast means that conflicts such as this will arise and a balance needs to be found.

**Impact upon tourism**

The Council fully recognises the value of tourism to Moray’s economy and to Forres and Findhorn in particular. The Council also recognises the attractive vista of Findhorn Bay which is enjoyed, not only from passing this site, but from several points along the local and trunk road network and vantage points such as Califer Hill. The Council does not accept the argument that developing I8 for general industrial use will significantly affect tourism in the local area.

The vista has been significantly reduced due to house building and woodland planting along the Findhorn to Forres road. The Council considers that with careful siting, design and screening then aspects of the vista can be retained. The vista is open for a matter of seconds to drivers as they travel north from Forres and the Council does not accept that this development will have the significant economic impacts which objectors state.

Conversely, the Council considers that the site will deliver much needed land for general industrial use, allowing existing businesses to expand/ relocate and new businesses to start up in support of the Moray Economic Strategy.

### **Drainage/flooding**

The Council recognises that there are surface water drainage issues on the north western corner of this site and a Drainage Impact Assessment will be required under the terms of Policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS).

The same part of the site is also at risk of river flooding 1 in 200 years identified on the 2014 flood maps produced by Scottish Environment Protection Agency.

### **Designate alternative site(s)**

Most of the potential alternative sites are within the natural floodplain of the River Findhorn, some of which will be protected by the flood alleviation scheme when complete. However, as these sites were considered (at both Main Issues Report and Proposed Plan stages) to be greenfield land protected by flood defences, Scottish Environment Protection Agency indicated they would be opposed to additional development taking place in these areas.

In particular, one of the potential alternative sites, north of Waterford Industrial Estate, has been discussed with Scottish Environment Protection Agency and the Council's Flood Alleviation Team on a number of occasions during the preparation of the Plan, including a meeting held between the Council, Scottish Environment Protection Agency and the Moray Flood Alleviation Team between publication of the Main Issues Report and Proposed Plan and a further meeting after publication of the Proposed Plan. Following the meeting after the Main Issues Report was published, correspondence from Scottish Environment Protection Agency confirmed that the site would not be supported as it was considered to be greenfield behind the flood defences. The Council's "settled view" expressed in the Proposed Plan was therefore that site I8 Springfield East was designated to meet the need for general industrial land.

However, the publication of new Scottish Planning Policy in June 2014 and ongoing dialogue has resulted in a revised position (BD/14b/02) from Scottish Environment Protection Agency being received on 19<sup>th</sup> August 2014 as planning officers were finalising Schedule 4's. The revised position states that Scottish Environment Protection Agency "would have no objection to this site (north of Waterford) being taken forward into the Local Development Plan." The explanation for this change in position is "due to the publication of the new Scottish Planning Policy. Development on Greenfield is no longer specifically mentioned therefore we would be unable to uphold an objection on this basis."

However, despite the late change in Scottish Environment Protection Agency's position, the Council does not support designation of land at Waterford for general industrial land at this site within the period of the Local Development Plan for a number of reasons;

- The effectiveness of the site is unknown and no discussion has taken place with landowners
- There are likely to be significant Transportation issues to be addressed prior to establishing the feasibility of further industrial development north of Waterford. This includes an assessment of the impacts on the junction and trunk road crossing from the A96 to Mosset Road, the railway crossing and the narrow nature of Waterford Road. Network Rail and Transport Scotland would need to be consulted on this

proposal.

- The flood alleviation works are due for completion by Spring 2015 at the earliest. Any development in proximity to the flood defences should allow for “over topping” of flood water and recognise that upon completion of the flood protection works, there still remains a residual flood risk to the site. Further technical work is required to establish how much of the site could be developed and a Flood Risk Assessment (from all sources of flood risk), proposed mitigation measures and a Drainage Impact Assessment would be required to support any future planning applications.

### **Need/demand**

As a result of a study carried out by Donaldsons to inform the Moray Local Plan 2008, the site at Springfield West was designated as the most suitable to meet the need for general industrial land. This demand has not been met, with the only new general industrial land being provided through consent granted for new units at Waterford industrial estate.

The Moray Economic Strategy identifies a need for general industrial land in Forres. This is further recognised in the Council’s Employment Land Audit 2014, which highlights that there will be a very small choice of marketable sites given settlement size and population, but reasonable areas available. The immediately available land is restricted to three sites, the Enterprise Park, Waterford Industrial Estate and a small windfall site on the High Street. Only the existing sites at Waterford are considered suitable for general industrial use.

### **Countryside around towns**

There are limited brownfield development opportunities in Moray and when the Local Development Plan is reviewed there is a need to consider whether the Countryside Around Town designation needs to be reviewed to reflect the need to expand a settlement. In the case of Forres the Countryside Around Town designation was reviewed to reflect the proposed expansion of the settlement boundary and extended to reflect the proposed expansion of the town.

### **Procedure**

The report setting out responses to the Main Issues Report (CD04) states, “The site at Waterford has been discussed with SEPA and the Moray Flood Alleviation Scheme (Team). SEPA’s original concerns have been resolved as the Flood Team has confirmed the site will be protected post 2015 upon completion of the scheme. However, there are known drainage issues affecting the site and it is therefore considered prudent to change designation IND8/CF3 as a designation suitable for a range of employment and leisure related uses.....”.

This position was based upon the conclusion of a meeting between Moray Council planners, Scottish Environment Protection Agency and Moray Flood Alleviation Team. However, as noted above, this position subsequently changed (and has changed again) and this resulted in no site being identified north of Waterford in the Proposed Plan as it would have resulted in an objection from Scottish Environment Protection Agency. However, irrespective of Scottish Environment Protection Agency’s position, the Council’s position as at 6/6/13 was agreement to identify site IND8/CF3 from the Main Issues Report as a designation suitable for a range of employment and leisure related uses.”

The Council reflected the outcomes of the ongoing discussions with Scottish Environment Protection Agency in the Proposed Plan. As noted within the Alternative sites section set out above, this position has changed again.

**Conclusions**

The Council has considered alternative sites to I8 during preparation of the Plan. The situation with regard to flooding is complex and the position of Scottish Environment Protection Agency with regard to an alternative site north of Waterford has changed to “no objection” as a result of the new Scottish Planning Policy published in June 2014.

However, there are significant Transportation issues to investigate and these need to be discussed with Network Rail, Transport Scotland and the Council’s Transportation team to establish the longer term effectiveness of land north of Waterford. The flood scheme is still to be completed and this, along with consideration of potential over topping is required to establish the extent of land available for development, if infrastructure requirements can be met.

It is therefore concluded that in terms of alternative sites, the potential for general industrial land expansion at Waterford should be examined in advance of the next Local Development Plan.

In terms of site I8, it is concluded that this site remains the most effective to meet the need required in the Moray Economic Strategy for general industrial land in Forres. The Council recognises that development of the site will require careful masterplanning and that aspects of the vista of Findhorn Bay should be safeguarded.

If the Reporter is so minded then the Council would not object to text being introduced in the designation requiring the Masterplan to take account of and retain aspects of the vista of Findhorn Bay and for the scale and location of buildings to respect the landscape.

**OPP1 Caroline Street**

This opportunity site forms part of a larger area which was granted outline planning consent on 12/6/13 for the reconfiguration of and extension to town centre, including replacement and additional retail floorspace, a petrol filling station with forecourt shop, new road junction related access for pedestrians cyclists and road vehicles parking and landscaping.

No modification is proposed.

**OPP2 Bus depot, North Road**

This site is carried forward from the Moray Local Plan 2008. If the Reporter is so minded the Council would not object to inserting additional text requiring proposals to be supported by a flood risk assessment, the outcomes of which may affect the developable area of the site.

**OPP3 Castlehill Health Centre**

This site is carried forward from the Moray Local Plan 2008. NHS Grampian has indicated it will be surplus to requirements when the new health centre on Grantown Road is operational.

**OPP4 Cathay**

This site is carried forward from the Moray Local Plan 2008. However, the Council recognises that ownership and circumstances have changed. If the Reporter is so minded, the Council would support the settlement boundary being retained as identified in the Proposed Plan, with the OPP4 designation reduced to just the wooded “L” shaped outer part of the site.

**OPP5 Leancoil Hospital**

This site is carried forward from the Moray Local Plan 2008. If the Reporter is so minded, additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

**Reporter's conclusions:****BP1 Enterprise Park, Forres**

1. I note that the Enterprise Park is intended to provide a high amenity business park environment to attract inward investment and support the A96 Life Sciences corridor identified in National Planning Framework 3. Although general industrial uses would be acceptable within the terms of the planning consent, the site is promoted as a high end technology centre. More general industrial uses are promoted in the existing and proposed industrial estates north of the A96.

2. In relation to the visual impact of buildings on the site, the designation text indicates that proposed buildings should conform to the high amenity and design standards of the park. I note that the existing Enterprise Park has extensive structural landscaping and that little of the buildings can be seen from the A96 and the lower ground to the north. Reference is made to the visibility of the ATOS roof from Findhorn, a distance of 5km away, and no doubt the council will address the visual impact of further development on this site at the planning application stage in accordance with the relevant planning policies. No modifications are required to designation BP1 to achieve this.

3. I note the concerns regarding the future use of empty fields at the Enterprise Park in connection with the Piping Hot Forres event. I understand that car parking on the empty fields is allowed by Highlands and Islands Enterprise under a license arrangement on a year to year basis for the day of the event. Future arrangements are clearly dependent on the continued availability of spare land. This issue is not a matter for me in determining whether the continued designation of the site for business use is appropriate but is purely a matter for the landowner (HIE) and Piping Hot Forres.

**BP2 Enterprise Park, Forres, Extension**

4. In designating the fields between the existing Enterprise Park and the A96 as an extension to the business park, the council is taking a long term view of employment land requirements to support the future growth of Forres. I note that HIE have no current plans to acquire the site. However, although there is considerable land available within site BP1, I consider that site BP2 constitutes a logical long term extension, which would concentrate employment uses to the east of Forres, where there is direct access to the A96. As indicated by the council, the designation creates the opportunity to create an attractive well-landscaped 'Gateway' feature for Forres.

5. I note the previous 'bid' for the development of part of this site for residential purposes (the western field). I also note that no representations were received to the council's decision to identify the whole site as a business park extension in the Main Issues Report (MIR). I, therefore, endorse the council's approach in designating site BP2 for employment uses, in conjunction with the residential development at Lochyhill, all of which is subject to the preparation of an overall masterplan (see page 194 of the

proposed plan).

6. In relation to the visual impact of buildings on the site, the designation text for site BP1 indicates that proposed buildings should conform to the high amenity and design standards of the park. The existing Enterprise Park has significant structural landscaping to reduce visual impact and integrate the development into the landscape. The designation text for site BP2 requires a landscape plan for the site to demonstrate the provision of a high amenity gateway site for Forres. Furthermore, the masterplan for sites R4, LONG1 and BP2 must include extensive structural landscaping to carefully integrate the development into the landscape. Nevertheless, in view of the prominence of the site from the A96, I consider that explicit reference should be made to the need for structural landscaping on the site and the need for proposals to conform with the high amenity and design standards of the existing park (as with site BP1). My recommended modification reflects this. In relation to the impact on Tarras House and Tarras Cottages, the council acknowledges that landscaping would be required to mitigate the impact of development on the existing residential properties and minimise overlooking and I consider that specific reference should be made to this requirement in the designation text. My recommended modification reflects this.

7. In relation to the other issues raised, although there is no specific reference in the designation text, a drainage impact assessment would be required under the terms of policy EP5 of the proposed plan. Furthermore, the proposed plan makes clear (see page 190) that developers are advised to contact Scottish Water as early as possible to confirm there is sufficient drainage capacity. I note that archaeological, ecological and flooding studies have been carried out as part of the assessment process in preparing the Main Issues Report. The designation text refers to the requirement for a species survey because of the potential impact of the development on the Moray and Nairn Coast SPA, and to a requirement for an archaeological evaluation. In relation to flooding, I note that the Scottish Environment Protection Agency has not requested a flood risk assessment for this site although the 2014 Flood Maps indicate advisory areas of surface water on two areas of the site. These issues would require to be addressed at the planning application stage under the terms of policy EP5. No modifications to the proposed plan are required in relation to any of these issues.

I1 Greshop West, I2 Greshop East, I3 Former Waterford Sawmill, I4 Waterford Road, I5 Ben Romach Distillery, I6 Railway Marshalling Yard, OPP4 Cathay and OPP5 Leanchoil Hospital

8. I note the potential presence of groundwater dependant terrestrial ecosystems in or around these sites and agree that any planning applications for development on these sites should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

I7 Springfield West

9. This site has been carried forward from the adopted Moray Local Plan 2008 but no proposals for its development have been progressed, possibly due to ownership and access issues. As regards access to the site, the designation text indicates the requirement for a Transport Assessment and for consultations with Transport Scotland on the preparation of a masterplan for the site. In relation to loss of view, the right to a view

is not a material planning consideration. In relation to the flooding issue, the Scottish Environment Protection Agency (SEPA) confirms that no development should take place until the flood alleviation scheme is operational. Also, notwithstanding the construction of the flood alleviation scheme, proposals for the development of the site should, nevertheless, consider flood risk and a flood risk assessment or further information as appropriate should be submitted with proposals. My recommended modification reflects this.

### I8 Springfield East

10. The designation of this site has resulted in a considerable number of representations relating to the impact of development on: the landscape and, more specifically, the setting of Forres; the views of Findhorn Bay from the vicinity of the A96/B9011 junction; the consequent impact on tourism; the use of prime agricultural land; and drainage and flooding issues. The need/demand for more employment land has been challenged; the potential of other sites, principally in the Greshop/Waterford area, has been raised and the procedure adopted in deciding to designate site I8 as an employment site in the proposed plan has been questioned.

11. In relation to need, the Moray Economic Strategy 2012 identifies a requirement to 2025 for 10 hectares of employment land in Forres in addition to the existing supply. The 2014 Employment Land Audit shows that there is a marketable/effective employment land supply of 16.83 hectares on four sites in Forres. However, some of this land is constrained by ownership and lack of infrastructure, principally site I7, and the land audit concludes that there is a very small choice of marketable sites given settlement size and population but that reasonable areas are available. The proportion of immediately available land is higher than in other settlements but is restricted mainly to two sites; the Enterprise Park and Waterford. There is limited unconstrained land for general industrial use.

12. The proposed plan identifies an additional 15 hectares of land at the Enterprise Park (BP2) and 11.5 hectares at Springfield East (site I8). The council considers that site I8 is needed for general industrial development because site BP2 is reserved for more high technology uses. There are limited brownfield development opportunities in Forres. As regards the alternative site north of the Waterford Industrial estate, referred to in representations, I note all that the council says in relation to the consideration of this alternative site and the flooding issue. The latest position of the Scottish Environment Protection Agency (SEPA) is contained within its letter dated 19 February 2015, received as a result of my further information request. In this letter SEPA confirms that the flood alleviation scheme will protect the Waterford area up to the 1 in 100 year flood event plus an allowance for climate change, which is comparable to a 1 in 200 year standard of protection. However, SEPA points out that flood defences cannot eliminate the possibility of flooding entirely and cautions against increasing the areas of development dependent on flood alleviation schemes. SEPA recommends that, in such areas, favour is given to the redevelopment of brownfield areas. Taking these matters into consideration, SEPA recommends against, but does not object to, the site north of Waterford Industrial Estate being included in the proposed plan subject to the requirement that a flood risk assessment supports any application for industrial development and that any development incorporates flood resilient design and materials. No development should take place until the flood alleviation scheme is confirmed as fully operational.

13. Flood risk is only one constraint on further development north of the Waterford

Industrial estate. As intimated by the council, the effectiveness of the site is unknown and no discussions have taken place with landowners, and there are likely to be significant transportation issues relating to the impact of development on the junction of Mosset Road with the A96 and the railway crossing. No consultations have been undertaken with Transport Scotland or Network Rail. Accordingly, it would be premature for me in this examination to contemplate the designation of land for industrial development at Waterford. This will be a matter for the council to consider in any review of the local development plan should it wish to do so.

14. Returning to the appropriateness of designating site I8 as employment land, there is no doubt that this site is prominently located and that any development on the site would result in considerable landscape change. The development of this site would result in the loss of prime agricultural land but much of the land in the coastal belt around Forres is so classified. Its use for industrial development would not conflict with Scottish Government policy in paragraph 80 of SPP, which indicates that development on prime agricultural land is permitted where it is required as an essential component of a settlement strategy.

15. The use of this area for general industrial development would have a significant impact on the landscape and on views northwards from the A96 and B9011 and from the footbridge over the A96 close to Sueno's Stone. The council acknowledges that the development of the site would require considerable landscaping but considers that, with careful siting, design and screening, the vista of Findhorn Bay can be retained. The council does not accept that the development of this site would have a significant economic impact on tourism but that it would deliver much needed land for general industrial use, allowing existing businesses to expand/relocate and new businesses to start up in support of the Moray Economic Strategy.

16. I consider that, in view of its location, the development of this site for employment purposes would require a similar treatment to the Enterprise Park in terms of the design and layout of the development and the provision of structural landscaping and planting. As to the more fundamental question as to whether the designation of site I8 for general industrial development is appropriate, I must conclude that the potential detrimental visual impact of any development on the surrounding area, including views of Findhorn Bay, and the consequent impact on tourism is outweighed by the need for additional employment land to support the Moray Economic Strategy. I have considered whether the use of site BP2 for general industrial development would be an appropriate alternative to designating site I8 but conclude that this site, which is identified to support the longer term expansion of the Enterprise Park, is unlikely to come on-stream within the timeline of the proposed plan. As intimated above, it would be premature for me in this examination to contemplate the designation of further land for industrial development at Waterford. Accordingly, it is essential that additional land is allocated for general industrial development to meet the requirements for the period 2012-2025 identified in the Moray Economic Strategy. Site I8 is the most effective option at this time.

17. I have considered all the other issues raised, including the impact on neighbouring residential properties at Cassieford and the issue of surface water drainage and flooding. In relation to the impact on neighbouring residential properties, I note that the designation text requires a green buffer between any new development and Cassieford, the details of which should be addressed through the preparation of a masterplan for the site. In relation to surface water drainage and flooding, SEPA confirms that the site does not form part of the natural floodplain of either the River Findhorn or the Mosset Burn. However, there is thought to be a risk of flooding to a small part of the site adjacent to the railway

line from small watercourses and/or surface water flooding. SEPA indicates that, should development be proposed in that part of the site, a Flood Risk Assessment (FRA) would be required to inform the layout and any mitigation measures required to deal with surface water flooding. My recommended modification reflects this.

18. In relation to the procedure adopted by the council in determining to proceed with the designation of site I8, stage 1 of the examination of the proposed plan addresses whether the authority has consulted on the proposed plan and involved the public in the way that it said it would in the published participation statement. The procedure for the examination of conformity with the participation statement is set out in paragraph 110 of Circular 6/2013: Development Planning. In this instance, the Reporters have found that the authority has acted in conformity with its participation statement. The council's wider processes and procedures do not fall within the scope of this examination.

19. In relation to the non-inclusion of site I8 in the Habitats Regulation Appraisal 2014 (HRA), an Appropriate Assessment of the site will be required before adoption of the proposed plan. In this respect, I note that the conclusion of the HRA in relation to sites R4, LONG1 and BP2 at Lochyhill, which are located in the same general area east of Forres, is that although these fields are arable and may provide foraging areas for geese from the Moray and Nairn Coast SPA and Ramsar if the cropping sequence is suitable, there are ample fields in adjacent areas that are equally suitable for geese and the loss of these fields would not reduce the available foraging for the geese.

20. I conclude that the designation of site I8 as employment land should be retained, subject to the preparation of a masterplan, in conjunction with site I7, which would require a high standard of development in terms of design and layout and the provision of structural landscaping and planting. It should also include measures for protecting the residential amenity of neighbouring houses at Cassieford and the safeguarding of the vista of Findhorn Bay. My recommended modifications reflect this.

#### OPP1 Caroline Street

21. Site OPP1 comprises the site of a former superstore (between Caroline Street and Dunedin Place) and the site of a former gas works (east of Caroline Street) and incorporates a number of small commercial enterprises on Lea Road. This opportunity site forms part of a larger area that has been granted planning permission in principle for a replacement store and additional retail floor-space, and petrol filling station. Accordingly, I agree with the council that this area is appropriate for retention within the designated town centre.

#### OPP2 Bus depot, North Road

22. This site has been carried forward from the adopted Moray Local Plan 2008. I agree that a retail or residential use would be appropriate to this town centre location. Issues such as impact on privacy and overlooking are matters to be addressed at the planning application stage and do not justify the removal of this opportunity site from the proposed plan. I note that the Scottish Environment Protection Agency has raised the issue of flood risk and has indicated that proposals for residential use should be supported by a flood risk assessment (FRA). This reflects Scottish Planning Policy paragraph 255, which promotes a precautionary approach to flood risk. My recommended modification reflects this.

OPP3 Castlehill Health Centre

23. This site has been carried forward from the adopted Moray Local Plan 2008. The designation text emphasises that future proposals for the site should respect the residential amenity of the surrounding area. As regards consultation with the community on future developments, the process of consultation employed by the council on any future proposals is a matter for the council to determine. No modifications to the proposed plan are required in relation to these issues.

OPP4 Cathay

24. This site has been carried forward from the adopted Moray Local Plan 2008. However, I note that ownership and attitudes to development has changed and that only one of the four owners of this area now wishes to see the designation retained; the owner of the L-shaped woodland shown on plan F:02:10b attached to comment: 0976\_1\_001. In these circumstances, I consider that the opportunity for any development on this site is, therefore, restricted to the L-shaped area and that designation OPP4 should be amended accordingly.

OPP5 Leancoil Hospital

25. This site has been carried forward from the adopted Moray Local Plan 2008. In relation to the concerns regarding the protection of trees on the site, I note that the trees on the whole site, together with the adjoining 'white land' and ENV6 area are protected by a Tree Preservation Order. As regards consultation with the community on future developments, the process of consultation employed by the council on any future proposals is a matter for the council to determine. No modifications to the proposed plan are required in relation to these issues.

**Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the first paragraph of the designation text for site BP2: Enterprise Park, Forres Extension: "Proposals should conform with the high amenity and design standards of the Enterprise Park. Extensive structural landscaping and open spaces must be provided to integrate development into the landscape, complement the existing business park and mitigate impact on adjacent residential properties."
2. Add the following to the designation text for sites I1 Greshop West, I2 Greshop East, I3 Former Waterford Sawmill, I4 Waterford Road, I5 Ben Romach Distillery, I6 Railway Marshalling Yard, OPP4 Cathay and OPP5 Leancoil Hospital: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."
3. Add the following to the designation text for site I7 Springfield West: "Proposals should be supported by a flood risk assessment (FRA) or further information, as appropriate, the outcome of which may affect the developable area of the site."
4. Amend the final sentence of the designation text for site I8 Springfield East to read: "A high standard of design and layout will be required for the buildings on the site and the

provision of structural landscaping and planting. This should include landscaping along the B9011 and the railway line, a green buffer to mitigate the impact of any new development on the neighbouring residential properties at Cassieford and the safeguarding of the vista of Findhorn Bay.”

5. Add the following to the designation text for site I8 Springfield East: “Proposals should be supported by a flood risk assessment (FRA) or further information, the outcome of which may affect the developable area of the site.”

6. Add the following to the designation text for site OPP2 Bus depot: “Proposals should be supported by a flood risk assessment (FRA) or further information, as appropriate, the outcome of which may affect the developable area of the site.”

7. On the Forres Settlement Plan, amend the boundary of site OPP4 to include only ‘Area 4’ on plan F:02:10b attached to comment: 0976\_1\_001.

<b>Issue 14c</b>	<b>Alves, Dallas, Dyke, Findhorn, Kinloss and Rafford</b>	
<b>Development plan reference:</b>	<p><b>Alves settlement statement, page 97</b>  <b>LONG term designation</b>  <b>Dallas settlement statement, page 137</b>  <b>R1 Dallas School West</b>  <b>R3 Former Filling Station</b>  <b>Dyke settlement statement, page 149</b>  <b>Dyke Not Taken Forward site north of village</b>  <b>R1 North Darklass Road</b>  <b>R2 South Darklass Road</b>  <b>Findhorn settlement statement, page 177</b>  <b>ENV3 Amenity Greenspace</b>  <b>ENV6 Green Corridors/natural/semi natural greenspace</b>  <b>General</b>  <b>Findhorn Not Taken Forward R4</b>  <b>OPP1 Boatyard</b>  <b>R1 Heathneuk</b>  <b>RC Residential Caravans</b>  <b>Kinloss settlement statement, page 229</b>  <b>OPP1 Kinloss Home Farm</b>  <b>R1 Woodland, west of Seapark House</b>  <b>R2 Woodside East</b>  <b>R3 Findhorn Road West</b>  <b>R4 Damhead</b>  <b>RC Seapark Residential Caravan Park</b>  <b>Rafford settlement statement, page 263</b>  <b>Rafford Not Taken Forward</b>  <b>General</b>  <b>R1 Brockloch</b></p>	<b>Reporter:</b> Douglas Hope
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>Alves</u></b>  <b><u>LONG term designation</u></b>  James Fair (0579)  Scottish Environment Protection Agency (0569)  <b><u>Dallas</u></b>  <b><u>R1 Dallas School West</u></b>  Carol Riddell (0560)  Scottish Environment Protection Agency (0569)  <b><u>R3 Former Filling Station</u></b>  Tony Boyle (0729)  <b><u>Dyke</u></b>  <b><u>Dyke Not Taken Forward site north of village</u></b>  Mr J Davidson (0879)  <b><u>R1 North Darklass Road</u></b>  Scottish Environment Protection Agency (0569)  Robert Jackson (0699)  Robert And Karen Jackson (0716)</p>		

**R2 South Darklass Road**

Scottish Environment Protection Agency (0569)

**Findhorn**

**ENV3 Amenity Greenspace**

Alexander Hunt (0738)

Findhorn and Kinloss Community Council (0124)

**ENV6 Green Corridors/natural/semi natural greenspace**

Findhorn Village Conservation Company (0629)

**General**

Scottish Natural Heritage (1027)

**Findhorn Not Taken Forward R4**

Mr Edward Bichans (1026)

**OPP1 Boatyard**

Scottish Environment Protection Agency (0569)

**R1 Heathneuk**

Jill Killen (0637)

Franz Rolinck (0709)

Tim Scrase (0712)

Judith Berry (0941)

Scottish Natural Heritage (1027)

**RC Residential Caravans**

Scottish Environment Protection Agency (0569)

**Kinloss**

**OPP1 Kinloss Home Farm**

Scottish Environment Protection Agency (0569)

**R1 Woodland, west of Seapark House**

Scottish Environment Protection Agency (0569)

Anthony Rowe (0615)

Scottish Natural Heritage (1027)

**R2 Woodside East**

Scottish Environment Protection Agency (0569)

**R3 Findhorn Road West**

Scottish Environment Protection Agency (0569)

Scottish Natural Heritage (1027)

**R4 Damhead**

Scottish Natural Heritage (1027)

Scottish Environment Protection Agency (0569)

Gerald Taylor (0594)

Robert Balmer (0696)

Mr Ronald Moreland And Mrs Judith A Moreland (0989)

Ian Stephen (1013)

Ms Dawn Burgess (1033)

**RC Seapark Residential Caravan Park**

Scottish Environment Protection Agency (0569)

**Rafford**

**Rafford Not Taken Forward**

Mr And Mrs A G Shiach (0021)

**Rafford General**

Mr I S Suttie (0467)

**R1 Brockloch**

Mr And Mrs Roy And Marian Sinclair (0571)

R McEntee (0592)

<p>Alistair And Dawn Smith (0718)  Anthony Campbell (0724)  Paul Trethewey (0748)  Clive Goodall (0749)  Sharon Davies (1023)  Howard Davenport (1049)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Site designations within the third tier villages of Alves, Dallas, Dyke, Findhorn, Kinloss and Rafford</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Alves</u></b>  <b><u>LONG</u></b>  <u>James Fair (0579)</u>  Destroying aquaculture land which will be needed for food production at a later date, planning to build larger than existing town without infrastructure which will cost millions. How many houses do you propose to build?</p> <p><u>Scottish Environment Protection Agency (0569)</u>  Welcome the approach to incorporate the existing wetland. If a "trigger" for early release of this site is applied, further information on the site layout would be required to demonstrate that there would not be an increase in flood risk to the existing properties.</p> <p><b><u>Dallas</u></b>  <b><u>R1 Dallas School West</u></b>  <u>Carol Riddell (0560)</u>  The boundaries to the east are not in line with the existing school playground boundaries. The land use should be changed to school development. Any further development of housing in Dallas should centre on the old shop site next to Houldsworth Institute and the old garage further along the same site, which are eyesores. They should be acquired by compulsory purchase.</p> <p><u>Scottish Environment Protection Agency (0569)</u>  It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>R3 Former Filling station</u></b>  <u>Tony Boyle (0729)</u>  Planning permission for 4 houses has lapsed. To maintain and enhance existing character planning should only be granted for two houses.</p> <p><b><u>Dyke</u></b>  <b><u>Dyke Not Taken Forward site north of village</u></b>  <u>Mr J Davidson (0879)</u>  Concerned that a large part of the reasoning for not accepting the site (BD/14c/01) is based on a previous Local Plan Review, this is not considered to be an appropriate basis for determining whether the site is now appropriate for housing. Considers that previous consideration at Local Plan Inquiry should not constrain the acceptability of the site as part of the current plan review. The proposed site exactly mirrors the extent of development on the opposite side of the road into Dyke from the North. The site has been</p>	

kept the same depth as the settlement pattern of existing plots. The proposed site will not elongate the built envelope of Dyke.

Landscape and structural planting can be provided to the North and East boundaries to contain and define the area. Speculative to suggest the site would add to pressure for new development in the adjoining agricultural land. This can be controlled through either the planning application process or during the Local Development Plan Review.

Considers that there is no more likelihood of this particular site creating pressure for additional development than other similar sites on the edge of settlements. Although it was stated there was insufficient justification to bring forward the site an additional site was added that was initially unacceptable at MIR stage. This site is being proposed on the basis of structure planting similar to that proposed for this site in this representation. R1 is not effective, the proposed site is and can deliver modest and small scale expansion of the settlement.

### **R1 North Darklass Road**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

Robert and Karen Jackson (0716)

Robert Jackson (0699) Objects as proposal would completely change the view from the rear of property and there would no longer be unrestricted views over open fields. This would have a detrimental impact on the value of the property and create a lack of privacy. Considers that no additional new houses are needed in Dyke and additional housing would completely change the complexion of the village and would create negative impact.

Objects to any proposal to provide social housing which would create a negative impact. There is insufficient public transport and public amenities to support an increase in the village population. Consider moving the proposal for development closer to Forres where there are more facilities to support a greater population.

### **R2 South Darklass Road**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

### **Findhorn**

#### **ENV3 Amenity Greenspace, Ice House**

Alexander Hunt (0738)

Request removal of the Ice house property from ENV3.

Findhorn and Kinloss Community Council (0124)

Object to proposal to change ENV3 at Bundon as the public would be actively discouraged from accessing the beach through the site.

### **ENV6 Green Corridors/Natural/Semi Natural Greenspaces**

Findhorn Village Conservation Company (0629)

The Findhorn Village Conservation Company wishes to make provision for touring Motor Homes and a service unit to accompany them.

**General****Scottish Natural Heritage (1027)**

Text states that SNH will be consulted on any detailed ecological studies carried out for these areas which are not allocated for development but which are within the settlement boundary. SNH would not normally wish to be consulted on such studies. No reference under wider environmental designations to Moray and Nairn Coast SPA, nor Moray Firth SAC, both being close to this settlement.

**Findhorn Not Taken Forward R4****Mr Edward Bichans (1026)**

Request designation of 'R4, an 'L-shaped' (BD/14c/05) strip of agricultural ground immediately bounding the Foundation to the east and north. Part of the designation includes the existing Foundation Art Centre car park. The western part of the proposed designation bounds the Foundation ecovillage 'Field of Dreams' and the southern extent adjoins the Park's existing touring caravan and camping site. The bid site is delineated along its eastern edge by a long established fenceline, which has previously been planted out with native hedging Whilst the fenceline along the northern leg is also a long established feature. The Objector owns the surrounding agricultural ground and his family have been farming this ground for over 58years, during which it has never flooded. However, objector notes that SEPA's latest flood mapping show the site could be at flood risk.

Understands that the Council view on Local Plan sites which could be a risk from flooding, is that this issue will be fully considered through the formal Planning Application process, rather than at the development planning stage. Contends that the proposed Findhorn Settlement Statement within the MPLDP significantly fails to provide due weight to the Park and their future ambitions, for the following reasons:

The Objector advanced submission following initial discussions with the Park regarding their future requirements and the Objector understands no similar discussions have taken place during the preparation of the MPLDP between the Council and the Park.

All development land at the Field of Dreams has now been realised and demand remains extremely high for further one off innovative houses, which the Council has noted its commitment to support in the MPLDP.

**OPP1 Boatyard****Scottish Environment Protection Agency (0569)**

Part of the site is within the 1:200 year coastal flood extent. As residential proposals will be considered any development should consider flood risk with a Flood Risk Assessment or further information submitted as appropriate.

**R1 Heathneuk****Jill Killen (0637)**

Concerned as water pressure is very low and additional housing will affect this even more. Questions who will maintain Dunes Road, currently the potholes slow traffic down. Road has previously been used as a fast track for motorcyclists. Concerned about disturbance to wildlife. Questions if there will be the height restrictions on proposed dwellings.

**Franz Rolinck (0709)**

Considers Findhorn to be unsuitable for development, spoiling sense of place and

valuable views attracting tourists to the area.

Tim Scrase (0712)

Concerned that there seems to be no account of numbers on this site. Concerned about drainage system for this site, which is presently a constant problems. New homes will cause further problems. Questions the need for new housing.

Judith Berry (0941)

Objects to the indicative number of residential units being increased from 5 to 10, yet land increase is only 22%. R1 west will be taken out of the ENV8 protected area because it is deemed suitable for infill and to round off the settlement area as stated in the Reporter's findings. Removing this protection suggests priority is given to permitting incremental dilution of environmental and green space. This sets a precedent that threatens the rest of ENV8. Beach road is increasingly used by vehicles, walkers, cyclists. Caravan site is building chalets. Extra housing will bring parking need for both residents, visitors, commercial vehicles and emergency services.

Suggested turning circle will require traffic to drive along the road to make use of this facility increasing hazards. The green corridor starting at Cromarty Court leads into the open spaces of the dunes and ends with arguably one of the best wild beaches in the UK.

Scottish Natural Heritage (1027)

SNH do not specifically need to be consulted on this site, as breeding birds are protected by law and expect the Council to deal with this through a species survey and protection plan to accompany a planning application.

**Kinloss**

**OPP1 Kinloss Home Farm**

Scottish Environment Protection Agency (0569)

The water body within OPP1 is at poor/moderate ecological status or at risk of being downgraded contrary to the Water Framework Directive. Object to site being included within the Plan unless a developer requirement stipulating that a "buffer strip of at least 6m between development and the watercourse is required", is included.

**R1 Woodland, West of Seapark House**

Scottish Environment Protection Agency (0569)

The majority of the site lies within the 1:200 year coastal flood extent. The site is a low lying area close to the Findhorn Estuary. As this site is proposed for residential development, flood risk and drainage should be considered with a Flood Risk Assessment or further information submitted as appropriate.

Anthony Rowe (0615)

Oppose the proposal for 6 houses in this area. Building a larger road for access would affect property in terms of drainage, noise and environmental destruction. The woods are a floodplain and in December 2013 were flooded in high tidal conditions. Buildings would need substantial foundations which would be environmentally destructive. The woodland has protected trees within it and is home to a variety of wildlife including grouse, deer, polecat and many bird species.

Scottish Natural Heritage (1027)

Given the presence of trees on this site, a species survey and protection plan, is required as well as a tree survey. There is a possible presence of protected species including bats and red squirrels.

## **R2 Woodside East**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

## **R3 Findhorn Road West**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Scottish Natural Heritage (1027)

Text should refer to both the Moray Firth Special Area of Conservation and Moray and Nairn Coast Special Protection Area/ Ramsar. A construction method statement should be required.

## **R4 Damhead**

Scottish Natural Heritage (1027)

Given the presence of trees a species survey and protection plan should be required. Possible presence of protected species including bats and red squirrels.

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Gerald Taylor (0594)

The 40 mph speed limit at the eastern end of Kinloss should be reduced to 30mph to protect the growing number of residents and construction traffic. Perhaps the 40mph sign could be relocated immediately east of the houses at Blackstob wood. The corner is a notorious blackspot for accidents and cars regularly end up in the Kinloss Barracks perimeter fence. The Woodside Farm shop and marching troops use the road for access to the wood for PT providing further reasons to justify speed reduction measures. Issue has been raised with police but respondent has seen no response.

A footpath and pedestrian crossing were supposed to have been provided when the Blackstob development was completed.

Robert Balmer (0696)

Object to any further housing which requires the use of the access road to Blackstob Way, which can only accommodate one vehicle each way at any one time and currently serves 12 dwellings. Any increase in vehicular traffic would be liable to cause accidents on the B9089. How will R4 be accessed.

Main public sewerage terminates at the far side of the main entrance of Kinloss Army camp and proposed housing would require septic tanks. What is the maximum housing permitted with individual septic tanks.

Mr Ronald Moreland and Mrs Judith A Moreland (0989)

Access is not suitable for 25 houses, the junction with the B9089 is not substantial enough to allow unhindered entrance and exiting and would generate traffic congestion. Corners and speed of vehicles add to the danger with limited visibility splay leading into R2.

Current residents of site R2 have had to install private septic tanks as main sewerage

ends at the Kinloss barracks. Further development would add sewage and waste disposal concerns.

Proposed number of houses is not in keeping with the site and should be reduced to allow for septic tank arrangements, off street parking and 10-20 metre boundary planting between the sites should be provided and incorporate the trees with TPO's.

Ian Stephen (1013)

No indication of where the access is to the B9089. Current access is single track and only widens at the entrance. Tripling the volume of traffic could cause an accident, Traffic travelling from the east into Kinloss rarely slows down.

Mrs Dawn Burgess (1033)

25 houses would change the character of the area. Upheaval from noise during construction and impact on privacy and view. The site has a Tree Preservation Order on it, given the number of houses proposed how many trees will be preserved. The existing access is narrow, would it take the weight of machinery and construction traffic?

### **RC Seapark Residential Caravan Park**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

### **Rafford**

#### **Rafford Not Taken Forward**

Mr and Mrs A G Shiach (0021)

Question whether the existing allocation R1 is an effective supply of housing land for Rafford and whether a viable supply of land has been identified. No attempts have been made to move this site forward. Support inclusion of site put forward at Main Issues stage (SD0021\_2\_001)).

### **General**

Mr I S Suttie (0467)

Seeking to prevent the pollution of watercourses from domestic septic tank effluent is a door closing after the horse has bolted.

### **R1 Brockloch**

Mr and Mrs Roy and Marian Sinclair (0571), R. McEntee (0592), Anthony Campbell (0724), Paul Tretheway (0748), Clive Goodall (0749)

There are historic water table and soakaways problems in Rafford. If more houses are built at site R1 then these problems will increase.

Alistair and Dawn Smith (0718)

Rafford has historic and ongoing drainage problems. Presently just managing to drain away waste and having septic tanks emptied on a regular basis and having new soakaways installed at considerable cost. The addition of 12 houses will cause a very real threat for existing properties with regards to high water levels and drainage.

The entrance to R1 is narrow and before the brow of a hill, although there is a 30 mph limit not all drivers adhere to it, added to the volume of traffic in particular HGVs exiting from R1 would make it difficult, hazardous and increase the risk of an accident.

Light pollution concerns, development on this scale will have a detrimental impact on the

surrounding area.

Sharon Davies (1023)

Concerned about number of houses proposed, road is prone to flooding and concerned about impact of additional run-off from development of 12 houses on the current flooding situation.

A suitable crossing place for children should be considered from the development to the playpark. More houses are being built without investment in footpath and cyclepath connecting the town with Forres.

Howard Davenport (1049): Drainage will be a problem as there is no mains and the water table is high. Concerns over increased traffic, light pollution.

**Modifications sought by those submitting representations:**

**Alves**

**LONG**

James Fair (0579)

Removal of LONG designation in Alves.

Scottish Environment Protection Agency (0569)

If the site is released early, further information on site layout would be required to demonstrate that there would not be an increase in flood risk to existing properties.

**Dallas**

**R1 Dallas School West**

Carol Riddell (0560)

The boundaries should be realigned to the existing school playground boundaries. The land use should be changed from housing to school development. Implies the Council should acquire the former garage site and Houldsworth Institute for future housing development.

Scottish Environment Protection Agency (0569)

Add text requiring applications to be supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**R3 Former filling station**

Tony Boyle (0729)

R3 designation should only allow 2 houses on this site.

**Dyke**

**Dyke Not Taken Forward site north of village**

Mr J Davidson (0879)

Site should be included within the plan.

**R1 North Darklass Road**

Scottish Environment Protection Agency (0569)

Insert text requiring walkover and photographic surveys.

Robert Jackson (0699), Robert and Karen Jackson (0716)

Delete R1 designation.

**R2 South Darklass Road**

Scottish Environment Protection Agency (0569)

Insert text requiring walkover and photographic surveys.

**Findhorn**

**ENV3 Amenity Greenspace**

Alexander Hunt (0738)

Amend boundary to exclude Icehouse.

Findhorn and Kinloss Community Council (0124)

Implies that development should not take place if the public are discouraged from accessing the beach.

**ENV6 Green Corridors/Natural/Semi Natural Greenspaces**

Findhorn Village Conservation Trust (0629)

Would like a site at the beach end of the back road facing the Firth on the present car parking site.

**General**

Scottish Natural Heritage (1027)

Delete the sentence "Scottish Natural Heritage will be consulted on the study". Add under wider environmental designations, "Moray Firth Special Protection Area and Moray Firth Special Area of Conservation"

**Findhorn Not Taken Forward R4**

Mr Edward Bichans (1026)

Designate R4 site as land for housing, community business and tourist accommodation.

**OPP1 Boatyard**

Scottish Environment Protection Agency (0569)

Insert requirement for Flood Risk Assessment.

**R1 Heathneuk**

Jill Killen (0637)

Consider the surrounding residents already living around the proposed new developments and the conservation/ wildlife.

Franz Rolinck (0709)

Implies there should be no further development in Findhorn.

Tim Scrase (0712)

Implies delete R1

Judith Berry (0941)

Wish R1 west to be withdrawn.

Scottish Natural Heritage (1027)

Replace sentence in R1 with "A species survey and protection plan will require to be submitted with proposals."

### **Residential Caravans**

Scottish Environment Protection Agency (0569)

Recommend that applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

### **OPP1 Kinloss Home Farm**

Scottish Environment Protection Agency (0569)

Add requirement to OPP1 text stipulating that a "buffer strip of at least 6m between development and the watercourse is required".

### **R1 Woodland, west of Seapark House**

Scottish Environment Protection Agency (0569)

Flood risk and drainage should be considered with a Flood Risk Assessment or further information submitted as appropriate.

Anthony Rowe (0615)

Removal of site for 6 houses from the plan.

Scottish Natural Heritage (1027)

Add text: "A species survey plus a protection plan if necessary will require to be submitted with proposals (e.g. Bat, red squirrel)."

### **Kinloss R2 Woodside East**

Scottish Environment Protection Agency (0569)

Applications should be supported by the results of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

### **R3 Findhorn Road West**

Scottish Environment Protection Agency (0569)

Applications should be supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Scottish Natural Heritage (1027)

Add text: "Construction method statement is required to ensure that measures are considered at application stage and assessed as to their potential impact on the Moray Firth Special Area of Conservation and Moray and Nairn Special Protection Area."

### **R4 Damhead**

Scottish Environment Protection Agency (0569)

Applications should be supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

Scottish Natural Heritage (1027)

Add text; "A species survey plus a protection plan if necessary will require to be submitted with proposals (e.g. Bat, red squirrel)."

Gerald Taylor (0594)

Implies the 40 mph speed limit at the eastern end of Kinloss should be reduced to 30mph. The 40mph sign could be relocated immediately east of the houses at Blackstob wood. Further implies that a footpath and pedestrian crossing should be provided.

**Robert Balmer (0696)**

Implies there should be no further housing which requires the use of the access road to Blackstob way.

**Mr and Mrs Moreland (0989)**

Request different access point. Reduce the number of houses. Provide 10-20 metre boundary screening between the sites and incorporate the trees with TPO's

**Ian Stephen (1013)**

Drastically reduce the number of houses and take a new road through Rhinds farm to allow more visibility and a safer junction.

**Mrs Dawn Burgess (1033)**

Implies site should be deleted.

**Rafford**

**Rafford Not Taken Forward**

**Mr and Mrs A G Shiach (0021)**

Inclusion of land put forward at call for sites stage.

**General**

**Mr I S Suttie (0467)**

Rafford should have no more houses in the lower part of the village or land draining into the burn until a mains drainage system is installed.

**R1 Brockloch**

Mr and Mrs Roy and Marian Sinclair (0571), R. McEntee (0592), Anthony Campbell (0724), Paul Tretheway (0748), Clive Goodall (0749): Alistair and Dawn Smith (0718, Sharon Davies (1023), Howard Davenport (1049)

Stated or implied remove R1 from the plan.

**Summary of responses (including reasons) by planning authority:**

**Context**

Within the Forres Local Housing Market Area it is proposed that Forres provides for the vast majority of new housing land to meet the strategic housing land requirements, with new small sites identified in Dyke and Findhorn. Existing designations in Dallas, Kinloss and Rafford are proposed to be carried forward and a LONG term site re-instated in Alves.

**Alves**

**LONG**

The LONG term designation proposed in Alves aims to reinstate what was previously a strategic housing land reserve, which has appeared in previous Local Plans, but was omitted from the 2008 Plan. The strategic reserve was identified in previous Local Plans as a reserve to meet the housing needs arising from potential growth in the defence or oil sectors. The Council has chosen to reinstate this longer term option having considered future employment opportunities in the A96 Forres to Elgin growth corridor.

The Proposed Plan text on page 5 recognises that this position may be slightly at odds with Alves's current position in the settlement hierarchy, but also reflect the changing nature of the settlement hierarchy, with limited opportunities in Lossiemouth, slower

growth in Buckie and Keith and the steady growth in Forres and Elgin.  
No modification is proposed.

### **Dallas**

#### **R1 Dallas School West**

This site is carried forward from the Moray Local Plan 2008 and has been constrained for some time due to waste water drainage issues. The site is owned by Dallas Estate who are actively exploring options for the future development of the site and the Estate has confirmed its commitment to develop the site.

If the Reporter is so minded the Council would not object to a revision of the boundary to ensure the boundary to the east is in line with the school playground boundary and to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

#### **R3 Former Filling Station**

The principle of developing the site for 4 houses has been established through planning consent 10/00323/APP which was granted on 10<sup>th</sup> May 2010. The site is still considered to be suitable for 4 houses and is a brownfield site which was formerly a garage.

No modification is proposed.

### **Dyke**

#### **Dyke Not Taken Forward site north of village**

This site (BD/14c/01) was proposed for inclusion by the landowner in the Moray Local Plan 2008 but not supported by the Council. The site was subject to written submission procedures as part of the Public Local Inquiry for the 2008 Local Plan. The Reporter concluded that there was no need or justification for designating the site. The site was considered elongated, undefined and not contained as it has no defensible boundaries to the north and east. Furthermore, the development would create an unnecessary and inappropriate elongation of the village on the eastern side of the road, which would detract from the overall character of Dyke. Concern was expressed that development of the site would likely lead to further pressure for new housing or other development on the adjoining agricultural land (CD26).

There has been no material change in circumstances since the publication of the Reporters findings to justify revisiting the designation of the site. No attempt has been made to address the issues raised within the Reporter’s findings either in terms of firm proposals for structural planting to create containment or alternative site arrangements to overcome elongation and impact on the character of Dyke.

Site R1 is identified within the Moray Housing Land Audit June 2014 (CD22) as an effective site and it is currently being marketed. Development of the site requires access and roads improvements and the Council’s Transportation section has advised that third party land is required. Site R2 was identified at Proposed Plan stage to create the opportunity for additional development to help finance the required roads improvements for R1. These sites are considered to offer the most logical extension to Dyke and they do not elongate the village or have a detrimental impact on its character.

No modification is proposed.

**R1- North Darklass Road**

The site is currently designated within the Moray Local Plan 2008. Dyke is a third tier settlement with a primary school and the village is considered capable of accommodating a very modest scale of development. Site R1 has an indicative capacity of 12 houses which is considered in keeping with the scale of the village. The site is also sensitive to the village character and in keeping with objectives within the Proposed Plan to prevent ribbon development along the main road entering the village.

The right to a view and the impact on property values are not material planning considerations. Issues including privacy and overlooking will be considered at detailed planning application stage when a layout for the development will be submitted. In line with the Council's Affordable Housing policy there would be a requirement for a minimum of 25% of the total number of units to be affordable housing. The specific contribution will be determined by the Head of Housing and Property and will be informed by the Housing Need and Demand Assessment and Local Housing Strategy.

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

**R2- South Darklass Road**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

**Findhorn****ENV3 Amenity Greenspace**

In terms of the Council's support to amend the ENV to exclude land adjacent to the property "Bundon" part of this area was historically a car park and the Council received a bid prior to preparation of the Main Issues Report for the ENV3 designation to be removed or modified to allow for a single house and an indicative plan was submitted (BD/14C/04b).

The site is bounded by housing to the south east and the boatyard (OPP1), by Findhorn Bay to the south west and an access track to the north east. The site is rectangular in shape with a triangular area projecting south eastwards between the access to the owners' property and the access track to the boatyard. Historically the triangular area was part of an informal parking area used to access the dunes and beach.

In terms of the objection lodged regarding public access, the bid submission states that "Public access is taken through the site near the foreshore along a track which links the village to the Southeast with the boatyard and bay beyond to the Northwest. The proposals in this representation will not affect public access through the designation in any way."

The Council appreciates the concern regarding the erosion of ENV spaces within Findhorn as the northern part of this site was re-designated to be part of the OPP1 designation covering the Boatyard in the Moray Local Plan 2008. The bid requested a site

within the naturally formed bowl shape in the northern portion of the site. The bid further stated that the “owners are committed to ensuring that any proposal for a house does not compromise public access between the village and the Boatyard.”

To ensure that public access is retained, if the Reporter is so minded, the Council would support formal designation of a site for one house on an amended and reduced plot which safeguards public access along the foreshore and between the car park and foreshore. (BD/14c/04a), with the remainder of the site being designated as ENV.

In terms of the representation regarding the ice house, if the Reporter is so minded the Council would not object to the ice house being removed from the ENV designation.

#### **ENV6 Green Corridors/Natural/Semi Natural Greenspaces**

The Council recognises that the Findhorn Village Conservation Company is investigating the feasibility of various projects in the village and the Council would, in principle, support sensitive projects within the village which support tourism.

There are limited details available about this project at this time.

If the Reporter is so minded the Council would not object to the two parking areas adjacent to the foreshore should be re-designated as “ENV9 Other functional greenspaces” under the terms of Policy E5, with wording added to the Plan to indicate that in principal, parts of these established parking areas could be used for overnight camper van parking, subject to the principle use of public car parking and the wider environmental value of the area not being compromised.

#### **General.**

If the Reporter is so minded the Council would not object to including the removal of the phrase stating when Scottish Natural Heritage will be consulted and including text to refer to the wider environmental designations of the Moray and Nairn Coast SPA and Moray Firth SAC.

#### **Not Taken Forward R4, Findhorn.**

The Reporter at the last Local Plan Inquiry (CD26) expressed concern at the rate of development proposed at the Ecovillage and a period of consolidation is proposed before further consideration of expansion plans at the Ecovillage. The Report of the Public Local Inquiry states that while the Reporter welcomes;

“the success of the Findhorn Foundation and its Ecovillage – and the wider economic benefits and cultural diversity it has brought to Findhorn and the Moray area generally - there is no overriding reason for the Ecovillage to keep growing at the rate experienced recently and currently planned, particularly if such growth becomes increasingly unbalanced in the context of the scale of Findhorn as a whole.”

The Council’s strategy for Findhorn in the new Local Development Plan has followed the findings of the 2007 Public Local inquiry.

Contrary to what the objector states, the existing sites within the Ecovillage have not been fully built out and there is considered to be an adequate and effective supply of housing land available within the period of the Plan. Planning officers met with representatives of the Ecovillage in mid May 2014 and discussed longer term aspirations.

No modification is proposed.

**OPP1 Boatyard**

If the Reporter is so minded the Council would not object to including the requirement for a Flood Risk Assessment within this designation.

**R1 Heathneuk**

The Council's strategy over successive Local Plans has been to limit new development in the more historic parts of Findhorn while supporting sensitive expansion of the Ecovillage and recognising the tourism value of both the historic village and the Ecovillage.

The Council did not support designating the sites at Heathneuk in the Moray Local Plan 2008, however, the Reporter recommended they were included and this is supported by a Landscape study commissioned by the Council.. The southern part of the site is proposed to be carried forward from the Moray Local Plan 2008 and the western part is proposed as an addition. The Report of the 2007 Public Local Inquiry (CD26) states;

"In summary, I conclude that there are no reasons individually or in combination that should prevent the objection site being allocated for a limited amount of residential development within the local plan. Indeed, it should be welcomed in my view for the following reasons. Based on the available evidence, it appears that the objection site is one of the very few options - and possibly the only opportunity currently - to offer some mainstream general needs housing development for Findhorn through a local plan allocation. Furthermore, its allocation would fully address the housing allocation needs identified for Findhorn within Policy H1 of the finalised plan – and in that sense it would replace the loss of site R1, if my recommendations in that regard are accepted. Given the limited allocation set in Table 1 for Findhorn as a whole the Council might wish to initially allocate the area to the south of the East Beach Road for development within the plan period and designate the part of the objection site to the north of that road as being LONG – for development beyond the plan period."

The section of Dunes Road required to serve this development will require to be upgraded to adoptable standards and will be maintained in the future by the Council. Houses should be in scale and keeping with the surrounding uses and this detail will be considered at the stage of a planning application. The site designation text highlights the need to consider breeding birds within the dune gorse/scrub.

The existing R1 designation in the Moray Local Plan 2008 was for 5 units, intended to be a very low density development. The site area has been revised and increased to make better use of the land available through a minor increase in the density. The Reporter at the last Inquiry supported including both areas of land at Heathneuk and the Council supports this view in the Proposed Plan.

No modification is proposed.

**Residential Caravans**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

**Kinloss****OPP1- Kinloss Home Farm**

If the Reporter is so minded the additional text suggested by Scottish Environment

Protection Agency should be added into the site designation text. The following wording is considered suitable, “buffer strip of at least 6m between development and the watercourse is required.

### **R1 Woodland, west of Seapark House**

This site is proposed to be carried forward from the Moray Local Plan 2008.

If the Reporter is so minded, the Council would not object to including additional text within the designation stipulating;

That flood risk and drainage should be considered with a Flood Risk Assessment or further information submitted as appropriate.

That a species survey and protection plan, is required as well as a tree survey.

### **R2 Woodside East**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

### **R3 Findhorn Road West**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “a walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

If the Reporter is so minded the Council would not object to including additional text within the designation referring to the Moray Firth Special Area of Conservation and Moray and Nairn Coast Special Protection Area/ Ramsar and requiring a construction method statement to accompany planning applications.

### **R4 Damhead**

This site is carried forward from the Moray Local Plan 2008.

### **Road Safety**

The Council has passed the representations expressing road safety concerns to the Traffic section for further investigation outside the Local Development Plan process.

### **Transportation**

The developer will have to provide a proposal which is acceptable to the Council.

Transportation officers have identified that the site has to be served by an adoptable road, with a 1.8 metre footway connecting the site to the existing footway. This will require a pedestrian crossing on the B9089. A minimum visibility splay of 4.5m x 95m to the west and 4.5m x 125m to the east is required at the junction of the site road with the B9089.

### **Biodiversity**

If the Reporter is so minded the Council would not object to including additional text in the designation requiring;

That applications are supported by the result of a walkover and photographic survey of habitats to assess for presence of potential wetlands.

That additional text be added requiring a species survey and protection plan.

**Trees**

Development proposals will have to comply with Policy E4 Trees and Development and the Council's supplementary guidance on Trees and Development as well as respecting the Tree Preservation Order which covers the site.

**Drainage**

Policy EP5 of the Proposed Plan requires a Drainage Assessment to be carried out for all developments of 10 or more houses. In addition to this, proposals will be subject to Building Standards legislation including septic tank soakaway tests. SEPA has not objected to this proposal.

The density level proposed is low, reflecting the need for large plots to accommodate soakaways as well as reflecting the edge of settlement location and low density character of adjacent properties.

No modification is proposed other than the additional text identified under the section on biodiversity above.

**RC Seapark Residential Caravan Park**

If the Reporter is so minded the Council would not object to additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable "a walkover and photographic survey of habitats is required to assess for the presence of wetlands."

**Rafford****Not Taken Forward**

This site was not supported when considered at the special meeting of the Planning and Regulatory Services Committee on 6<sup>th</sup> June 2013. The Council considers that R1 is an effective site and this has been confirmed by the landowner. R1 is an infill site at the centre of Upper Rafford and is considered the most suitable site for development within the plan period to meet housing land requirements. However, if the site is not developed during the plan period, this situation will be reviewed.

No modification is proposed.

**R1 Brockloch**

This site is carried forward from the existing Moray Local Plan 2008. The text identifies that drainage arrangements including the satisfactory disposal of surface water to avoid flooding must be acceptable to SEPA and Scottish Water. Connection to existing septic tanks would require Scottish Water to upgrade the facilities and the developer would need to investigate this or provision of private septic tank(s).

No objection has been received from Scottish Environment Protection Agency, Scottish Water or the Council's Flood Team to the continued designation of this site.

The drainage and flooding issues raised by the objectors were comprehensively discussed at the Local Plan Inquiry in 2007 (CD26) with the Reporter's conclusion stating; "The Council, Scottish Water and SEPA all stated at the hearing that they were well aware of the existing local drainage issues affecting Rafford and that these had been taken into consideration when the allocation R1 was put forward and endorsed. I am persuaded by the arguments put forward by the Council - and supported by specialists at

Scottish Water and SEPA - that there is no reason why any potentially adverse impacts arising from the proposed residential development of site R1 could not be satisfactorily mitigated. I am advised that a satisfactory solution would be achieved through the requirement that any planning application for the R1 site would be subject to detailed review by Scottish Water and SEPA. More importantly, it was confirmed at the hearing that before any planning permission was granted, the written agreement of SEPA and Scottish Water would need to be obtained regarding the detailed drainage proposals for the site and concerning any surface water issues likely to arise. Implementation of the housing proposals - and associated required drainage works which formed part of any planning permission - would be monitored by the relevant authorities to ensure that the agreed details were incorporated and maintained satisfactorily. I am persuaded that, in principle, this approach should address the various drainage issues of concern to the objectors. Accordingly, I conclude that there is no basis for deleting the designation of site R1 in the new local plan for drainage reasons."

No modification is proposed.

### Reporter's conclusions:

#### Alves: LONG site

1. No new housing sites are identified in Alves for development during the period of the proposed plan. The LONG site has been identified to indicate the longer term direction of growth; there is no indication of the housing capacity of the site. The designation text indicates that any development of the site would be subject to the preparation of a masterplan, which would include substantial woodland planting on the higher ridges to the west and east and the creation of a linear park on the wetland on the west side of the minor road that runs through the site. I note that the Scottish Environment Protection Agency welcomes the incorporation of the wetland into the layout and that, in preparing the site layout, it would require to be demonstrated that there would not be an increase in flood risk to existing properties as a result of the development.

2. The council indicates that this designation reinstates a strategic housing land reserve that appeared in previous local plans but was omitted from the Moray Local Plan 2008. The strategic reserve was identified in previous local plans to meet needs arising from potential growth in the defence or oil sectors. The council has chosen to reinstate this longer term option having considered all other options in the A96 Forres to Elgin growth corridor. The council also suggests that this approach reflects the changing nature of the settlement hierarchy with limited opportunities in Lossiemouth, slower growth in Buckie and Keith and steady growth in Forres and Elgin.

3. In the current economic climate, I consider this long term aspiration to be somewhat speculative. Nevertheless, no substantial reasons have been put forward in the representation received for removing this designation from the proposed plan. The next review of the local development plan would provide an opportunity to reassess this designation in the light of the circumstances pertaining at the time.

#### Dallas: Site R1 Dallas School West

4. In response to the representation on the boundary with the adjacent school, the council has clarified the alignment of the eastern boundary of site R1 and of the designation ENV5 to fully exclude the school playground (see document BD/14c/13). The

site of the school and school playground is retained within the settlement boundary as 'white land'. Site R1 has been carried forward from the adopted local plan and the landowner has confirmed the commitment to develop the site. Its inclusion in the proposed plan is fully justified. As regards the site of the old shop and the former garage, these provide opportunities for infill housing development but do not obviate the requirement for additional housing land in Dallas. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Dallas: Site R3 Former Filling Station

5. I note that the principle of developing the site for 4 houses has been established through the granting of planning permission. A reduction in the capacity of the site to 2 houses would be unjustified.

#### Dyke: Site R1 North Darkless Road

6. This site has been carried forward from the adopted local plan and there has been no change in circumstances to justify removing the site from the proposed plan. As regards its effectiveness, the site is regarded as being effective and unconstrained in the council's 2014 Housing Land Audit and programmed for development in 2016-2018. In relation to the other issues raised, as the council states, the right to a view and the impact on property values are not material planning considerations. Impact on privacy and overlooking are issues that should be considered at the planning application stage. The site is not identified for social housing but council policy indicates a requirement for a minimum of 25% of the units to be affordable housing. I am satisfied that the proposed development, along with site R2, is in keeping with the scale and form of the village. The development of these sites will also provide the opportunity to create a robust landscaped edge to the western side of the village. As regards the potential presence of groundwater dependant terrestrial ecosystems in or around site R1, I agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Dyke: Site R2 South Darkless Road

7. I note the potential presence of groundwater dependant terrestrial ecosystems in or around site R2 and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Dyke: Site north of the village not taken forward

8. This site was considered for inclusion in the Moray Local Plan 2008. I endorse the views of the Reporter, at that time, that housing development on this site would detract from the character of the village. I appreciate that there are houses on the west side of the road leading out of the village but the proposed site is more elevated, with open views

towards the east across agricultural land. The erection of 4 houses on this site would amount to ribbon development with little opportunity to provide a robust boundary to the built-up area. In contrast, sites R1 and R2 complement the form of the village.

#### Findhorn: ENV3

9. The ENV3 designation close to the foreshore incorporates land occupied by the Findhorn Heritage Icehouse, an icehouse occupied for commercial purposes and a boat storage area operated by the Royal Findhorn Yacht Club. In response to the representation received, the council does not object to the area occupied by the commercial icehouse (see plan accompanying representation 0738\_1\_001) being removed from the ENV3 designation. Based on my inspection of the site, I also consider that the area occupied by the boat store, located between the commercial ice house and the foreshore, should be removed from the ENV3 designation. This area does not come within the description of open space and drying green and its inclusion in the ENV3 designation is inappropriate. My recommended modification reflects this.

10. In relation to the area adjacent to the property 'Bundon', which has been excluded from the sites designated ENV3, the council intimates that part of this area was historically used as an informal parking area for the dunes and beach. Pedestrian access is taken through the site along the track which links the village with the boatyard and bay beyond. I am satisfied on the evidence presented that the proposal for a house on the northern part of the area between the access track to the boatyard and the pedestrian access through the site would not compromise public access between the village and the beach. To reassure the community council that public access would be retained, the council suggests that the area between the track through the site and the foreshore be given the ENV3 designation (see BD/14c/04a) with the remainder of the site retained as 'white land' and therefore suitable for development. I agree that such a designation would better reflect the character and use of this small area of ground and, at the same time, would not inhibit the development potential of the northern part of the site.

#### Findhorn: ENV6 Green Corridors/Natural/Semi Natural Greenspaces

11. The representation by the Findhorn Village Conservation Company relates to the provision for touring motor homes on the present car parking sites in Findhorn Dunes (designated ENV6 on the Findhorn Map on page 180). My first comment would be that designation ENV6 in the text on page 179 refers only to the area occupied by the trees at the village entrance. The council may wish to consider re-designating the Findhorn Dunes at the west end of the village ENV8 to accord with the designation of the dune area to the east of the village.

12. In relation to the conservation company's request, the council suggests that the two parking areas within the dune area adjacent to the foreshore (shown on document BD/14c/14) be re-designated as "ENV9 Other Functional Greenspaces" under the terms of policy E5 with accompanying text indicating that these established parking areas could be used for overnight camper van parking, subject to the principle use as car parks being retained and the environmental value of the surrounding dunes not being compromised. I would endorse this approach, which serves to support tourism in the area subject to the caveat that the use would have no adverse impact on the wider environmental designations

Findhorn: Ecological Studies

13. In relation to the need for development proposals on the areas identified with an asterisk on the Findhorn Plan to be supported by ecological studies, Scottish Natural Heritage (SNH) has indicated that it would not normally expect to be consulted on such studies. Accordingly, the reference to SNH being consulted in these cases is inappropriate. My recommended modification reflects this.

Findhorn: Wider Environmental Designations

14. SNH has also draw attention to the fact that there is no reference under the heading 'Wider Environmental Designations' to Moray and Nairn Special Protection Area, nor to the Moray Firth Special Area of Conservation. The council acknowledges this omission and I agree that reference to these designations, which lie close to Findhorn, should be added to the listed designations. My recommended modification reflects this.

Findhorn site not taken forward

15. In relation to the request to designate MIR site R4 as land for housing, community business and tourist accommodation, that part of the site immediately east of the 'Field of Dreams', comprises rough grassland and is open in character. The boundary with the existing housing to the west comprises a post and wire fence with some tree planting. The site is delineated along its eastern edge by an established fence-line and a hedge comprising native tree species. It abuts the Soillse development to the north. A track traverses the site from north to south, linking with the access to the Soillse development in the north and the recently formed car park for the Arts Centre, which has been formed within the bid site, in the south. The existing settlement boundary has been breached by the Arts Centre car park and the eastern boundary of the bid site would form a much more defensible settlement boundary. Based on the case put forward by the objector and my site inspection, I have no reason to believe that an acceptable housing development compatible with the existing 'Field of Dreams' could not be achieved on this part of the site, in terms of the key principles outlined in policy PP3, Placemaking.

16. The council's concerns relate mainly to the scale of the Ecovillage development in relation to the size of Findhorn as a whole. Only one site, with a capacity of 10 houses (site R1) is designated for housing within the rest of the village. There is scope for continued growth of the ecovillage with the designation of site R2: Duneland, the area described as 'The Magic Triangle', but much of this site is under development. The revised bid submission for MIR site R4 proposes an additional 13 house units on the northern part of the site. In the context of the scale of the existing Ecovillage, which features more than 100 buildings, I do not consider that an additional 13 units is excessive. Neither do I consider that housing development on the site immediately east of the 'Field of Dreams' would have an adverse impact on the character of Findhorn as a whole.

17. However, there are issues with providing an adequate access to this site that meets the council's roads standards. Although access to the Findhorn Foundation is via a high standard junction, the internal access road to the Arts Centre car park is a private road that serves the core area of the original development. According to the MIR assessment, the provision of an alternative access on to the B9011 is constrained by third party land, which is required for visibility splays and the provision of an access to Roads Adoption Standards. Furthermore, as the objector notes, the Scottish Environment Protection

Agency's latest flood mapping shows that the site could be at risk of flooding (see document HHL002 attached to comment 1016\_1\_001). Scottish Planning Policy paragraph 255 promotes a precautionary approach to flood risk from all sources, including coastal flooding, by locating development away from flood risk areas.

18. Therefore, whilst I consider that there is scope for additional housing on the northern part of MIR site R4, there are constraints to development that require to be resolved before designation of the site for housing would be appropriate. In these circumstances, I consider that it would be premature to designate further land for housing at this location.

19. In relation to the southern part of the site, which adjoins an existing touring caravan and camp site, the proposal to extend the existing facility is not consistent with designation T1, which indicates that the expansion of the existing holiday caravan parks will be resisted in order to protect the overall environment of Findhorn. This southern part of the site also lies within the flood risk area on the Scottish Environment Protection Agency's latest flood maps. Accordingly, I consider that it would not be appropriate or advisable to encourage expansion of the existing Findhorn Bay Holiday Caravan Park.

#### Findhorn: OPP1 Boatyard

20. I note that part of this site lies within the 1:200 coastal flood extent. I agree that any proposals for residential use within this area should be supported by a flood risk assessment (FRA). This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. My recommended modification reflects this.

#### Findhorn: R1 Heathneuk

21. That part of the site located east of East Beach Road is carried forward from the adopted Moray Local Plan 2008. The capacity of the revised and enlarged R1 designation has been increased from 5 to 10 housing units. Access to the site is by way of Dunes Road, an un-adopted road, and the designation text requires this to be brought up to roads adoption standards. Whilst the eastern part of the site comprises an open grassed area, that part of the site to the west of East Beach Road comprises gorse scrub covered sand dunes that provide a visual screen for the housing in Elvin Place to the rear. This relatively narrow finger of land is included within the ENV8 designation in the adopted local plan. I concur with the views expressed by the objectors that the development of the area to the west of East Beach Road would further erode the semi-natural character of this access to Findhorn Dunes and, due to the proximity of the adjacent dwelling houses, would also have a detrimental effect on the residential amenity of the neighbouring dwellinghouses. I note that one of the principle objectives of the proposed plan is to ensure that any new development does not compromise the specific features of the village, including its enclosure by gorse and sand dune areas.

Accordingly, I cannot support the designation of the western part of site R1 for housing development. I consider, therefore, that designation R1 should be restricted to the area east of East Beach Road, with the capacity retained at 5 housing units, as proposed in the adopted local plan. My recommended modification reflects this.

22. I note that no development has taken place on the land to the east of East Beach Road, although the site has been designated for housing since 2008, and consider that the reduction in the capacity of the site to 5 house units, as proposed in the adopted local

plan, will have little impact on the housing land supply for Findhorn.

#### Findhorn: Residential Caravans

23. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Kinloss: OPP1 – Kinloss Home Farm

24. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances, this policy should provide appropriate protection of the water environment. However, I accept the view of the Scottish Environment Protection Agency (SEPA) that where a water body is of poor/moderate ecological status it may be at particular risk of being downgraded contrary to the Water Framework Directive. In this instance, I agree with SEPA that, in addition to the requirements of policy EP6, a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

#### Kinloss: R1 Woodland, west of Seapark House

25. I note that the majority of this site lies within the 1:200 coastal flood extent. I agree that any proposals for residential development within this area should be supported by a flood risk assessment (FRA). This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. I also note the council's agreement to the requirement for a species survey and protection plan, as well as a tree survey. In view of the woodland nature of the site and its evident ecological interest, I would concur with this view. My recommended modification reflects these requirements.

#### Kinloss: R2 Woodside East

26. I note the potential presence of groundwater dependant terrestrial ecosystems in or around this site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Kinloss: R3 Findhorn Road West

27. I note the potential presence of groundwater dependant terrestrial ecosystems in or around this site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater

dependant terrestrial ecosystems. I also note the proximity of the site to the Moray Firth Special Area of Conservation (SAC) and the Moray and Nairn Coast Special Protection Area (SPA). Accordingly, I agree with Scottish Natural Heritage (SNH) that the designation text should refer to a requirement for a construction method statement to assess the potential impact of any development on these environmental designations. My recommended modification reflects this.

#### Kinloss: R4 Damhead

28. This site is carried forward from the adopted Moray Local Development Plan 2008. The designation text refers to the Tree Preservation Order (TPO) that covers this wooded site. Development proposals are therefore required to comply with policy E4: Trees and the associated supplementary guidance, as well as respecting the requirements of the TPO. I note the potential presence of groundwater dependant terrestrial ecosystems in or around this site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. I also note the council's agreement to SNH's requirement for a species survey and protection plan.

29. In relation to transportation and road safety, the designation text refers to the requirement for an adoptable road to serve the site through existing site R2, including junction improvements at the junction with the B9089. A pedestrian crossing on the B9089 is also a requirement, together with a footway linking with the existing footway. As regards the concerns about drainage provision, policy EP5 requires a drainage assessment accompanies any development proposals.

30. In conclusion, I can find no justification for the removal of this site from the proposed plan, subject to the modifications recommended below.

#### Kinloss: RC Seapark Residential Caravan Park

31. I note the potential presence of groundwater dependant terrestrial ecosystems in or around this site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Rafford: Site not taken forward

32. This site comprises a large open field to the south of the village. It was not considered at the main issues stage of the local development plan process. A development on this site would project into open countryside and I consider that such development would not be well-related to the existing form of the village. By comparison, site R1 comprises an infill site and is much more desirable from a landscape impact point of view. No justification has put forward for the need for this addition site during the plan period.

#### Rafford: R1 Brockloch

33. This site has been carried forward from the adopted Moray Local Plan 2008. In relation to the concerns expressed regarding drainage and flooding issues, I note that the

designation text indicates the drainage arrangements required, including the satisfactory disposal of surface water. I also note that no objections to the designation have been received from the Scottish Environment Protection Agency, Scottish Water or the council's Flood Team to the continued designation of this site. The council points out that the drainage and flooding issues were comprehensively discussed at the public local inquiry into objections to the previous local plan, the now adopted Moray Local Plan 2008, where the Reporter found no basis for removing the designation for drainage reasons. There have been no changes in circumstances to warrant a different approach on this occasion. Accordingly, I conclude that the designation of site R1 for housing should be retained in the proposed plan.

### **Reporter's recommendations:**

Modify the local development plan as follows:

#### Dallas

1. Amend the boundary of ENV5 on the Dallas Settlement Plan to exclude the existing school and school playground (as shown on council document BD/14c/13).
2. Add the following to the designation text for Dallas, Site R1 Dallas School West: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

#### Dyke

3. Add the following to the designation text for Dyke, Site R1 North Darkless Road: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."
4. Add the following to the designation text for Dyke, Site R2 South Darkless Road: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

#### Findhorn

5. Amend the boundary of designation ENV3 to include only the Findhorn Heritage Icehouse and exclude the commercial ice house to the south west and the boat store between the commercial ice house and the foreshore.
6. On the Findhorn Map on page 180, add the designation ENV3 to the small area of land identified as 'ENV' on the council's document BD/14c/04a.
7. In the Findhorn text, under the heading 'Environment' on page 179, add a new designation "ENV9 Other Functional Greenspaces" with the following description: "Established parking areas with potential for use for overnight camper van parking subject to the principle use as car parks being retained and the environmental value of the surrounding dunes not being compromised."

8. Add the following to the designation text for Findhorn: OPP1 Boatyard: “Proposals should be supported by a flood risk assessment (FRA).”

9. On the Findhorn Map on page 180, amend the boundary of site R1 to exclude the land west of East Beach Road. Re-designate this area as ENV8. In the designation text for site R1, reduce the area and capacity to 0.9 hectares and 5 houses respectively and delete the final sentence commencing “Consultation with Scottish Natural Heritage.....”.

10. Add the following to the designation text for Findhorn: Residential Caravans: “A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems.”

#### Kinloss

11. Add the following to the designation text for Kinloss: OPP1 – Kinloss Home Farm: “A buffer strip of at least 6 metres between the development and the watercourse is required.”

12. Add the following to the designation text for Kinloss: R1 Woodland, west of Seapark House: “Proposals should be supported by a flood risk assessment (FRA). A walkover and photographic survey of habitats is also required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems. A species survey and protection plan, as well as a tree survey, should accompany any planning application for development on the site.”

13. Add the following to the designation text for Kinloss: R2 Woodside East: “A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems.”

14. Add the following to the designation text for Kinloss: R3 Findhorn Road West: “A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems. A construction method statement is required to ensure that the potential impact of the development on the Moray Firth SAC and Moray and Nairn Coast SPA is assessed and appropriate mitigation measures are considered at planning application stage.”

15. Add the following to the designation text for Kinloss: R4 Damhead: “A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems. A species survey and protection plan should accompany any planning application for development on the site.”

16. Add the following to the designation text for Kinloss: RC Seapark Residential Caravan Park: “A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems.”

<b>Issue 15a</b>	<b>Keith</b>	
<b>Development plan reference:</b>	<b>Keith Settlement Statement, page 215-226</b> <ul style="list-style-type: none"> <li>• R3 Edindiach Road West, page 216</li> <li>• R4 Balloch Road, page 216</li> <li>• R5 Seafield Walk, page 216</li> <li>• R9 Jessiman's Brae, page 217-218</li> <li>• OPP1 The Tannery, page 219</li> <li>• I2 Westerton Road South, page 218</li> <li>• I9 Burn of Haughs Bonded Warehouses, page 219</li> <li>• General</li> <li>• Not Taken Forward</li> </ul>	<b>Reporter:</b> Douglas Hope
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p><b><u>R3 Edindiach Road West</u></b>  Scottish Environment Protection Agency (0569)  Mr Kevin Mitchell (0595)  Mr Keith &amp; Ms Catherine Bowie (0620)  Ms Margaret Coull (0624)  Ms Marie Thompson (0640)  S Coull (0914)</p> <p><b><u>R4 Balloch Road</u></b>  The Moray Council Environmental Health (0186)  Scottish Environment Protection Agency (0569)</p> <p><b><u>R5 Seafield Walk</u></b>  Scottish Environment Protection Agency (0569)</p> <p><b><u>R9 Jessiman's Brae</u></b>  Scottish Environment Protection Agency 0569  Ms Tanya Dunlop (0575)</p> <p><b><u>OPP1 The Tannery</u></b>  S Wilson (0946)  W A Wilson (0947)</p> <p><b><u>I2 Westerton Road South</u></b>  Scottish Environment Protection Agency (0569)</p> <p><b><u>I9 Burn of Haughs Bonded Warehouses</u></b>  Scottish Environment Protection Agency (0569)</p> <p><b><u>Keith General</u></b>  NHS Grampian (0300)</p> <p><b><u>Not Taken Forward</u></b>  Mr &amp; Mrs G &amp; A Cruickshank (0627)  Mr Andrew Cruickshank (0930)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Statement showing sites proposed for development, including descriptive texts outlining their purpose and design requirements, for the second tier settlement of Keith.	

**Planning authority's summary of the representation(s):****R3 Edindiach Road West**

Scottish Environment Protection Agency (0569)

Site likely to have groundwater dependent terrestrial ecosystems on or around them. Require applications to be supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr Kevin Mitchell (0595), Mr Keith & Ms Catherine Bowie (0620)

Requests further consideration given to drainage and flooding given problems associated with low level site and associated damage to nearby culvert. Further housing could exacerbate problem.

Ms Margaret Coull (0624)

Seeks removal of site as land owner (respondee) does not intend to sell. Raises concern about exacerbation of flooding, sewage and traffic problems caused by more housing.

S Coull (0914)

Objects to designation as further housing would exacerbate flooding, traffic speed and existing parking, sewage and, school capacity issues. Concern about impact on key road junctions and safe access for emergency vehicles. Considers existing public transport provision to be limited. Considers development would have adverse impact on wildlife conservation, landscape and resources in other settlements. Other developments in area will also contribute to these problems.

Ms Marie Thompson (0640)

Boundary of site R3 should be redrawn to exclude existing housing.

**R4 Balloch Road**

The Moray Council Environmental Health (0186)

Seeks investigation of ground contamination issues before development commences.

Scottish Environment Protection Agency (0569)

Site likely to have groundwater dependent terrestrial ecosystems on or around them. Require applications to be supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

**R5 Seafield Walk**

Scottish Environment Protection Agency (0569)

Site likely to have groundwater dependent terrestrial ecosystems on or around them. Require applications to be supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

**R9 Jessiman's Brae**

Scottish Environment Protection Agency (0569)

Site likely to have groundwater dependent terrestrial ecosystems on or around them. Require applications to be supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

Ms Tanya Dunlop (0575)

Concern about increase in volume of traffic and associated safety particularly for children

given steep, narrow road with no pavements. Incompatible with Community Planning Vision 'to increase the quality of life and develop the well-being of everyone in Moray'.

### **OPP1 The Tannery**

S Wilson (0946), W A Wilson (09471)

Raise all or some of the following issues:

- Site is at medium to high risk of flooding and development will exacerbate flood risk elsewhere;
- Increase in traffic with exacerbate existing problems of dangerous access, proximity to poor junction and pedestrian safety crossing road to local shops;
- Increased parking on Union Street will restrict access for customers and create congestion;
- Site is contaminated.

### **I2 Westerton Road South**

Scottish Environment Protection Agency (0569)

Site likely to have groundwater dependent terrestrial ecosystems on or around them.

Require applications to be supported by results of a walkover and photographic survey of habitats to assess presence of potential wetlands.

### **I9 Burn of Haughs Bonded Warehouses**

Scottish Environment Protection Agency (0569)

Objects to site unless developer requirement stipulating a 'buffer strip of at least 6m between development and the watercourse is required' given that water body within site is at poor/moderate ecological status or at risk of being downgraded contrary to Water Framework Directive.

### **Keith General**

NHS Grampian (0300)

Seeks allocation of alternative site for Keith Health Centre given pressure additional housing will create and existing facility has no scope for physical expansion on current site. Supports need to secure developer contributions to mitigate negative impacts on operational health provision and emphasise that healthcare should be considered a valid commuted payment in lieu of affordable housing.

### **Not Taken Forward**

Mr & Mrs G & A Cruickshank (0627), Mr Andrew Cruickshank (0930)

Seek allocation of site south of ENV9 at Newmill Road as outlined on the attached plan (BD/15a/01). Raise all or some of the following comments:

- Report on road access geometry and visibility show transportation issues raised can be overcome;
- Relocation of 30mph speed limit sign would improve safety as would visibility splay proposed;
- Proximity to railway station;
- Woodlands planted to east create good boundary;
- Developer interest has been expressed; and,
- Site can be developed quickly in comparison to other sites in Keith.

**Modifications sought by those submitting representations:**

**R3 Edindiach Road West**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

Mr Kevin Mitchell (0595)

Infers inclusion for requirement to upgrade culvert to allow development of site.

Mr Keith & Ms Catherine Bowie (0620), Ms Margaret Coull (0624), S Coull (0914)

Remove site.

Mr Keith & Ms Catherine Bowie (0620)

Request area is used for flood management.

**R4 Balloch Road**

The Moray Council Environment Health (0186)

Amend text to include 'Possible contamination issues will need to be addressed'.

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

**R5 Seafield Walk**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

**R9 Jessiman's Brae**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

Ms Tanya Dunlop (0575)

Infers inclusion of requirement to ensure traffic increase does not impact on road safety and include as priority within development proposals.

**OPP1 The Tannery**

S Wilson (0946), W A Wilson (0947)

Suggest removing site.

**I2 Westerton Road South**

Scottish Environment Protection Agency (0569)

Suggest inclusion of requirement for walkover and photographic survey of habitats to assess presence of potential wetlands.

**I9 Burn of Haughs Bonded Warehouse**

Scottish Environment Protection Agency (0569)

Add requirement to I9 text stipulating that a 'buffer strip of at least 6m between development and the watercourse is required'.

**Keith General**NHS Grampian (0300)

Identify land for provision of healthcare facilities to accommodate population growth.

**Not Taken Forward**Mr Andrew Cruickshank (0930), Mr & Mrs G & A Cruickshank (0627)

Allocate site at Newmill Road.

**Summary of responses (including reasons) by planning authority:****R3 Edindiach Road West****Flooding**

Policy EP7 Control of Development in Flood Risk Areas ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. In addition, the Proposed Plan acknowledges localised flooding in Bridge Street, and stipulates that a Flood Risk Assessment will be required to identify solutions and ensure further development does not exacerbate the situation.

**Sewage**

Policy EP10 Foul Drainage requires that the satisfactory disposal of sewage through connection to the public sewage system. Where there is a lack of capacity, development will not be permitted unless Scottish Water has confirmed investment to address the constraint.

**Transportation**

The Proposed Local Development Plan states that “In the ultimate development of the site, road access will be provided from both Edindiach Road and Dunnyduff Road. Houses fronting Edindiach Road should be serviced internally with no individual accesses onto Edindiach Road itself. This will reduce vehicle movements and reduce on street parking, contributing to road safety. Footways should be provided along site boundaries where they do not already exist.”

**Site Boundary**

The recently constructed houses are included within the boundary of site R3 as they contribute to the indicative capacity of the site. Any future masterplan should incorporate these houses. Therefore it is not proposed to redraw the boundary.

**Environment**

No wildlife conservation or landscape concerns have been raised by key agencies: Scottish Natural Heritage, Scottish Environment Protection Agency or the RSPB Scotland. Given the location and topography of the site, it is not considered that development will have a detrimental impact on the landscape.

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text “It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands”.

Should the Reporter be so minded, the Council would not object to the inclusion of text as outlined above.

**Education**

A School Estate Review is currently being undertaken. Education Services have been consulted on the Proposed Plan and have raised no objection. Dialogue between Education Services and Development Plan officers is ongoing. Any impact on education facilities that emanates from the development will be mitigated via developer contributions.

No modification is proposed.

**R4 Balloch Road****Contamination**

The Council is amenable to the inclusion of a requirement for a ground contamination investigation before development commences, should the Reporter be minded.

The Council would have no objection if the Reporter were to make a modification as outlined above whereby the following text was added "A ground contamination investigation will be required".

**Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands".

Should the Reporter be so minded, the Council would not object to the modifications outlined above.

**R5 Seafeld Walk****Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands".

Should the Reporter be so minded, the Council would not object to the modification outlined above.

**R9 Jessiman's Brae****Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text "It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands".

Should the Reporter be so minded, the Council would not object to the modification outlined above.

**Transportation and Quality of Life**

Policy T2, Provision of Access, requires that the impact on the existing transport network and any necessary road improvements are addressed through a planning application. The Proposed Plan stipulates that off-site links will need to be provided into the surrounding footpath network thereby increasing pedestrian safety. Any road modifications/mitigation measures required will seek to conserve and enhance the quality of life for existing and new residents. This is in accord with the Community Planning Vision.

No modification is proposed.

**OPP1 The Tannery****Flooding**

Policy EP7 Control of Development in Flood Risk Areas ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. In addition, the designation text stipulates that a Flood Risk Assessment will be required to identify solutions and ensure further development does not exacerbate the situation.

**Transportation**

The Proposed Plan states that “Access onto the A96, with poor visibility to the south, is a constraint on possible uses, and activities with low traffic movement will be considered more suitable.”

**Contamination**

Policy ED5 Opportunity Sites sets out that a contaminated land assessment may be required, with remediation prior to re-development, given the historical use of the site. Proposals will be considered by the Moray Council Environmental Health (Contaminated Land) Service and the need for an assessment addressed at this stage.

No modification is proposed.

**I2 Westerton Road South****Environment**

If the Reporter is so minded, the Council is agreeable to the inclusion of the following text “It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands”.

Should the Reporter be so minded, the Council would not object to the modification outlined above.

**I9 Burn of Haughs Bonded Warehouses****Environment**

Given the ecological status of the waterbody within the site, the Council is agreeable to the additional text suggested by the Scottish Environment Protection Agency. The following wording is considered suitable “buffer strip of at least 6m between development and the watercourse is required”.

Should the Reporter be minded, the Council would not object to the modification outlined above.

**Keith General****Health Provision**

It is proposed that developer contributions will be sought to mitigate any impact on health provision that emanates from development in accordance with policy IMP3 Developer Obligations. This requirement will be set out within the forthcoming Supplementary Guidance on Developer Obligations which will be presented to Committee by the end of 2014 with the intention to adopt, following consultation, in early 2015. Dialogue with NHS Grampian is currently ongoing.

The Council needs to address affordable housing under the terms of policy H8 and would not be looking for commuted payments in lieu of affordable housing. Any identified health facility related developer contributions would be in addition to affordable housing

requirements.

In regard to the identification of a site for relocating health services, NHS Grampian has no firm proposals to expand and therefore a designation is not justified. Should this need arise, there is an adequate supply of opportunity and housing sites within Keith.

No modification is proposed.

### **Not Taken Forward**

#### **Newmill Road**

This site was submitted during the Main Issues Report public consultation. A response was provided in the Appendix to the Report on Representations received to the Main Issues Report that was presented to the Planning & Regulatory Services Committee on 6<sup>th</sup> June 2013 (CD06). This stated that the site could be supported if access arrangements could be agreed. Transportation Services remain of the view that satisfactory access arrangements cannot be achieved in terms of visibility splay requirements, third party land issues, speed/speed limits on the existing public road and, site topography. For these reasons, the site is not considered suitable for development.

No modification is proposed.

### **Reporter's conclusions:**

#### **R3 Edindiach Road West**

1. This site has been carried forward from the adopted local plan and there has been no change in circumstances to justify its removal from the local development plan. The designation text acknowledges the incidence of localised flooding in the adjoining Bridge Street and a flood risk assessment is required. Policy EP10 requires all new developments within settlements to connect to the public sewerage system. In relation to roads issues, policy T2 requires all new development proposals to provide the highest level of access and ensure that the impact of new development on the existing roads network is acceptable. The designation text sets out how this should be achieved on this site.

2. I note the reluctance of the owner of part of the site to make the land available for development but consider that the whole area bounded by Dunnyduff Road and Edindiach Road is appropriate for housing development and endorse the approach of the council that the development of the whole site should be co-ordinated within an overall layout. As regards the inclusion of the existing houses on Dunnyduff Road, I accept the council's reasoning that these recently constructed houses contribute to the overall indicative capacity of the site and that any future proposal for the site would be required to incorporate them in the layout.

3. In relation to the impact of any development on nature conservation or landscape interests, no concerns have been raised by Scottish Natural Heritage. However, I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

R4 Balloch Road

4. I note the potential contamination of this site and agree with the need to assess possible ground contamination and address/mitigate any contamination found. I also note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

R5 Seafield Walk

5. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

R9 Jessiman's Brae

6. This site has been carried forward from the adopted local plan and there has been no change in circumstances to justify its removal from the proposed plan. The designation text acknowledges that the steeply sloping nature of the site may affect access into the site and the internal layout. In relation to the concerns raised regarding increased traffic on Jessiman's Brae, policy T2 requires all new development proposals to provide the highest level of access and ensure that the impact of new development on the existing roads network is acceptable. The council indicates that any road improvements or mitigation measures necessary would seek to conserve or enhance the amenity of existing residents in accordance with the council's Community Planning Vision.

7. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

OPP1 The Tannery

8. In relation to the concerns expressed regarding the development of this site, the designation text requires a flood risk assessment. I agree that any proposals should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area of the site. As regards contamination issues, policy ED5 indicates that the historical use of 'opportunity sites' could require contaminated land assessments. The requirement for a contaminated land assessment in this case would be determined by the council's Environmental Health (Contaminated Land) Service on receipt of development proposals. In relation to transportation issues, the designation text recognises that access from the site to the A96 is a constraint on possible future uses. Subject to these issues being addressed at the planning application stage, there is no justification for the removal of this opportunity site from the proposed plan.

I2 Westerton Road South

9. I note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

I9 Burn of Haughs Bonded Warehouses

10. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances, this policy should provide appropriate protection of the water environment. However, I accept the view of the Scottish Environment Protection Agency (SEPA) that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In this instance, I agree with SEPA that, in addition to the requirements of policy EP6, a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

Health Provision

11. The comments of NHS Grampian in relation to developer contributions to healthcare provision are noted. Developer contributions in accordance with policy IMP3: Developer Obligations are considered under Issue 11a and the issue of affordable housing is considered under Issue 4c. In relation to the designation of a specific site for enhanced healthcare provision in Keith, the council points out that there are no firm proposals for expansion and consequently a site-specific designation for new healthcare facilities is not justified. In any event, there is an adequate supply of opportunity sites within the built-up area that could accommodate healthcare facilities. Accordingly, I am satisfied that a specific allocation in the proposed plan is neither necessary nor appropriate.

New housing site at Newmill Road

12. I note that the council's Transportation Service is unable to support the designation of this site for housing due to the inadequate access arrangements in terms of visibility splay requirements, which would require third party involvement, traffic speeds on the existing public road and site topography. I have considered the submitted report on road access geometry but, based on the advice of the council's Transportation Service and my own site inspection, I am unable to support the designation of the site for housing due to the difficulties of achieving satisfactory access arrangements.

**Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the designation text for sites R3 Edindiach Road West; R4 Balloch Road; R5 Seafeld Walk; R9 Jessiman's Brae; and I2 Westerton Road South; :  
 "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

2. Add the following to the designation text for site R4 Balloch Road: "A ground contamination investigation will be required."

3. Add the following to the designation text for I9 Burn of Haughs Bonded Warehouses: "A buffer strip of at least 6 metres between the development and the watercourse is required."

Issue 15b	Other Keith Local Housing Market Area (LHMA)	
Development plan reference:	<b>Newmill Settlement Statement, page 254-256</b> <ul style="list-style-type: none"><li>• R1 Isla Road, page 254-255</li><li>• R2 Gap Sites/Sub Divisions, page 255</li><li>• General</li></ul> <b>Rothiemay Settlement Statement, page 273-275</b> <ul style="list-style-type: none"><li>• R1 Castle Terrace, page 273</li><li>• R3 Deveronside Road, page 274</li></ul>	<b>Reporter:</b> Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<b><u>Newmill</u></b> <b><u>R1 Isla Road</u></b> Ms Sheila Nicoll (0617) Mr Rodney Lovie (0641) <b><u>R2 Gap Sites/Sub Divisions</u></b> Mr Rodney Lovie (0641) <b><u>General</u></b> Mr Rodney Lovie (0641) <b><u>Rothiemay</u></b> <b><u>R1 Castle Terrace</u></b> Mr David Smith (0618) <b><u>R3 Deveronside Road</u></b> Mr Martin Hosie (0948)		
Provision of the development plan to which the issue relates:	Statement showing sites proposed for development, including descriptive texts outlining their purpose and design requirements, for the third tier settlements of Newmill and Rothiemay.	
Planning authority's summary of the representation(s):		
<b><u>Newmill</u></b> <b><u>R1 Isla Road</u></b> <u>Ms Sheila Nicoll (0617)</u> Concerned about road safety with increase in houses. Seeks road widening and turning circle.  <u>Mr Rodney Lovie (0641)</u> Concerned about impact of development on drains given past experience of infill buildings. Seeks requirement for Flood Risk Assessment and that planning consents include a condition regarding maintenance and diversion of drains.  <b><u>R2 Gap Sites/Sub Divisions</u></b> <u>Mr Rodney Lovie (0641)</u> Concerned about impact of development on drains given past experience of infill buildings. Seeks requirement for Flood Risk Assessment and that planning consents include a condition regarding maintenance and diversion of drains.		

**General**

Mr Rodney Lovie (0641)

Seeks amendment to 4<sup>th</sup> bullet point of hierarchy status/objectives/issues section of settlement statement in that flooding remains a threat for the majority of the village who are not protected by flood alleviation measures.

**Rothiemay**

**R1 Castle Terrace**

Mr David Smith (0618)

Concerned about impact on privacy, outlook and overdevelopment.

**R3 Deveronside Road**

Mr Martin Hosie (0948)

Seeks removal of site due to flooding. Site has a history of flooding particularly around entrance to site. Recent development and alterations to river will result in more flooding given River Deveron is effectively damned. Seeks clarity on location of footpath provision and property affected.

**Modifications sought by those submitting representations:**

**Newmill**

**R1 Isla Road**

Ms Sheila Nicoll (0617)

Include reference to road widening and provision of turning circle.

Mr Rodney Lovie (0641)

Include requirement for Flood Risk Assessment and condition stipulating development will not damage drains.

**R2 Gap Sites/Sub Divisions**

Mr Rodney Lovie (0641)

Include requirement for Flood Risk Assessment and condition stipulating development will not damage drains.

**General**

Mr Rodney Lovie (0641)

Suggests amendment to 4<sup>th</sup> bullet point of hierarchy status/objectives/issues of settlement statement to reflect majority of flood alleviation measures.

**Rothiemay**

**R1 Castle Terrace**

Mr David Smith (0618)

Seeks demolition of no.6 and no.8 to achieve better layout.

**R3 Deveronside Road**

Mr Martin Hosie (0948)

Remove site R3.

**Summary of responses (including reasons) by planning authority:****Newmill****R1 Isla Road****Transportation**

The site text states that roads may need to be widened with a footway and service layby along the frontage of the site. Safe entry and exit for all road users, including emergency and refuse vehicles, will be addressed at the planning application stage.

**Flooding & Drainage**

Policy EP7, Control of Development in Flood Risk Areas, ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. The Proposed Plan acknowledges that there has been some surface water flooding experienced in Newmill in the past and stipulates the requirement for a Flood Risk Assessment. It is considered that a Drainage Impact Assessment should also be a requirement of any potential development application. Conditions placed on a planning consent need to meet the six tests set out in Circular 4/1998 Use of Conditions in Planning Permissions (CD37). They need to be used for a specific end rather than cover every eventuality. The planning application process is the most appropriate means to determine the use of conditions.

Should the Reporter be so minded, the Council would not object to the inclusion of the following text (after 'a flood risk assessment') "and drainage impact assessment may be required".

**R2 Gap Sites/Sub Divisions****Flooding & Drainage**

Policy EP7 Control of Development in Flood Risk Areas ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. Conditions placed on a planning consent need to meet the six tests set out in Circular 4/1998 Use of Conditions in Planning Permissions (CD37). They need to be used for a specific end rather than cover every eventuality. The planning application process is the most appropriate means to determine the use of conditions.

No modification is proposed.

**General****Flooding & Drainage**

Should the Reporter be so minded, the Council is agreeable to amending the 4<sup>th</sup> bullet point of the settlement hierarchy status/objectives/issues to state that "Some localised surface water flooding from hillsides has been experienced, but flood alleviation have been carried out to address the East side of the village."

Should the Reporter be so minded, the Council would not object to the modification as outlined above.

**Rothiemay****R1 Castle Terrace**

Issues concerning privacy and overdevelopment will be addressed through a planning application. Private outlook is not a material consideration. Acquirement/demolition of property in private ownership is a matter for the developer. It is considered that an

appropriate layout can be achieved within the site boundary.

No modification is proposed.

### **R3 Deveronside Road**

Policy EP7 Control of Development in Flood Risk Areas ensures that potential risk from flooding will be adequately considered through planning applications and satisfactory mitigation measures put in place, where necessary. The Proposed Plan acknowledges that a Flood Risk Assessment may be required due to the presence of a watercourse on site and that water resilient measures should be considered as part of this. The detail of a footpath/cycleway link into the playing field will be determined through the layout at planning application stage.

No modification is proposed.

### **Reporter's conclusions:**

#### **Newmill: R1 Isla Road**

1. In relation to road safety, the designation text indicates that Isla Road may need to be widened with a footway and service layby along the frontage of the site. The details of any road widening would be determined at the planning application stage. The designation text also indicates that the number of housing units should not exceed 10. I am satisfied that the designation text, together with the requirements of policy T2 of the proposed plan, provide sufficient safeguards for the provision of safe access to this site.

2. In relation to the potential for surface water flooding, the designation text acknowledges the previous surface water flooding experienced in Newmill and indicates that a flood risk assessment (FRA) may be required in respect of the development of this site. Policy EP7 also ensures that potential risk from flooding would be considered at the planning application stage. Furthermore, I note that there are no objections to the designation of this site from the Scottish Environment Protection Agency (SEPA) on the grounds of flood risk. Accordingly, I can find no justification for making a FRA mandatory in this instance.

3. In relation to any potential effect on existing drainage within the adjoining fields, the council suggests that a drainage impact assessment should be a requirement of any proposed development and, given the history of flooding in the area, I concur with this view. My recommended modification reflects this.

#### **Newmill: R2 Gap Sites/Sub Divisions**

4. In relation to the potential for surface water flooding in Newmill generally, bullet point 4 under the heading 'Hierarchy Status/Objectives/Issues' indicates that flood alleviation measures have been carried out to address localised surface water flooding from nearby hillsides. In response to the representation, the council acknowledges that the flood alleviation measures only protect the east side of the village and accepts that bullet point 4 should be amended accordingly. I agree that bullet point 4 should be amended to accurately reflect the position.

5. In relation to the development of gap sites and the sub-division of sites within the village, policy EP7 ensures that the potential risk from flooding would be addressed at the

planning application stage when proposals for individual sites are submitted. I also note that there are no objections, in this respect, from SEPA on the grounds of flood risk. Accordingly, I can find no justification for making a FRA a mandatory requirement for proposed developments within site R2.

#### Rothiemay: R1 Castle Terrace

6. This site has been carried forward from the adopted local plan and there has been no change in circumstances since the adoption of the Moray Local Plan 2008 that would justify the removal of this site from the proposed plan. In relation to the concerns raised regarding impact on privacy, outlook and overdevelopment, given the size of the site, there is nothing to suggest that these matters could not be satisfactorily addressed at the planning application stage. In this respect, I note that planning permission was granted in November 2014 for the erection of eleven houses on the site.

#### Rothiemay: R3 Deveronside Road

7. From the evidence submitted by the respondent, it is clear that the site has a history of flooding. The council acknowledges the potential risk of flooding and the designation text refers to the requirement for a flood risk assessment (FRA) given the south-west corner of the site lies within the 1 in 200 year indicative flood map. Although the Scottish Environment Protection Agency (SEPA) does not require a FRA in this instance, I agree that any proposals for the site should be supported by a flood risk assessment, the outcome of which may affect the developable area of the site. This reflects Scottish Planning Policy, paragraph 255, which promotes a precautionary approach to flood risk.

8. In relation to the provision of a footpath link with Main Street, the designation text makes it clear that this is likely to require third party agreement. Nevertheless, I consider that the creation of a footpath link to Main Street would be desirable, on road safety grounds, and it is appropriate that the proposed plan should express this desire.

#### **Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the designation text for Newmill, Site R1 Isla Road: "A drainage impact assessment will be required."
2. Replace the word 'this' at the end of bullet point 4 under the heading Newmill: Hierarchy Status/Objectives/Issues by the words: 'the east side of the village'.

Issue 16a	Speyside Local Housing Market Area	
Development plan reference:	<p><b>Aberlour settlement statement, page 88-91</b></p> <ul style="list-style-type: none"> <li>• R4 Speyview P89/90</li> </ul> <p><b>Archiestown settlement statement, page 100-101</b></p> <ul style="list-style-type: none"> <li>• R1 East End, page 100</li> </ul> <p><b>Craigellachie settlement statement, page 125-127</b></p> <ul style="list-style-type: none"> <li>• R1 Edward Avenue, page 125/126</li> <li>• R2 Spey Road, page 126</li> <li>• R3 Site of Former Brewery, page 126</li> </ul> <p><b>Dufftown settlement statement, page 140-142</b></p> <ul style="list-style-type: none"> <li>• R1 Corsemaul Drive, page 140</li> <li>• R2 South of Conval Street, page 141</li> <li>• R3 Hillside Farm, page 141</li> <li>• R4 Tomnamuidh, page 141</li> <li>• NTF Ardachaidh</li> </ul> <p><b>Rothies settlement statement, page 266-269</b></p> <ul style="list-style-type: none"> <li>• R1 Spey Street, page 266</li> <li>• R2 Green Street, page 267</li> </ul>	Reporter: Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Aberlour</u></b>  <b><u>R4 Speyview</u></b>  Simon Dix (0636)  Gordon and Pauline Gilbert (0695)  Robert and Nancy Keir (0731)  Lee Philip (0910)  Sheena Zakeri (0962)  Mr and Mrs James Forsyth (0964)  Robert Aylward (1002)</p> <p><b><u>Archiestown</u></b>  <b><u>R1 East End</u></b>  Scottish Environment Protection Agency (0569)</p> <p><b><u>Craigellachie</u></b>  <b><u>R1 Edward Avenue and R3 Site of Former Brewery</u></b>  John Dewar and Sons Ltd (0906)</p> <p><b><u>R2 Spey Road</u></b>  Mr A Nicol (0587)  Mr Brian G Sillars (0646)</p> <p><b><u>Dufftown</u></b>  <b><u>R1 Corsemaul Drive</u></b>  Dufftown and District Community Council (0522)  Cabrach Community Association (0674)  Mrs Jean Oliver (0996)</p> <p><b><u>R2 South of Conval Street</u></b>  Dufftown and District Community Council (0522)</p>		

<p>Cabrach Community Association (0674)  Mrs C Mitchell (0684)  Callum Hart (0966)  Mrs Jean Oliver (0996)  <b><u>R3 Hillside Farm</u></b>  Dufftown and District Community Council (0522)  Cabrach Community Association (0674)  Mrs Jean Oliver (0996)  <b><u>R4 Tomnamuidh</u></b>  James Nicol (0683)  Mrs Marion Cassidy (0747)  Theresa Robertson (0943)  Mr J Hendry (0993)  Mrs S Robb (0994)  Val Lord (1036)  <b><u>Site not taken forward at MIR stage (R5) Ardachaidh</u></b>  Mr and Mrs Munro (0089)  <b><u>Roths</u></b>  <b><u>R1 Spey Street</u></b>  Julie and Duggie Christie (0950)  Debby Holmes (1021)  <b><u>R2 Green Street</u></b>  Roths and Aikenway Fishings Ltd (0752)</p>	
<p><b>Provision of the development plan to which the issue relates:</b></p>	<p>Identifies sites for residential development to meet the housing land requirements for the Speyside Local Housing Market Area.</p>
<p><b>Planning authority's summary of the representation(s):</b></p>	
<p><b><u>Aberlour</u></b>  <b><u>R4 Speyview</u></b>  <b><u>Proposed footpath links</u></b>  <u>Simon Dix (0636)</u>  Object to the footpath/cycle link indicated running along the houses along Speyview/A95, in particular its proposed spur which runs down through a privately owned plot of land between Heathersett and Lilybank.</p> <p><u>Sheena Zakeri (0962)</u>  Do not wish footpath shown in Proposed Plan to subdivide land as it will render the field futile for future use. It is ill advised to be exiting a pathway onto this busy main road.</p> <p><b><u>Roads Issues</u></b>  <u>Robert and Nancy Keir (0731)</u>  Extremely dangerous entrance on an existing corner. The proposed entrance appears reckless.</p> <p><u>Gordon and Pauline Gilbert (0695)</u>  The site is on a busy fast stretch of the A95 and traffic could be increased by between 100 and 400 cars. The proposed access is just above a blind corner, where traffic is accelerating.</p>	

Lee Philip (0910)

Access is situated on corner of busy A95, the speed of traffic travelling north down the hill is a major concern. Concern for children walking down busy A95 to school and running out onto the A95 from the site.

Robert Aylward (1002)

The proposed access is on a dangerous bend with poor visibility and fast/heavy traffic. 100 houses equates to 200 additional cars there are already parking problems in the village where will cars park when visiting village shops and amenities.

Mr and Mrs James Forsyth 0964)

Access will be on a busy and dangerous corner.

**Private Water Supply**

Sheena Zakeri (0962)

All residents of Speyview are currently in negotiation with Scottish Water to connect to an adequate water supply and this is costing each household a lot of money.

Gordon and Pauline Gilbert (0695)

The current water supply is from a private spring and frequently there is a poor supply of water.

Householders are currently in consultation with Scottish Water regarding possibility of public water supply connection. Where would the water be sourced from, seems unfair that existing householders will spend money for a basic necessity and a proposal for 100 homes comes along onto the private water supply.

Lee Philip (0910)

Water is a major concern to all houses that are currently served by private water supply, huge investment required to put in Scottish Water infrastructure.

Robert Aylward (1002)

Households on the private water supply are paying for the process of possible mains water supply not for the benefit of a developer existing water pipes are within the site.

Robert and Nancy Keir (0731)

The proposed development would stand on top of our water supply pipes and continuation of the existing water supply is concerning as do not wish to be forced to accept mains water.

Mr and Mrs James Forsyth (0964)

Water is currently supplied by Mr Brown at Rinnachat farm and very concerned new houses will interfere with supply.

**Impact on locality**

Mr and Mrs James Forsyth (0964)

Accustomed to seeing the lovely countryside both at the front and rear of the house. Concerned at noise, light pollution.

Robert Aylward (1002)

100 houses are excessive. Schools could not accommodate this level of development and are already possibly absorbing pupils from schools which are closing. The site is

habitat for red squirrel, badger, fox, and birds of prey. If the village becomes more built up it will be less attractive and fishers and tourists will go elsewhere. How will the huge amount of extra sewage be managed? Increased light, noise and carbon pollution is unacceptable in a rural area.

Robert and Nancy Keir (0731)

100 houses and industrial units would result in complete destruction of our quality of life. As well as unnecessary loss of valuable farming land, idyllic setting and wildlife and birds. Views of the Conval Hills would be replaced by light pollution, visual pollution and noise pollution. Result in an unacceptable transformation of the locality as it presently exists. No investigation appears to have been carried out regarding potential badger population or archaeological remains.

Gordon and Pauline Gilbert (0695)

There will be a huge impact on current homeowners privacy and the current proposed land for development is significantly higher than existing properties.

Lee Philip (0910)

The site is good greenbelt farming land and home to many species of wildlife which has been displaced by Tomnabent. Site is difficult to develop due to the sloping field.

**Other Issues**

Lee Philip (0910)

There is large potential for these houses to be buy to lets for the holiday market and will not address the housing shortage for people in Moray.

Robert Aylward (1002)

There is already plenty of employment land at the north end of the village.

**Archiestown**

**R1 East End**

Scottish Environment Protection Agency (0569)

The water body within the site is at poor/moderate status or risk of being downgraded contrary to the Water Framework Directive. Object to inclusion unless a buffer strip of at least 6m between development and watercourse is required within the designation text. Recommended applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**Craigellachie**

**R1 Edward Avenue and R3 Site of Former Brewery**

John Dewar and Sons Ltd (0906)

Sites are not required to meet modest local housing demand in Craigellachie. Even if they were removed based on average house completion rates there would be sites R2 and R4 that would provide an effective supply and present more appropriate sites for housing in Craigellachie.

The local distillery would present a bad neighbour due to the operational activities of the distillery certain noise levels are generated and expected which would affect the amenity level of any directly adjacent dwellings. The housing would need to take significant measures to mitigate the disruption of the distillery operations which would occur 7 days a week. To allow residential sites directly adjacent to the distillery could prevent future expansion. Maintaining this allocation would hamper the continued operation and

potential growth of a distillery which is a significant driver of the local and wider economy.

Access to the site is key and further residential development in the area would significantly disrupt this daily operational activity. There may also be contamination issues at the Former Brewery site due to its former use. This would result in further studies and strategies being required to ensure the land is appropriate for residential development.

### **R2 Spey Road**

Mr A Nicol (0587)

The development site is on the steep side of the valley of the River Fiddich. The houses would be built on a sixty degree slope. It would be interesting to see how they would be built. It would be quite a costly venture.

Mr Brian G Sillars (0646)

Concern about an additional 30-40 cars using Spey Road. The current access and exit onto the A95 is a hazard at present. The banking going up Spey Road is unstable and does not have a crash barrier and there is a near vertical drop. There is a blind corner and there have already been numerous minor collisions. There is no pavement on either side of this narrow road. The entrance from the Dufftown to Spey Road is very narrow and something will have to be done at this junction.

The sewage system is not capable of supporting all the proposed development in Craigellachie.

Previous floods on Spey Road from Highfield have led the Council to create water run offs into the site.

### **Dufftown**

#### **R1 Corsemaul Drive**

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

Footpaths used, and kept on an informal basis should be adopted at development stage. There should be a path link to the path network beyond Mortlach Distillery.

#### **R2 South of Conval Street**

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

Footpaths within development should link to existing paths.

Mrs C Mitchell (0684)

With 166 houses where will all the children go to school and what about jobs? Disagree with amount of houses.

Callum Hart (0966)

Access is shared to St Michaels Cottages and if closed then as occupiers any loss of amenity should be compensated. If plans are for high quality, well designed housing then this should not be to the detriment of residents. Council should look to develop brownfield sites and existing unused or partially used industrial site, before utilising greenfield land. Should develop OPP1, I1 and Hillside Farm first. Farmland should be a last resort. Where will people work, need better signage for walkers, will there be adequate services. Is there enough water and sewage capacity?

### **R3 Hillside Farm**

Dufftown and District Community Council (0522)

Too large a site relative to Dufftown, influx of population, increased traffic, adverse impact on character and physical layout of village. Drainage and no mention of improvements, will sewage works cope.

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

The trees on the western boundary should have a TPO as the intention is to create a settlement boundary.

### **R4 Tomnamuidh**

James Nicol (0683)

Will new buildings result in changes to other services which will need to be looked at like water supply? There have been issues in the past with water tankers filling the reservoir at the top of the town. Will the sewage plant need to be upgraded will it cope?

Mrs Marion Cassidy (0747)

If access is to be taken via Tomnamuidh Road suggest that a path is created to the rear of existing properties so it is possible to take cars to the rear and place bins out for collection.

Theresa Robertson (0943)

Access to the site is very narrow and not fit for larger vehicles, cars parked on Tomnamuidh will block the proposed access. There is not enough space for two cars to exit and enter the site at the same time. Where will the bins be collected from, potentially an extra 15 bins which will be sitting outside someone else's house. What height are the houses, do not want privacy compromised.

Mr J Hendry (0 994), Mrs S Robb (0993)

Now that access deliverability has been established, R4 designation should be extended to the remaining larger area beyond the five houses to recognise the longer term potential for a larger development taken of Tinniver Street.

Val Lord (1036)

No more residential development required in Dufftown given the large number of properties empty or for sale. Density is high enough. Adverse impact on property would overlook and be obtrusive. Access land runs up against property. Concern that rain water will drain into garden.

### **Site not taken forward from MIR (R5) Ardachaidh**

Mr and Mrs Munro (0089)

Disagree with the findings with regards to Ardachaidh site with regards to access. (BD/16a/02).

### **Roths**

#### **R1 Spey Street**

Julie and Duggie Christie (0950)

The proposed access route to and from the site is not safe. Spey Street is already congested and there have been a number of near misses due to parked cars obscuring visibility. Roths has lost its library, post office and bank, why build homes when there are no amenities.

**Debby Holmes (1021)**

The access via Spey Street is limited and there have been a number of near misses at the junction of Benaigan View and Benaigan Way. The proposed secondary access will have limited use as it is single carriageway and could be quite congested. Emergency vehicles and public service vehicles have difficulty and further housing will impose further limitations. There is no demand for further housing, if there is demand it should be met at Greenfield Farm Steading which has better and safer access.

**R2 Green Street**

**Roths and Aikenway Fishings Ltd (0752)**

Concern that proposals take account of sensitivities of fishery business on the River Spey. Access to a stretch of the River Spey runs through the middle of R2. Do not object to route being changed but require continuation of the access that is fit to take agricultural vehicles and excavators.

40 additional houses will increase pressure on sewage works that are already at capacity. Activity in the area will increase and consideration should be given to the fishery business. A fence should be erected around the site or alternatively a green boundary with hedging.

The area to the east of R2 has in the past been flooded from run-off from Green Street and adjacent land. Any expansion would require additional discharge and wish to be involved in consideration of this so this can cause least damage to the River Spey Special Area of Conservation (SAC)

**Modifications sought by those submitting representations:**

**Aberlour**

**R4 Speyview**

**Simon Dix (0636)**

Use and extend existing footpath beside the A95 all the way along to the proposed gateway entrance.

**Sheena Zakeri (0962)**

Pathway through ground should be deleted.

**Robert and Nancy Keir (0731)**

No development on site.

**Gordon and Pauline Gilbert (0695)**

Build development away from present properties and use trees as natural screening to safeguard privacy. Find out where water supply is coming from. Change proposed access as it is on an extremely dangerous part of the road.

**Lee Philip (0910)**

Delete site from plan.

**Robert Aylward (1002)**

Build fewer houses in well populated areas with services in place and within walking distance. Less disruptive to environment and wildlife.

Mr and Mrs James Forsyth(0964)

Delete site from plan.

### **Archiestown**

#### **R1 East End**

Scottish Environmental Protection Agency (0569)

Add text stipulating that a “buffer strip of at least 6m between the development and the watercourse is required.

### **Craigellachie**

#### **R1 Edward Avenue and R3 Site of Former Brewery**

John Dewar and Sons Ltd (0906)

Remove designations from plan.

### **R2 Spey Road**

Mr A Nicol (0587)

Consideration should be given to construction and overcoming topography of the site.

Mr Brian G Sillars (0646)

Potential road improvements to support development.

### **Dufftown**

#### **R1 Corsemaul Drive**

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

Requirement for paths to be to adoptable standard and link into existing path network.

#### **R2 South of Conval Street**

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

Requirement for paths to link into existing path network

Mrs C Mitchell (0684)

Decrease amount of housing or build another school.

Callum Hart (0966)

Development should be stipulated as being high quality with minimum impact on existing residents Brownfield sites should be developed before greenfield sites.

### **R3 Hillside Farm**

Cabrach Community Association (0674), Mrs Jean Oliver (0966), Dufftown and District Community Council (0522)

TPO trees on western boundary. Implies reduction in number of houses allocated within the plan for Dufftown

### **R4 Tomnamuidh**

James Nicol (0683)

Address sewage and water supply issues.

Marion Cassidy (0747)

Address access and servicing issues.

**Theresa Robertson (0943)**

Improve access by expanding access. Refuse to be collected outside owners houses.

**Mr J Hendry (0993), Mrs S Robb (0994)**

Amend text "The site is suitable for 5 houses from the lane off Tomnamuidh Street, and has longer term potential for up to 30 houses taking access off Tomnamuidh Street. The larger development would require a footway/cycleway linking Tomnamuidh Street to Tinniver Street and drainage issues would have to be addressed".

**Val Lord (1036)**

Remove site from plan.

**Site not taken forward from MIR (R5) Ardachaidh**

**Mr and Mrs Munro (0089)**

Designate site in plan.

**Rothes**

**R1 Spey Street**

**Debby Holmes (0 950), Julie and Duggie Christie (1021)**

Delete site from plan

**R2 Green Street**

**Roths and Aikenway Fishings Ltd (0752)**

Designation to take account of impact on adjacent fishery business.

**Summary of responses (including reasons) by planning authority:**

**Speyside Context**

The Local Development Plan identifies land for a further 245 houses plus LONG designations within the Speyside Local Housing Market Area. This includes a 50% flexibility allowance to ensure that there are opportunities for local housing demand to be met. The Moray Council Housing Need and Demand Assessment 2011 (CD12) identifies a need for 48 houses per year in Speyside of which 83% are required to meet demand for affordable housing.

Topographical and roads constraints have meant that it has proven difficult to identify deliverable sites. None of the sites in the Moray Local Plan 2008 have been progressed. In order to increase certainty for developers and make investments more attractive, a longer term view of the expansion of Aberlour and Dufftown has been taken. This has resulted in the proposed allocation of significant sites for a larger volume of houses. It is envisaged that these large scale sites will be developed in phases over a 10 to 20 year period adopting a masterplan approach involving potentially multiple developers.

**Aberlour**

**R4 Speyview**

**Proposed Footpath Links**

The design principle maps are intended to illustrate potential linkages and demonstrate connectivity to the public road network. The details of the provision of footpaths and connectivity through the site and to the wider roads network will be considered as part of any planning application submitted for the site. Opportunities to create safe and attractive pedestrian routes and connections to the existing network should be sought. There is no reference to this specific link within the designation text.

If the Reporter is so minded the Council would not object to the deletion of the pedestrian link between Heathersett and Lilybank shown on the design principles map (Proposed Plan Pg 95)

### **Roads Issues**

Preliminary assessment has concluded that an access can be provided to the site. The exact location, detailed design and any Road Safety Audit would be concluded through planning and roads construction consent processes. The designation text in the proposed plan acknowledges requirement for footways along the sites frontage onto the A95 and that additional works may be required for existing footways and crossings on the A95 to provide safer route for pedestrians and for routes to school. Opportunities to enhance the pedestrian and cycle connections will require consideration as part of any future planning application in accordance with the requirements of Policies T2 (Provision of Access) and T7 (Safeguarding and promotion of walking, cycling and equestrian networks). No modification is proposed.

### **Private Water Supply**

The development of the site for 100 houses will require the installation of both mains water and a public sewer connection. It is understood that nearby residents are currently in negotiation with Scottish Water to connect to the mains water supply. On the basis that the Moray Local Development Plan is scheduled for adoption in late 2015 and there is no developer/ house builder attached to the site at present, it is unlikely that the timescales would mean that this site if allocated could assist in financing the necessary infrastructure.

It is accepted that providing mains water and a public sewage connection is likely to require significant investment. The level of investment required means there is a need to plan for an appropriate level of housing in the longer term to make the site economics viable. The Council has identified the need to work with Scottish Water to establish the current situation as regards sewage treatment works capacity, where connections can be made to the water supply network, costs associated with upgrading and the feasibility of implementing required works.

As part of the planning application process the developer will have to undertake site investigations which would include identifying pipe work and any boreholes that are currently on site and to ensure that these are not impacted upon as a result of the development. Residents will not be made to connect to a public water supply as a result of a planning condition or any legal agreement associated with a planning application.

No modification is proposed.

### **Impact on locality**

The development of the site will require numerous issues to be addressed as part of the planning application, including impact on wildlife, privacy and amenity, landscape and visual impact, noise and light pollution, infrastructure and servicing. Key agencies including Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage have been involved in the preparation of the plan and provided comments on all sites proposed for allocation. These comments have been incorporated within the designation text and hence the requirements for a badger survey, archaeological evaluation, flood risk assessment and highlighting the need to address drainage on site to avoid any adverse impact on the River Spey Special Area of Conservation.

The designation text refers to the preparation of a detailed development brief which will seek to incorporate high standards of design quality, placemaking and ensure that the development fits into the landscape. The design principles map shows a significant structural planting belt that is required to provide containment to the site when approaching Aberlour on the A95.

In terms of the ability of infrastructure and services to accommodate the level of development proposed, this is a long term release. As set out in the context a different approach has been taken due to the challenges of delivering housing the Speyside Local Housing Market Area. Aberlour is the main service centre for Speyside with the primary school, secondary school and services and therefore the most appropriate location for an expansion of the scale proposed. It is anticipated that the site will be developed over a 10 to 20 year period which will lessen the impact on service provision. As stated above the Council intends to work closely with Scottish Water to establish the infrastructure requirements needed to support the proposed designation. Developers are required to contribute where a measurable adverse negative impact upon existing infrastructure, community facilities or amenity is identified. Contributions would have to be appropriate to reduce, eliminate or compensate for any identified impact.

No modification is proposed.

### **Other Issues**

The tenure of housing will be established at the planning application stage. There will be a requirement for at least 25% of the housing units to be for affordable housing that will be allocated to meet local demand. It is envisaged that the site will accommodate a mixture of housing types ranging from social housing to large individual plots offering self build opportunities and could be taken forward by multiple developers.

There are limited opportunities for bringing forward employment land at the north end of the village. It is considered that there is scope to accommodate a small scale release of land for low intensity industrial uses that are compatible with residential to meet demand from local businesses looking to expand or requiring business premises. The option for including employment land was also viewed as a potential means to help finance the infrastructure requirements for the site.

No modification is proposed.

### **Archiestown**

#### **R1 East End**

If the Reporter is so minded the additional text suggested by Scottish Environment Protection Agency should be added into the site designation text. The following wording is considered suitable "buffer strip of at least 6m between development and the watercourse is required."

If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable "A walkover and photographic survey of habitats is required to assess for the presence of wetlands."

### **Craigellachie**

#### **R1 Edward Avenue and R3 Site of Former Brewery**

The distillery is located within a village setting and surrounded by residential properties.

The designation text for site R1 and R3 makes reference to the need to take account of the potential for excessive noise from the distillery. On this basis any planning applications will have to be supported by a noise impact assessment addressing this. The designation text for R3 specifically references the requirement for a landscaping strip the size of which will be dictated by said noise impact assessment. Ultimately, the Council as Planning Authority will have to be satisfied that there would be no adverse impact on future occupiers of the site as a result of proximity to the distillery prior to granting planning permission.

There is no justification given to demonstrate how development of the sites would impact on access to the distillery. The potential for contamination on site R3 is acknowledged within the designation text and would also require to be addressed. The deletion of the sites for residential use would not preclude development proposals from coming forward as the sites would be white land within the Craigellachie settlement boundary. If as inferred these sites are critical to future operation of the distillery then consideration should be given to acquiring them to ensure no development takes place. The next review of the Local Development Plan would offer the opportunity for consideration of whether or not other land uses could be considered on site so as to expand the distillery complex.

It has not been established that additional residential development cannot be accommodated adjacent to the distillery. The designation text highlights the pertinent issues that require consideration to safeguard both the distillery and future occupiers of the site.

No modification is proposed.

### **R2 Spey Road**

There will be challenges in developing the site and the gradient is acknowledged within the settlement text. There is a requirement to provide a construction method statement setting out how the developer proposes to develop on this steep bank. The financial implications of constructing housing on this site are a consideration for the developer.

In respect of roads issues the site is considered acceptable for development subject to detailed consideration of any proposal at the planning application stage. The gradient of the site requires surface water run-off during construction and subsequent occupation is adequately addressed. The designation text requires a strategic sustainable drainage system (SUDS) for the whole of the site as a means of controlling surface water run-off.

Scottish Water has been consulted on the content of the Proposed Plan. In terms of Craigellachie there is sewage capacity for 15 houses. Scottish Water has advised that they will work with developers to ensure that new development can be accommodated.

No modification is proposed.

### **Dufftown**

#### **R1 Corsemaul Drive**

There is a partially implemented planning consent on site and this does not include upgrading the existing informal paths up to an adoptable standard. If the Council were to receive a revised planning application then provision of foot and cycle connections will be assessed as part of the planning application.

No modification is proposed.

**R2 South of Conval Street**

The purpose of the Local Development Plan is to provide a range of housing opportunities that meet the requirements for a continuing 5 year effective land supply. The promotion of brown field development is facilitated through the identification of opportunity (OPP) sites. A range of sites have been identified to meet housing requirements and are not restricted by ranking in order of which should be developed first. Planning approval (14/00320/APP) has recently been granted for 24 units on OPP 1 Auction Mart site for a Council house build project (BD/16a/01).

There is a significant amount of housing proposed within Dufftown. This is primarily due to the proposed allocation of 100 houses at R3 Hillside Farm. The approach taken in Speyside has been to identify the longer term expansion of Aberlour and Dufftown. It is envisaged that it will take 10 to 20 years to be fully developed in various phases. This phased approach means that there will not be an immediate impact on services and there will be time to enhance services if required. Developers are required to contribute where a measurable adverse negative impact upon existing infrastructure, community facilities or amenity is identified. Contributions would have to be appropriate to reduce, eliminate or compensate for any identified impact, all in accordance with IMP3.

Under the terms of Policy T2 (Provision of Access) new development proposals should enhance permeability and connectivity and ensure that opportunities for sustainable and active travel are protected and enhanced. Development of the site should maximise connections and routes for pedestrians and cyclists and this will include linking into the existing paths network. Detailed access arrangements for the site will be submitted as part of the planning application submission. The planning application determination process will also consider impact on amenity and design quality.

Scottish Water has been consulted during the preparation of the plan. The plan states that developers are advised to contact Scottish Water as early as possible to confirm that there is sufficient drainage capacity and water supply available to accommodate proposals.

In terms of employment the Moray Economic Strategy (MES) identifies opportunities for Speyside relating to tourism, visitors facilities and visitor accommodation. Given that Elgin is the regional and administrative centre of Moray, it is inevitable that a significant proportion of residents will commute from Dufftown for work.

No modification is proposed.

**R3 Hillside Farm**

The approach to designating housing within Dufftown and the reasons for doing so have already been set out above. Design principles have been prepared for the site in order to set out key design and placemaking qualities to allow the development to integrate sensitively into the village. Developers will have to work with Scottish Water to identify and address any works required to accommodate development.

The trees on the western boundary of the site have been identified for retention and where appropriate should be supplemented to create a soft edge to this part of Dufftown. The trees on site are not considered to meet the criteria for being considered for a TPO as they are not of significant amenity or biodiversity value.

No modification is proposed.

#### **R4 Tomnamuidh**

A larger site for 80 houses was identified in the Main Issues Report reference R6 as not preferred as it was constrained due to road infrastructure issues. Despite the substantial reduction in the number of units, a development of 30 houses taking access off Tomnamuidh Street (via the lane) would be unacceptable due to the access which could not be formed to an adoptable standard.

Scottish Water has been consulted and developers are advised to contact Scottish Water as early as possible to confirm there is sufficient drainage capacity and water supply available to accommodate development in Dufftown. Scottish Water has advised that they will work with developers to ensure that new development can be accommodated. There may be upgrades and investment required to allow development to come forward.

Dufftown is one of the larger villages within Speyside and accommodates a school, shops and services and is considered suitable to accommodate additional housing development. Issues in respect of overlooking and privacy will be addressed at planning application stage when a detailed layout is provided. Access to the site is via the existing lane which runs between properties. The detailed arrangements for accessing and servicing the site will be determined at planning application stage and will be based on the Council's roads standards. As part of the planning application the developer will have to demonstrate that all surface water can be dealt with within the site.

No modification is proposed.

#### **Site not taken forward from MIR (R5) Ardachaidh**

At Main Issue Report stage the site was identified as 'Not Preferred' on the basis of being unable to provide safe and suitable access, this remains the case.

No modification is proposed.

#### **Rothies**

##### **R1 Spey Street**

This is an existing site within the Moray Local Plan 2008. The designation text has been amended from the Moray Local Plan 2008 to require a secondary point of access following the construction of the 50<sup>th</sup> dwelling. This requirement acknowledges that there is a need to address the volume of traffic utilising Spey Street and provide for an alternative means of access. The roads design for the site including the secondary access will have to meet the Council's road standards. Rothies is a third tier settlement with a primary school and limited services and as such a modest release of 40 houses has been identified to meet local demand. A range of sites have been identified to meet requirements for an effective five year supply of housing land. Sites are not ranked in order of which should be developed first.

No modification is proposed.

##### **R2 Green Street**

The designation text acknowledges the proximity of the site to the River Spey Special Area of Conservation (SAC) and seeks the submission of additional information to ensure that adequate protection measures are in place to protect the water environment during construction and occupation of the site. Flood risk is also referenced and there is a requirement for the developer to demonstrate that the development is a sufficient distance from the 1:200 year flood envelope.

Developers are advised to contact Scottish Water as early as possible in order to confirm that there is sufficient drainage capacity and water supply available to accommodate proposals. Scottish Water has advised that they will work with developers to ensure that new development can be accommodated.

The requirements in terms of access to the river bank are a separate private legal agreement to be resolved between the owner of the site and relevant parties. The development of the site will require containment measures to separate plots and define garden boundaries. Any explicit requirements beyond this are also a separate private legal matter between the site owner and relevant parties.

No modification is proposed.

### **Reporter's conclusions:**

#### Aberlour: R4 Speyview

1. Aberlour has been identified for growth given its strategic role in the Spey Valley. However, topography and settlement form restrict options for future housing development. Site R4 has been identified due to the constraints in developing the sites at Braes of Allachie (site R2 and LONG site), both of which have been carried forward from the adopted local plan. The council recognises that numerous issues require to be addressed before any development could take place on site R4. The designation text on page 90 refers to the requirement for a detailed development brief, which will set out the principles for the design and layout of the site and address issues relating to landscape and visual impact, impact on the natural heritage and impact on privacy and residential amenity.

2. In relation to access, a preliminary assessment has concluded that an access can be provided from the A95. Footways along the A95 frontage would be required. Improvements to the existing footway and crossings on the A95 may also be necessary to provide a safer pedestrian route into Aberlour. The provision of footpaths and connectivity through the site would be a matter for detailed consideration at the planning application stage. However, in view of the concerns raised, the council is agreeable to the removal of the footpath link between the properties 'Heathersett' and 'Lilybank' shown on the design principles map. I concur with this suggestion and consider that the pedestrian network is a matter for the subsequent development brief for the site.

3. The development of the site would require the installation of both mains water and a public sewer connection, which would require significant investment. The council confirms that the water supply interests of existing householders along Speyview/A95 would not be prejudiced by the proposed development. The developer would have to ensure that any existing boreholes and pipework in use is not impacted upon by the development. The designation text also highlights the need to consider any surface water flood risk issues.

4. Aberlour is the main service centre for Speyside with a primary school, secondary school and a range of other services. Based on the evidence of the Moray Council Housing Need and Demand Assessment, I accept that the designation of site R4 in Aberlour is appropriate to meet the longer-term housing needs within the Speyside Local Housing Market Area. The council anticipates that the site would be developed over a 20 year period, which will lessen the impact on service provision. The site would

accommodate a mixture of housing types, with a requirement for at least 25% affordable housing. In addition, there is scope to accommodate a small amount of employment land at the southern end of the site.

5. In conclusion, I find that there is nothing to suggest that the concerns raised in relation to access, the provision of water and drainage, surface water flood risk, landscape and visual impact, impact on wildlife, and impact on service provision cannot be addressed at the detailed planning stage.

#### Archiestown: R1 East End

6. Policy EP6 supports the protection and enhancement of the water environment. This reflects the requirements of the Water Framework Directive. In most instances, this policy should provide appropriate protection of the water environment. However, I accept the view of the Scottish Environment Protection Agency (SEPA) that where water courses are of poor/moderate ecological status they may be at particular risk of being downgraded contrary to the Water Framework Directive. In this instance, I agree with SEPA that, in addition to the requirements of policy EP6, a minimum setback of 6 metres between any development and the watercourse provides a sensible precautionary measure. My recommended modification reflects this.

7. I also note the potential presence of groundwater dependant terrestrial ecosystems in or around the site and agree that any planning application should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

#### Craigellachie: R1 Edward Avenue and R3 Former Brewery

8. The respondent suggests that to allow housing on these sites could hamper the continued operation and potential expansion of the adjacent distillery. Both these sites are carried forward from the adopted local plan. The designation text for both sites recognises the proximity of the distillery and the potential noise nuisance. Accordingly, a noise impact assessment would be required to accompany any planning applications.

9. Site R1 comprises a small field located between existing housing on the west side of the A944. The distillery is located across the public road on the east side of the A944 with access being obtained to the north of site R1. Consequently, it is difficult to understand how a development of 5 houses on this site would significantly disrupt the daily operational activity of the distillery as contended by the respondent. No evidence has been submitted to justify this claim. As regards site R3, the former brewery site, existing housing to the north of the site (Lawrence Road) is similarly located close to the distillery. A landscape strip is required on site R3, which has a common boundary with the distillery, the width of the strip to be determined following the noise assessment. Any contamination issues arising from the previous use would require to be dealt with accordingly. The designation text highlights these requirements.

10. It has not been established that residential development cannot be accommodated on sites R1 and R3 and, therefore, I can find no justification for removing either of these sites, which are within the built-up area, from the proposed plan. The respondent infers that to allow housing on the sites could prevent any future expansion of the distillery but there are currently no plans to expand. It would, therefore, be inappropriate to sterilise

these sites from development. In any event, Site R1 is separated from the distillery by the public road (the A944) and its appropriateness for future industrial use is questionable. As the council indicates, should these sites remain undeveloped, the next review of the local development plan would provide the opportunity to re-assess the designation of these sites.

#### Craigellachie: R2 Spey Road

11. This site comprises a steep wooded area on the eastern side of Spey Road, overlooking the river Fiddich. The council acknowledges that there would be challenges in developing this site, including the potential for excessive surface water run-off and the possibility of landslip. The designation text requires a construction method statement to demonstrate how surface water run-off will be dealt with and suggests that, to address potential landslip concerns, the removal of trees should be kept to a minimum. In respect of roads issues, the designation text recognises that improvements to the Spey Road junction with Victoria Street (the A95) would be required.

12. In these circumstances, there is nothing to suggest that the concerns raised in relation to the topography of the site and access cannot be addressed at the detailed planning stage.

#### Dufftown: R1 Corsemaul Drive

13. In relation to the comments of Dufftown and District Community Council regarding footpath links, the council indicates that the extant planning permission for the site does not include upgrading of the existing informal paths linking the site to the path network beyond Mortlach Distillery. However, the council intimates that should a revised planning application be submitted, it would re-assess the requirement for the provision of pedestrian and cycle connections outwith the site. I consider that it would be appropriate to refer in the designation text to the possibility of providing such connections to Fife Street should a revised planning application be submitted.

#### Dufftown: R2 South of Conval Street

14. In response to the concerns expressed regarding the scale of the development proposed on site R2, the council explains that, as a consequence of the topographical and infrastructure constraints, it has proven difficult to identify deliverable sites in Speyside and none of the sites in the adopted Moray Local Plan 2008 have been progressed. A different approach has, therefore, been adopted to housing in Speyside in this local development plan with the identification of larger sites in a limited number of settlements such as Dufftown and Aberlour. In Dufftown, a range of brownfield and green field sites has been identified. The larger sites are expected to be developed in phases over a longer period than the time period of the proposed plan. As a consequence, I am satisfied that the scale of growth envisaged will not prejudice the council's ability to manage change in the provision of social and educational facilities in Dufftown. In relation to water and drainage provision, the proposed plan requires developers to liaise closely with Scottish Water on these matters.

15. As regards access arrangements, policy T2 of the local development plan (on page 71) indicates that proposals must maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, as well as appropriate vehicle connections. The detailed arrangements for this site would be a matter for

consideration at the planning application stage.

16. In conclusion, I can find no justification for removing this site from the proposed plan.

Dufftown: R3 Hillside Farm

17. In response to the concerns expressed regarding the scale of the development proposed on site R3, the council explains that, as a consequence of the topographical and infrastructure constraints, it has proven difficult to identify deliverable sites in Speyside and none of the sites in the adopted Moray Local Plan 2008 have been progressed. A different approach has, therefore, been adopted to housing in Speyside in this local development plan with the identification of larger sites in a limited number of settlements such as Dufftown and Aberlour. In Dufftown, a range of brownfield and green field sites has been identified. The larger sites are expected to be developed in phases over a longer period than the time period of the proposed plan. As a consequence, I am satisfied that the scale of growth envisaged will not prejudice the council's ability to manage change in the provision of social and educational facilities in Dufftown. In relation to water and drainage provision, the local development plan requires developers to liaise closely with Scottish Water on these matters.

18. As regards the trees on the western boundary of the site, although this tree belt does not meet the criteria for designation under a tree preservation order, the key design principles (see plan on page 145) require the retention of the existing trees on the western boundary and the enhancement of this tree belt through supplementary planting.

19. In conclusion, I can find no justification for removing this site from the proposed plan.

Dufftown: R4 Tomnamuidh

20. This site is restricted to 5 houses due to the difficulty of access from Tomnamuidh Street. A larger development of 30 houses, as requested by the land owners, would be unacceptable due to the difficulties of providing an access to an adoptable standard from Tomnamuidh Street via the existing lane. However, the site lends itself to being developed for individual serviced plots. Prospective developers would be required to liaise closely with Scottish Water on the provision of water and drainage services. The detailed design and layout of the proposed houses would be required to meet the council's roads standards. Issues such as overlooking and the privacy of existing neighbouring households and refuse collection would be dealt with at the planning application stage. None of these issues justify the removal of the site from the proposed plan. There is nothing to suggest that the concerns raised in relation to access, overlooking and privacy cannot be addressed at the detailed planning stage.

Dufftown: MIR site R5 (not taken forward)

21. In relation to the request to designate this site for housing, there is no obvious suitable means of access to MIR site R5, which is located to the rear of the property 'Ardachaidh'. Furthermore, designated sites serve to meet the strategic housing land requirement and MIR site R5 is not required to meet this requirement. Accordingly, it is neither necessary nor appropriate to designate this site for housing in the proposed plan. Nevertheless, I note that the site lies within the settlement boundary and policy H1 in the proposed plan allows new housing on windfall sites within settlements if certain criteria can be met.

Rothies: R1 Spey Street

22. This site has been carried forward from the adopted local plan and is partially developed. In relation to access provision, the designation text has been amended from the adopted local plan to require a secondary point of access to the site when the number of dwellinghouses served by Spey Street reaches 50. This requirement acknowledges the need to address the volume of traffic utilising Spey Street. There has been no change in circumstances since the adoption of the Moray Local Plan 2008 that would justify the removal of this site from the proposed plan.

Rothies: R2 Green Street

23. This site incorporates Greenfield Farm steading, which is identified in the adopted local plan as an opportunity site for housing should the farm steading and yard no longer be required. The additional land forms part of the field to the east of the steading. In the Main Issues Report, this area is identified as being unsuitable for development due to flooding issues and the availability of other preferred sites. However, there are no objections to the designation of this site for housing from the Scottish Environment Protection Agency on the grounds of flood risk. Nevertheless, the designation text indicates that proposals should be accompanied by topographical information to demonstrate that the development is outwith the 1:200 year flood envelope. A drainage impact assessment is also required. The Habitats Regulation Appraisal (HRA) confirms that the provision of adequate measures to protect the water environment during the construction and operation of the site should mean that there is no adverse impact on the integrity of the River Spey SAC. The designation text requires such measures to be taken.

24. The right of access to the river bank through Greenfield Farm steading is a matter to be resolved between the relevant parties. The details of boundary treatments and landscaping would be a matter for consideration at the planning application stage. In relation to sewage capacity, Scottish Water has advised that they will work with developers to ensure that new development can be accommodated. There is nothing to suggest that the concerns raised in relation to flooding, surface water drainage or impact on the SAC cannot be addressed at the detailed planning stage and I can find no justification for removing this site from the proposed plan.

**Reporter's recommendations:**

Modify the local development plan as follows:

1. On the Aberlour, Site R4 Speyview Key Design Principles Plan, delete the pedestrian link to the A95 located between the properties 'Heathersett' and 'Lilybank'.
2. Add the following to the designation text for Archiestown, Site R1 East End: "A buffer strip of at least 6 metres between the development and the watercourse is required. A walkover and photographic survey of habitats is also required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."
3. Add the following to the designation text for Dufftown, Site R1 Corsemaul Drive: "Any revised proposals should consider the possibility of providing pedestrian and cycle connections outwith the site."

Issue 16b	Speyside Employment Land Issues	
Development plan reference:	<p><b>Aberlour settlement statement page 88-91</b></p> <ul style="list-style-type: none"> <li>• I1 Aberlour, page 90</li> <li>• I2 Aberlour/Glenlivet Distillery area, page 91</li> <li>• I4 Fisherton, page 91</li> <li>• OPP1 Mary Avenue, page 90</li> </ul> <p><b>Craigellachie settlement statement, page 125-127</b></p> <ul style="list-style-type: none"> <li>• I1 Distillery, page 126</li> </ul> <p><b>Dufftown settlement statement, page 140-142</b></p> <ul style="list-style-type: none"> <li>• I1 Balvenie Street, page 142</li> <li>• I2 Mortlach Distillery, page 142</li> <li>• OPP1 Auction Mart page, 141</li> </ul> <p><b>Roths settlement statement, page 266-269</b></p> <ul style="list-style-type: none"> <li>• I1 Back Burn, page 268</li> <li>• I2 The Distilleries, page 268</li> <li>• OPP4 North Street page 268</li> </ul>	Reporter: Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<p><b><u>Aberlour</u></b>  <b><u>I1 Aberlour, I2 Aberlour/Glenlivet Distillery, I4 Fisherton and OPP1 Mary Avenue</u></b>          Scottish Environment Protection Agency (0569)</p> <p><b><u>Craigellachie</u></b>  <b><u>I1 Distillery</u></b>          Scottish Environment Protection Agency (0569)</p> <p><b><u>Dufftown</u></b>  <b><u>I1 Balvenie Street</u></b>          Scottish Environment Protection Agency (0569)</p> <p><b><u>I2 Mortlach Distillery</u></b>          Scottish Environment Protection Agency (0569)          Dufftown and District Community Council (0522)</p> <p><b><u>OPP1 Auction Mart</u></b>          Scottish Environment Protection Agency (0569)          Dufftown and District Community Council (0522)          Cabrach Community Association (0674)          Mrs Jean Oliver (0996)</p> <p><b><u>Roths</u></b>  <b><u>I1 Back Burn and I2 The Distilleries</u></b>          Scottish Environment Protection Agency (0569)</p> <p><b><u>OPP4 – North Street</u></b>          Mr Cameron Gordon (0705)</p>		
Provision of the development plan to which the issue relates:	Identifies employment land to meet the employment land requirements for the Speyside area.	

**Planning authority's summary of the representation(s):****Aberlour****I1 Aberlour, I2 Aberlour/Glenlivet Distillery, I4 Fisherton and OPP1 Mary Avenue**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I2 Aberlour/Glenlivet Distillery**

Scottish Environment Protection Agency (0569)

The east boundary of the site lies within the functional flood plain of the Burn of Aberlour. A Flood Risk Assessment would be required at this site prior to any new development which may impact on the storage and conveyance of the functional floodplain. It should be demonstrated that any new development would not increase flood risk elsewhere.

**Craigellachie****I1 Distillery**

Scottish Environment Protection Agency (0569)

A Flood Risk Assessment would be required at the site prior to any new development which may impact on the storage and conveyance of the functional flood plain. It should be demonstrated that any new development would not increase flooding elsewhere.

**Dufftown****I1 Balvenie Street, I2 Mortlach Distillery, OPP1 Auction Mart**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**I2 Mortlach Distillery**

Dufftown and District Community Council (0522)

Add this is a listed historical site by Historic Scotland of local importance.

**OPP1 Auction Mart**

Dufftown and District Community Council (0522), Cabrach Community Association (0674), Mrs Jean Oliver (0996)

Footpaths should be replaced from Hill Street to industrial site to access the field beyond which could still be offered for community use.

**Roths****I1 Back Burn and I2 The Distilleries**

Scottish Environment Protection Agency (0569)

It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.

**OPP4 North Street**

Mr Cameron Gordon (0705)

The sentence "development should be confined to the flat areas of the site" is unduly restrictive. There is potential for residential development across the whole of the site allowing for an access road of 5.5%.

Modifications sought by those submitting representations:
<p><b><u>Aberlour</u></b>  <b><u>I1 Aberlour, I2 Aberlour/Glenlivet Distillery, I4 Fisherton and OPP1 Mary Avenue</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>I2 Aberlour/Glenlivet Distillery</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Add text “Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes which may affect the developable area of the site.</p> <p><b><u>Craigellachie</u></b>  <b><u>I1 Distillery</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  Additional text “Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes of which may affect the developable area of the site.</p> <p><b><u>Dufftown</u></b>  <b><u>I1 Balvenie Street, I2 Mortlach Distillery, OPP1 Auction Mart</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>I2 Mortlach Distillery</u></b>  <u>Dufftown and District Community Council(0522)</u>  Reference historical importance of Mortlach Distillery</p> <p><b><u>OPP1 Auction Mart</u></b>  <u>Dufftown and District Community Council (0522), Cabrach Community Association (0674), Mrs Jean Oliver (0996)</u>  Footpaths should be replaced from Hill Street to industrial site.</p> <p><b><u>Rothes</u></b>  <b><u>I1 Back Burn and I2 The Distilleries</u></b>  <u>Scottish Environment Protection Agency (0569)</u>  It is recommended that applications are supported by the results of a walkover and photographic survey of habitats to assess the presence of potential wetlands.</p> <p><b><u>OPP4 North Street</u></b>  <u>Mr Cameron Gordon (0705)</u>  Amend text to read “Development of the site beyond the flat areas of the site should be subject to proposals for achieving acceptable gradients for any access road”.</p>
Summary of responses (including reasons) by planning authority:
<p><b><u>Aberlour</u></b>  <b><u>I1 Aberlour, I2 Aberlour/Glenlivet Distillery, I4 Fisherton and OPP1 Mary Avenue</u></b>  If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “A walkover and</p>

photographic survey of habitats is required to assess for the presence of wetlands.”

### **I2 Aberlour/Glenlivet Distillery**

If the Reporter is so minded the Council would support inclusion of text “Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes which may affect the developable area of the site.”

### **Craigellachie**

#### **I1 Distillery**

If the Reporter is so minded the Council would support inclusion of text “Proposals should be supported by a Flood Risk Assessment (FRA) the outcomes which may affect the developable area of the site.”

### **Dufftown**

#### **I1 Balvenie Street, I2 Mortlach Distillery, OPP1 Auction Mart**

If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “A walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

#### **I2 Mortlach Distillery**

Mortlach Distillery No 2 Kiln, No 5 store and warehouses 3 and 4 are category C Listed Buildings of local importance. Should the Reporter be so minded the Council would not object to including a reference to the Listed Buildings within the industrial designation text.

#### **OPP1 Auction Mart**

Planning permission for twenty four houses has been granted on this site, planning reference 14/00320/APP (BD/16b/01). The new access road serving the site links Hill Street to the Dufftown Industrial Estate. As part of the development the developer is required to provide a new 2.0 m wide footway along site frontage with Hill Street linking to existing footpath provision along the northern side of this road. Footway provision is also required within the site to serve the proposed new dwellings and provide a pedestrian link between Hill Street and the Dufftown Industrial Estate Road. No modification is proposed.

### **Rothies**

#### **I1 Back Burn and I2 The Distilleries**

If the Reporter is so minded additional text requiring a walkover and photographic survey of habitats to assess for the presence of wetlands should be added into the site designation text. The following wording is considered suitable “ A walkover and photographic survey of habitats is required to assess for the presence of wetlands.”

#### **OPP4 North Street**

If the Reporter is so minded the Council would not object to the inclusion of the text “Development of the site beyond the flat areas of the site should be subject to proposals for achieving acceptable gradients for any access road and a road layout in accordance with The Moray Council road design standards.”

**Reporter's conclusions:**Aberlour: Sites I1, I2, I4 and OPP1

1. I note the potential presence of groundwater dependant terrestrial ecosystems in or around sites I1, I2, I4 and OPP1 as identified by SEPA and agree that any planning applications should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

Aberlour: Site I2 Glenlivet Distillery

2. I note that the east boundary of the site lies within the functional flood plain of the Burn of Aberlour. I agree that any proposals for the site should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area of the site. This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. My recommended modification reflects this.

Craigellachie: Site I1 Distillery

3. I note that a flood risk assessment would be required at this site prior to any new development which may impact on the storage and conveyance of the functional flood plain. I agree that any proposals for the site should be supported by a flood risk assessment (FRA), the outcome of which may restrict any new development on the site. This requirement reflects Scottish Planning Policy, paragraph 256, which promotes a precautionary approach to the avoidance of flood risk by locating development away from functional flood plains and medium to high risk areas. My recommended modification reflects this.

Dufftown: Sites I1, I2 and OPP1

4. I note the potential presence of groundwater dependant terrestrial ecosystems in or around sites I1, I2 and OPP1 as identified by SEPA and agree that any planning applications should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this.

Dufftown: Site I2 Mortlach Distillery

5. Mortlach Distillery No.2 Kiln, No.5 Store and warehouses 3 and 4 are category C listed buildings of local importance. The council does not object to the inclusion of a reference to the listed buildings on the site within the designation text. Scottish Ministers expect local development plans to be concise documents concentrating on conveying the strategy and individual policies and proposals together with the underlying reasons for the preferred development locations and policies. In this instance, I do not consider it necessary to specifically mention the presence of listed buildings within the site. I am content that policy BE2 of the proposed plan provides adequate protection for these listed buildings from inappropriate development without the need for a specific reference to

them within the designation text for site I2.

Dufftown: OPP1 Auction Mart

6. In relation to the request for footpath provision across the site to link Hill Street and the industrial site (I1) to the north, the council confirms that a new footway along the Hill Street frontage of the site and a link road, incorporating a footway, between Hill Street and the industrial estate road forms part of the development proposed for the auction mart site. The requirement for a footway along the frontage of the site is included in the designation text on page 141. No action is required by me in this examination.

Rothes: I1 Back Burn and I2 The Distilleries

7. I note the potential presence of groundwater dependant terrestrial ecosystems in or around sites I1 and I2, as identified by SEPA and agree that any planning applications should include a walkover and photographic survey. This is required in order to assess the presence of wetlands and inform any consequent requirement to address/mitigate identified impacts on groundwater dependant terrestrial ecosystems. My recommended modification reflects this

Rothes: OPP4 North Street

8. Following my inspection of the site, I agree that confining development to the flat areas of the site is unduly restrictive. I endorse the council's suggested amendment, which places emphasis on the requirement to achieve acceptable gradients for the road layout.

**Reporter's recommendations:**

Modify the local development plan as follows:

1. Add the following to the designation text for Aberlour, Sites I1, I4 and OPP1: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."
2. Add the following to the designation text for Aberlour, Site I2 Glenlivet Distillery: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems. Proposals should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area of the site."
3. Add the following to the designation text for Craigellachie, Site I1 Distillery: "Proposals should be supported by a flood risk assessment (FRA), the outcome of which may affect the developable area of the site."
4. Add the following to the designation text for Dufftown, Sites I1, I2 and OPP1: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

5. Add the following to the designation text for Rothes, I1 and I2: "A walkover and photographic survey of habitats is required to assess the presence of wetlands and to identify any consequent requirement to address/mitigate the impact on groundwater dependant terrestrial ecosystems."

6. Amend the second sentence of the designation text for Rothes, OPP4 North Street to read: "Development beyond the flat areas of the site should be subject to achieving acceptable gradients for any access road and the road layout in accordance with the Moray Council Road Design Standards."

Issue 16c	Other Speyside Issues	
Development plan reference:	Dufftown settlement statement Pg 140-142 <ul style="list-style-type: none"><li>• General Pg 140-142</li><li>• ENV6 Greenspaces/ Natural/Semi Natural Greenspaces Pg 142</li></ul> Roths settlement statement Pg 266-269 <ul style="list-style-type: none"><li>• General Pg 266-269</li></ul>	Reporter: Douglas Hope
Body or person(s) submitting a representation raising the issue (including reference number):		
<u>Dufftown General</u> Dufftown and District Community Council (0522) Cabrach Community Association (0674) Mrs Jean Oliver (0996) Mr Duncan McIntosh (0887) <u>ENV6 Greenspaces/ Natural/Semi Natural Greenspaces</u> Dufftown and District Community Council (0522) Cabrach Community Association (0674) Mrs Jean Oliver (0996) <u>Roths - General</u> NHS Grampian (0300)		
Provision of the development plan to which the issue relates:	Issues raised in relation to Speyside that are not related to housing or employment designations.	
Planning authority's summary of the representation(s):		
<u>Dufftown General</u> <u>Dufftown and District Community Council (0522)</u> Could a statement be applied with regards to enhancing the centre of Dufftown ie The Square and shops. Dufftown is an Area of Great Landscape Value (AGLV). 100 houses would seem to be in conflict with this. Small developments such as the 24 houses at the Auction Mart site are large enough.  <u>Cabrach Community Association (0674), Mrs Jean Oliver (0996)</u> No Tree Preservation Orders (TPO's) are listed. Cowie Avenue has recently planted trees to replace the former trees covered by TPO. The new cemetery is rapidly filling up and it would be sensible to earmark the adjoining field as a future extension. The Primary School and medical centre would both need to be enlarged to cope with increased numbers.  <u>Mr Duncan McIntosh (0887)</u> The site (R7) was accepted at Main Issues Report stage but specific identification of the site for a housing designation within the proposed plan has not been added. For the purposes of clarity and certainty, and given acceptance of the site through the previous stage of the review, that site should be specifically designated for up to three houses.  <u>ENV6 Greenspaces/Natural/Semi Natural Greenspaces</u> <u>Dufftown and District Community Council (0522)</u> The newly planted trees on Cowie Avenue should have a Tree Preservation Order as they were planted as replacements.		

Cabrach Community Association (0674), Mrs Jean Oliver (0996), Dufftown and District Community Council (0522).

Dufftown is well catered for with a paths network and these should be listed under ENV6 as they are all rural walks and/or through woodland.

### **Roths General**

NHS Grampian (0300)

Influx of population in Roths will increase pressure on current NHS provision, so additional sites should be allocated for enhanced healthcare provision in the town.

## **Modifications sought by those submitting representations:**

### **Dufftown General**

Dufftown and District Community Council (0522)

Dufftown objectives/issues bullet point 4 amended to read “protect and improve”

Additional objectives text

“Improve the amenity of the streets including renewing pavements, street furniture, lighting shoppers/visitors car parking, greenspace improvements and redevelopment of the Square to improve safety and better use a public space particularly for events such as the Whisky Festivals and Bicentenary Celebrations and to improve Dufftown as a unique place to live and destination ie The Malt Whisky Capital of the World.

Promote conservation and protection of listed buildings and their setting.

Promote R1 and facilitate completion or clear up site.

Maximise the size of any development to 20 houses to manage changes in social and physical make up of the area.

Identify tree preservation orders,

Cabrach Community Association (0674), Mrs Jean Oliver (0996)

Identify tree preservation orders and new cemetery site in Dufftown. Acknowledge impact on services as a result of development proposals.

Mr Duncan McIntosh (0887)

Site R7 from Main Issues Report should be identified as a specific designation for housing within the plan.

### **ENV6 Greenspaces/Natural/Semi Natural Greenspaces**

Dufftown and District Community Council (0522), Cabrach Community Association (0674), Mrs Jean Oliver (0996)

All other green areas, path networks and other woodlands should be listed under ENV6

### **Roths General**

NHS Grampian (0300)

Additional site for enhanced healthcare provision should be identified.

**Summary of responses (including reasons) by planning authority:****Dufftown General**

Various topographic and infrastructure constraints have meant it has been difficult to identify easily developable housing land. This has meant that a different approach has been adopted in Speyside and this has resulted in the identification of large sites that are expected to be developed in phases under a masterplan approach over decades as opposed to in the time period of this plan.

The amendment to bullet point 4 to add the words and improve can be taken forward as a non notifiable change to the contextual text.

The additional bullet points in respect of improving the centre of Dufftown and enhancements are not considered appropriate for inclusion within the Local Development Plan. It is primarily a land use strategy for directing new employment and housing. The Council is supportive of the aspirations but the plan is not seen as the vehicle for delivery projects of this nature. Suggest that this type of statement would be better included within a community plan which the Council and local community could work together to prepare.

Site R1 remains within the plan and the Council is actively working with the developer to facilitate the completion of the site. The area of land referred to was identified within the MIR (Site R7 Pg 46) as a preferred site and has not been identified as a housing designation on the basis that it is for less than five units and therefore does not contribute to the Housing Land Audit. The site is white land within the settlement boundary and there is nothing to preclude an application for three houses coming forward on the site which will be assessed against relevant policies within the plan.

No modification proposed.

**ENV6 Greenspaces/Natural/Semi Natural Greenspaces**

The Dufftown chapter on pages 140-142 of the Proposed Plan will be reviewed and where necessary identified tree preservation orders inserted. The Proposed Plan has been prepared in consultation with the services responsible for cemetery provision and there has been no request to identify an additional cemetery site. The existing cemetery provision is expected to last well beyond the plan period. The Council will be preparing an open space strategy where it is proposed to review open space provision across Moray and this will inform the next plan. On this basis it is not expedient to make amendments to Dufftown in isolation.

No modification is proposed. Minor changes to include references to Tree Preservation Orders can be undertaken as a non notifiable change to the contextual text.

**Rothies General**

A specific site for enhanced healthcare provision has not been identified. There are various opportunity sites, as well as residential sites identified within the plan that could accommodate healthcare facilities. Despite no specific allocations there are still opportunities for additional provision that could be taken forward as new housing is developed. Historical development rates in Rothies are low and it may take some time for the identified sites to be completed.

No modification is proposed.

**Reporter's conclusions:**Dufftown General

1. In relation to the scale of the proposed housing development, the council points to the topographical and infrastructure constraints in Speyside (see Issue 16a). As a consequence, it has proven difficult to identify deliverable sites in Speyside and none of the sites in the adopted Moray Local Plan 2008 have been progressed. A different approach has, therefore, been adopted to housing in Speyside in the proposed plan with the identification of larger sites in a limited number of settlements such as Dufftown and Aberlour. The council indicates that the sites identified are expected to be developed in phases over a longer period than the time period of the proposed plan. As a consequence, I am satisfied that the scale of growth envisaged will not prejudice the council's ability to manage change in the provision of social and educational facilities. I am also satisfied that the development of the sites identified, subject to the development being in compliance with Primary Policy PP3: Placemaking, will not conflict with the location of Dufftown within an Area of Great Landscape Value. Bullet point 4 under the heading 'Hierarchy Status/Objectives/Issues', acknowledges that the scenic setting of Dufftown should be protected. I consider that the suggested amendment to bullet point 4 to include a reference to the enhancement of the scenic setting of Dufftown would be appropriate.

2. As regards the addition of further objectives in relation to improving the amenity of the centre of Dufftown, green space improvements, promoting the conservation of listed buildings and their settings, and introduction of traffic calming measures, the council is supportive of the local community's aspirations. Increasing the attractiveness of the town for tourism is an objective of the proposed plan. Furthermore, policy BE2 provides protection for listed buildings and their settings. Improving the overall environment of the town, as suggested by the community council, would contribute to increasing its attractiveness for tourists and I consider that bullet point 3 should reflect this. Accordingly, I recommend that bullet point 3 be amended as indicated below.

3. In relation to the lack of any reference to the Tree Preservation Orders within Dufftown under the TPO heading on page 142, the council agrees to the insertion of a list of the identified tree preservation orders within Dufftown. I consider, for the purposes of clarity, that such a list should be added under the heading 'TPO: Tree Preservation Order'.

4. In relation to the need for a cemetery extension, the council indicates that the existing provision is expected to last well beyond the plan period and there has been no request to identify additional cemetery provision from the service responsible. In these circumstances, I can find no grounds for earmarking the adjoining field as a future extension.

5. Issues surrounding the development of site R1 are dealt with under Issue 16a.

6. In relation to the request to designate site R7 from the Main Issues Report as a housing site, this site, with a capacity for three houses, lies within the built up area where windfall housing is acceptable under policy H1 of the proposed plan. Designated sites serve to meet the strategic housing land requirement and site R7, being a small infill site, does not contribute to the Housing Land Audit. Accordingly, it is neither necessary nor appropriate to designate this site for housing in the proposed plan.

ENV6 Green Corridors/Natural/Semi Natural Greenspaces

7. In relation to the areas designated ENV6 in Dufftown, the area at Cowie Avenue would appear to include private garden ground, which can no longer be considered as semi-natural environment. I consider that if the designation ENV6 at Cowie Avenue is to be retained, it should be confined to the area of the Tree Preservation Order. With regard to the identification of other green areas, path networks and woodlands, the council indicates that it will be preparing an open space strategy which will inform the next review of the local development plan. I agree that it is not expedient to make amendments to Dufftown in advance of the preparation of this strategy for Moray as a whole.

Rothies General

8. In relation to the designation of a specific site for enhanced healthcare provision in Rothies, the council points out that there are opportunity sites within the built-up area that could accommodate healthcare facilities. Historically, housing development rates in Rothies are low. Accordingly, I am satisfied that a specific allocation in the proposed plan is neither necessary nor appropriate.

**Reporter's recommendations:**

Modify the proposed plan as follows:

1. Amend bullet point 3 under the heading Dufftown: Hierarchy Status/ Objectives/Issues to read: *To improve the overall environment of the town and increase its attractiveness for tourism purposes.*
2. Amend bullet point 4 under the heading Dufftown: Hierarchy Status/ Objectives/Issues to read: *To protect and improve the scenic setting of Dufftown and to preserve the form of the original town.*
3. Add a list of tree preservation orders under the heading Dufftown: TPO Tree Preservation Order.
4. On the Dufftown Settlement Plan, amend the boundary of the designation ENV6 at Cowie Avenue to accord with the Tree Preservation Order.

Issue 17	Key Design Principles	
Development plan reference:	<b>Key Design Principles</b> <b>Elgin Settlement Statement, page 152-175</b> <ul style="list-style-type: none"><li>• <b>Key Design Principles R12, R3 and R4, page 171</b></li><li>• <b>Key Design Principles Findrassie/Myreside R11, page 173</b></li></ul> <b>Lhanbryde Settlement Statement, page 233 – 237</b> <ul style="list-style-type: none"><li>• <b>Key Design Principles R1, page 237</b></li></ul>	<b>Reporter:</b> Allison Coard
Body or person(s) submitting a representation raising the issue (including reference number):		
<b><u>General</u></b> AE Milne and Son (0881) Scotia Homes Ltd (0480) CJ and CRH Dunbar (Pitgaveny) (0908) <b><u>Key Design Principles Elgin R12, R3, and R4</u></b> Elgin Golf Club (1000) <b><u>Key Design Principles Elgin Findrassie/Myreside R11</u></b> CJ and CRH Dunbar (Pitgaveny) (0908) <b><u>Key Design Principles Lhanbryde R1</u></b> AE Milne and Son (0881)		
Provision of the development plan to which the issue relates:	Key Design Principle maps.	
Planning authority's summary of the representation(s):		
<b><u>General</u></b> <u>AE Milne and Son (0881)</u> Do not object in principle to an indication of design factors but wish to ensure that there is sufficient degree of flexibility so that developers can deliver housing effectively based on the ability of the market to support the development of the site in relation to any constraints. This is consistent with Planning Advice Note 2/2010 Affordable Housing and Housing Land Audits which sets out at a range of criteria that need to be met for housing land to be considered effective.  <u>Scotia Homes Ltd (0480)</u> Support in principle establishment of key design principles but considers those published are unduly restrictive prior to a full context and site analysis and preparation of a masterplan. A more detailed design analysis process together with consultation with interested parties is still required and may conflict with the design principles identified in the Proposed Plan. A more flexible approach would ensure the best possible design and development is achieved.  <u>CJ And CRH Dunbar (Pitgaveny) (0908)</u> Object to inclusion of Key Design Principles. These do not provide the most appropriate solution for the site. It is not appropriate to identify Key Design Principles which "must be incorporated within proposals" (R11 pg155). It is premature to identify Key Design		

Principles ahead of the design stage of the masterplan and these would be more appropriately drafted through initial concept stages of the masterplanning process. Acknowledge Council may want to include some indicative design criteria within the Local Development Plan. Object to points of detail within the Key Design Principles map. The Key Design Principles are understood to be indicative but some of them go beyond providing strategic direction and become constraints that pre-empt an inclusive design led process. Objects to the way R11 appears on the settlement map as this prematurely determines the location of land uses such as open space, riparian woodland and ENV6. These should be determined through a process of design and engagement with the Council, key Stakeholders and the community. The masterplan will determine the most appropriate location for these.

### **Key Design Principles Elgin R12, R3, and R4**

#### **Elgin Golf Club (1000)**

The sketch that appears on page 171 shows a footpath running from the railway bridge at Fleurs Road, past Knockmasting Wood and then left to join the old Birnie Kirk Road that runs between the golf course and Mayne Wood. The Key Design Principles state that it is proposed to “enhance and extend existing path network to maximise permeability and provide opportunities for recreation and active travel. The integrity of the core path must be maintained and the accessibility enhanced.” However, looking at that plan, it can be seen that there is no easy access to the path from the east – which goes against the hope for “accessibility enhanced.” A solution would be to direct walkers from the east to turn right at the roundabout at the top of Sandy Road, turn left along Birnie Crescent, pass behind Elgin Golf Club’s 12th tee, and follow a path that shadows the boundaries of the houses on Fairway Avenue, joining the existing path at the north end of the Club’s practice hole.

### **Key Design Principles Elgin Findrassie/Myreside R11**

#### **CJ And CRH Dunbar (Pitgaveny) (0908)**

Objects to principle of having Key Design Principles. If Key Design Principles are to be retained propose alternative principles as shown on submitted map (see supporting document SD0908a/2/26) and including

- Remove open space along pylon line as there may be more creative solution to this area that should be explained through the masterplan. This could include business uses and car parking.
- Support woodland landscaping to the north but object to the extent shown as this is excessive at approximately 150m. This should be reduced to 50m.
- The amount of green space in the narrow area between R5 and Findrassie Wood should be reduced to allow a more proportionate open space. The level shown is a constraint to development and is unnecessary given the neighbouring woodland. Reduced area would allow for housing and access through this part of the site improving permeability.
- A link should be created onto Duffus Road to allow maximum permeability, disperse traffic and internalise vehicle trips. (See Issue 13c)
- A green edge down the north east boundary of the site should be included to provide a green approach to Elgin.
- Text relating to undergrounding pylons should state this is where feasible and the wayleave would form a mix of green space and acceptable ancillary uses.
- The masterplan should establish the hierarchy of routes and access point. Therefore, the Key Design Principles should be labelled indicative.
- Building should be shown fronting onto main vehicle routes.
- Include I8 within R11 boundaries and the boundary redrawn to exclude northernmost

part (see Issue 13b). This will allow flexibility to create the best design solution for Lossiemouth Road.

### **Key Design Principles Lhanbryde R1**

AE Milne and Son (0881)

Support designation of R1 Lhanbryde and continue to be committed to seeing this developed. Do not object in principle to an indication of design factors but wish to ensure that there is sufficient degree of flexibility so that developers can deliver housing effectively based on the ability of the market to support the development of the site in relation to any constraints. This is consistent with Planning Advice Note 2/2010 Affordable Housing and Housing Land Audits which sets out a range of criteria that need to be met for housing land to be considered effective. Main concern for R1 Lhanbryde is the extent of new woodland structure planting which covers over 50% of the site and limits the area for new housing. The current Local Plan designates the site for 65 houses and sets out provision for landscaping; it does not extend to the area identified in the Proposed Plan. The current Local Plan concentrates landscape provision on a buffer along the length of the A96. It is not clear why there has been such a marked change to the potential framework for the development of the site. It would be preferable to retain as much flexibility as possible to ensure that the site has the greatest potential to deliver effective housing land. The extent of the area identified for new woodland structure planting, and the area available for proposed housing, should be indicated as being indicative with the final extent of these areas to be determined through a Landscape Design and Visual Appraisal related to the specific characteristics, location and extent of the site in terms of its landscape and townscape setting. This would ensure effective landscape and townscape integration and allow the potential for future developers to work up proposals taking account of the specific site and location features in the context of a more flexible direction from the Council through the proposed key design principles for the site.

### **Modifications sought by those submitting representations:**

#### **General**

AE Milne and Son (0881)

Key design principles for the proposed R1 designation be set out as indicative at this stage with a requirement for a Landscape Design and Visual Appraisal of the site to determine the development/landscape areas on a site specific basis in relation to site specific development proposals.

Scotia Homes Ltd (0480)

Scotia Homes Ltd would therefore suggest that a further sentence is added to this text to confirm that "The design principles are provided for guidance only and the final design and form of development will be informed by a masterplanning process for the sites concerned, which will include consultation with the relevant interested parties."

Alternatively, and more preferable, it is considered that the reference to the design principles is removed from the LDP together with the maps concerned

CJ And CRH Dunbar (Pitgaveny) (0908)

Remove Key Design Principles from the plan and develop these through collaborative masterplanning.

### **Key Design Principles Elgin R12, R3, and R4**

Elgin Golf Club (1000)

Implied amendment to show path along Birnie Road, pass 12<sup>th</sup> tee, and to back of houses

on Fairway Avenue to join with existing path at north end of golf club.

### **Key Design Principles Elgin Findrassie/Myreside R11**

CJ And CRH Dunbar (Pitgaveny) (0908)

If Key Design Principles are to be retained the wording of the proposal should be amended to remove the requirement that the proposals for R11 Findrassie/Myreside 'must' incorporate the Key Design Principles as set out at page 173 of the Proposed Plan - the wording at para two of R11: Findrassie/ Myreside (p, 155) should instead be amended to read as follows:"A masterplan will be prepared for the site and the development phased to create a distinct identity. The design of the development will be largely guided by the masterplanning process that will identify a series of design principles which should be incorporated into any future proposals for development."

If Key Design Principles are not removed amend to Alternative Indicative Key Design Principles submitted with response (see supporting document SD0908a/2/026I).

- Remove open space and riparian woodland from R11 and I8 from the settlement plan. These should be determined through the masterplan.
- Show a TSP/access onto Duffus Road and this should be shown linking through site to Covesea Road (as shown 2.1 and 2.3 on submitted map Alternative Indicative Key Design Principles).
- Amalgamate R11 and I8 into one allocation to be masterplanned as one. Redraw northernmost boundary as per submitted plan.
- Reduce amount of woodland planting shown to the north east of R11 to a width of around 50m (shown 2.4 on submitted map of Alternative Indicative Key Design Principles).
- Show a green edge to the north east of R11 as shown 2.5 on submitted map of Alternative Indicative Key Design Principles.
- Reduce the amount of green space at point 2.2 on submitted map of Alternative Indicative Key Design Principles.
- Show a link from Duffus Road to Lossiemouth Road as shown as 2.3 on submitted map of Alternative Indicative Key Design Principles.
- Remove open space from area affected by transmission pylons and add text as shown 2.6 on submitted map of Alternative Indicative Key Design Principles.
- Label Key Design Principles as Indicative. (2.8 and 2.9 on submitted map of Alternative Indicative Key Design Principles)
- Add to Key Design Principles to show development fronting onto vehicular routes (2.10 on submitted map of Alternative Indicative Key Design Principles).

### **Key Design Principles Lhanbryde R1**

AE Milne and Son (0881)

Key design principles for the proposed R1 designation be set out as indicative at this stage with a requirement for a Landscape Design and Visual Appraisal of the site to determine the development/landscape areas on a site specific basis in relation to site specific development proposals.

### **Summary of responses (including reasons) by planning authority:**

#### **General**

The purpose of Key Design Principle plan is to show broad statements of intent that will be used to inform detailed proposals later. These are intended to be relatively broad level principles and it is not expected that these will be implemented exactly as shown on the

map. For example we would expect an access to be at a location where a full technical design has been assessed and for a design led method to be taken to the exact location of tree planting. However, the proposal should demonstrate that these principles have been incorporated into the design and layout for example by providing landscape planting or frontage onto roads. The principles have been illustrated on maps to give a spatial articulation to the principles and to reflect the Scottish Ministers aspiration for Local Development Plans to be map based (para 8 Circular 6/2013 Development Planning (CD14)). If Key Design Principle maps are removed from the plan the site designation text would require to be amended to ensure aspects such as landscaping, access and open space provision are included within the designation. The Key Design Principles also give developers a clear expectation of what is required when developing their proposals. It is not considered premature to include these within the plan in advance of any masterplanning as these are aspects the Council would expect to be considered in the development of the masterplan and is a starting point for collaborative working to deliver the Scottish Government's aspirations for placemaking. By showing these in the Local Development Plan the Council is providing greater certainty about what the developer and communities should expect. The Council does not consider the Key Design Principles offer the "solution" for the development and consider these to be broad level enough not to introduce constraints to the development of a masterplan. Some of the principles have arisen out of mitigation measures suggested in landscape studies or illustrate the key principles from the Urban Design Supplementary Guidance. It is therefore not considered that they introduce anything that would not regularly be sought by the policies within the plan.

No modification is proposed.

#### **Key Design Principles Elgin R12, R3, and R4**

The brown paths shown on the Key Design Principles are Core Paths. The route referred to by the Golf Club also follows a Core Path, reference EG43, and this connects into the Core Paths (EG36 and EG05) (BD/17/01) that are shown on the Key Design Principles. The Core Path EG43, which runs from Birnie Crescent, around R13 to the southern edge of R4 is not included in the Key Design Principles as the only paths shown are those that relate directly to R3, R4, and R12. The comment in the design principles regarding extending the path network relates to creating paths within the development as there is no need to connect or extend the path network along the route described by the respondent as this already exists. However, if the Reporter is so minded the Council would support the inclusion of all Core Paths within the area in the key design principle plan.

The Council would have no objection if the Reporter is minded to modify the Key Design Principles map to show the full extent of Core Paths around R4 as highlighted above.

#### **Key Design Principles Elgin Findrassie/Myreside R11**

In response to the suggested amendments to the Key Design Principles for R11 the following comments are made.

- Whether the pylon is undergrounded or not the wayleave is unlikely to be developable.
- The woodland planting to the north of the site reflects the mitigation measures shown in the Council's landscape study (CD32 page 28). The existing wooded ridges of Findrassie and Spynie contribute to the wider setting of Elgin and the woodland proposed extends these enclosing ridgelines. Landscape planting will enhance the setting of development and reduce prominence. The Key Design Principles do not

state that the width of this planting should be 150m in depth and the extent of planting shown is to demonstrate the aspiration of the Council to have a substantial landscape tree planting in this location to reduce visual prominence. Providing this broad level aspiration is achieved within the masterplan/planning application the “Key Principle” would be considered to have been met.

- The principle of open space in the narrow area between R5 and the woodland does not have any prescribed depth. Providing a green corridor with a recreational path is included within the masterplan/planning application in the area around the burn the “Key Principle” would be considered to have been met.
- Access onto Duffus Road could be included within proposals despite this not being shown on the Key Design Principles. This would be supported by the Supplementary Guidance on Urban Design and considered against the policies of the plan. It is not shown as a principal access on the Key Design Principles map as there are known constraints to its delivery (road alignment, vehicle speed, and existing trees). Also do not consider there is a requirement for a major access by all modes of transport (including buses) at this location given the provision within neighbouring site R5. The Key Principle demonstrated on the map is to seek access for all modes of transport through the eastern part of the site and for this to connect to similar provision that is being made within site R5. See Issue 13c regarding a new TSP.
- A green edge on the north east boundary would be in line with the Council’s landscape study (CD32 page28) and if the Reporter is so minded the Council would not object to such inclusion within the Key Design Principles. However, this is not considered to have the same strategic importance to the landscape setting of Elgin that the planting to the north has.
- The text relating to pylons does state these should “preferably” be undergrounded in recognition of the potential feasibility issues. If the Reporter was so minded the Council would not object to amended wording relating to acceptable ancillary uses. The following wording is considered acceptable “Transmission line preferably undergrounded where feasible or diverted. Wayleave area forming greenspace and/or acceptable ancillary uses.”
- The Key Principle demonstrated on the map is to seek access for all modes of transport through the eastern part of the site and for this to connect to similar provision that is being made within site R5. Reference to “secondary access” is to demonstrate that two access points are required.
- The principles are broad level and intended to inform the development of detailed proposals. Principles do not imply detail, are not prescriptive and therefore there is no logical justification for these to be labelled indicative.
- The principle of building fronting onto primary routes is shown on the maps and the Council would not object to amending the wording and plan to extend this. This would reflect key principles within the Supplementary Guidance for Urban Design. The following wording is acceptable “Buildings should front onto main vehicle routes.”
- See Issue 13b regarding inclusion of I8 within R11 boundaries and redrawing boundaries.

The Council would have no objection if the Reporter is minded to amend the Key Design Principles to show a green edge to the north east site boundary, amend text regarding ancillary uses within the pylon line wayleave, and show buildings fronting onto all roads.

#### **Key Design Principles Lhanbryde R1**

The extent to which planting is shown within R1 at Lhanbryde reflects the landscape study undertaken for the Moray Local Plan 2008 (CD27 page 10). This was considered at the Local Plan Inquiry for the 2008 plan (CD26 page 2.155) when the objector sought to

increase housing numbers. The Reporter stated within his conclusion that “the Council...has correctly established that only approximately 47% of the site R1 can be developed for housing given the various constraints which have been highlighted.” There has therefore been no change in position to that shown within the landscape study. The allocation text in the 2008 plan (CD10 page 197) refers to a buffer along the A96 boundary and integral landscaping. This is now being articulated visually on the Key Design Principles map which gives greater clarity about what the Council expects to be delivered. The Key Design Principles are broad statements of intent and should be used to inform detailed proposals. There is therefore potential for some flexibility in implementing the Key Design Principles. One of the reasons for allocating this site in the 2008 plan was due to the ability to mitigate landscape and visual impacts and the Key Design Principles reflect how this mitigation could be achieved. Providing the Key Design Principles give a clear indication and greater certainty to developers at the outset of the level of mitigation that will be acceptable.

No modification is proposed.

### **Reporter’s conclusions:**

#### General

1. General concerns focus on the wording which requires compliance with the design principles set out on the accompanying maps. This is considered unduly restrictive as it is perceived to restrict the potential for the optimal design to be developed through the master-planning and detailed design stages. The council refers to the indicative nature of these proposals and scope for a degree of flexibility in their application. However, I consider this flexibility is not clearly stated or implied given the statement that key design principles “must be incorporated within the proposal”. I find that most of the concerns raised on this issue would be addressed subject to a slight change in emphasis to state that proposals “should address the key design principles set out on the accompanying map”.

#### Key Design Principles Elgin R12, R3, and R4

2. I understand that the route described in the representation is an existing core path but has not been shown on the key design principles plan. Other core paths are indicated in brown and I agree that it would be helpful to address this omission and include the core path referenced as EG43. The reference to extending paths is restricted purely to paths within the site rather than in the wider area. However, I consider information on the surrounding path network should be included as this would help to inform the master-plan process.

#### Key Design Principles Elgin Findrassie/Myreside R11

3. A number of detailed points are made regarding the design principles. These are based on the concern, as addressed through my paragraph 1 above, that the design principles are too prescriptive at this early stage in the design process.

4. I consider that my proposed modification to require the master-plan to address the key design principles will ensure these considerations are given priority within the master-planning and design process. This wording would enable a departure or alternative approach where this is properly justified and can be achieved without compromising the

overall objective of achieving an appropriate quality of landscaping, layout and design.

5. I do not consider it appropriate to fundamentally change the council's mapping or key principles given that these are founded on the landscape study (CD32) and urban design objectives. Any further change in advance of the master-plan and detailed design process would run counter to the argument that landscaping and other requirements should not be fixed at this early stage.

6. That said I accept there is a case for some minor amendments to the key principles map with regard to the pylon way-leave, the north-east site boundary and to show buildings fronting onto the road. With regard to the way-leave a reference to under-grounding, where feasible, would give clarity in defining this as a desirable objective. The development potential of the pylon route would be very limited but I accept it may be possible to consider other ancillary uses in addition to or instead of open space. At the moment the text in the key refers to buildings fronting onto primary routes. I agree that this would be clearer if it were to state "Buildings should front onto main vehicle routes".

7. The representation proposes a green edge on the north east boundary of the site and I note that this would be consistent with the council's landscape study (CD32, page28). Whilst I agree with the council that this is less important in establishing a strategic landscape framework for the site it would enable effective boundary treatment. Consequently, I am content that this should also be included. My conclusion on including I8 within the site boundary is addressed through Issue 13b.

#### Key Design Principles: Lhanbryde R1

8. I note that this site is carried forward from the adopted local plan. The landscape buffer along the A96 forms one of the primary forms of mitigation in order to address the identified landscape and visual impacts of development in this sensitive location. The key principles map reflects this required mitigation. I find nothing has changed which would warrant a different view of how this mitigation would be achieved.

9. My first recommendation below applies a change to the wording to clarify that the developer is required to address these principles. I consider this enables a degree of flexibility for the consideration of alternative approaches providing the overall objective is addressed. I agree with the council that establishing these principles from the outset gives clarity to developers and the local community regarding the required mitigation of landscape and visual impact.

#### **Reporter's recommendations:**

##### General

1. In all text relevant to the key design principles remove the wording "must be incorporated within the proposal" and replace with:

"should address the key design principles set out in the accompanying map".

##### Key Design Principles Elgin R12, R3, and R4

2. Reference all adjacent core paths on the key design principles plan including the core path referenced as EG43.

Key Design Principles Elgin Findrassie/Myreside R11

3. Replace the existing map label relating to the pylon way-leave to read:

“Transmission line preferably undergrounded where feasible or diverted. Wayleave area forming greenspace and/or acceptable ancillary uses.

4. Show a green edge on the north east boundary of the site in line with the Council's landscape study (CD32 page28)

5. Replace the following wording in the key “buildings fronting onto primary routes” with “Buildings should front onto main vehicle routes.”