

THE MORAY COUNCIL
MINUTE OF SPECIAL MEETING OF
THE PLANNING & REGULATORY SERVICES COMMITTEE
WEDNESDAY 07 OCTOBER 2009
COUNCIL OFFICE, ELGIN

PRESENT

Councillors S Cree (Chair), G Coull, J Divers, M McConachie, G McDonald, A McKay and F Murdoch

ALSO PRESENT

Councillor D Ross.

APOLOGIES

Apologies for absence were intimated on behalf of Councillors J Russell (Deputy Chair), L Bell, J Hamilton, A McDonald, D Stewart and A Wright.

IN ATTENDANCE

The Director of Environmental Services, the Head of Development Services, A Burnie, Principal Planning Officer (Development Control), J Martin, Principal Planning Officer (Development Control), R Gerring, Senior Engineer (Transport Development), Ian Terry, Housing Programme Manager, Peter Haslam, Senior Engineer, A Scott, Principal Solicitor (Commercial and Conveyancing) and the Principal Committee Services Officer, Clerk to the Meeting.

1. ORDER OF BUSINESS

In terms of Standing Order 25 the meeting agreed to vary the order of business and that planning application 09/01272/FUL, listed as Agenda Item 3(b) be considered before Item 3(a) planning applications 08/00077/EIA, 09/00796/FUL & 08/00078/LBC.

2. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 the Meeting noted that there were no declarations from Members or group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda.

3. PLANNING APPLICATIONS

ELGIN CITY SOUTH: WARD 7

- (i) **09/01272/FUL DEVELOP 128 DWELLINGS INCLUDING 73 COUNCIL/AFFORDABLE HOMES AT R3 LINKWOOD EAST, ELGIN FOR SPRINGFIELD PROPERTIES AND THE MORAY COUNCIL**

Under reference to paragraph 3(g) of the Minute of the Meeting of this Committee held on 29 September 2009, there was submitted a report by the Appointed Officer recommending that, subject to conditions detailed in the report, referral to Scottish Government and the conclusion of an appropriate legal agreement for developer contributions toward the new cemetery for Elgin and public transport, the Director of Environmental Services be granted delegated authority to approve an application, as an acceptable departure, for planning consent to develop 128 dwellings, including 73 Council/affordable homes at R3 Linkwood East, Elgin for Springfield Properties and Moray Council.

The meeting noted that consideration of this application had been deferred for clarification on the issue of alleged flooding on the adjoining site together with an update on the number of completions, to date, of units of accommodation across Elgin South.

Prior to considering the application J Martin, Principal Planning Officer (Development Control) referred the Meeting to the update situation report which had been circulated to Members at the Meeting. He advised the meeting that in regard to the discussions with Moray Flood Alleviation it has been confirmed that they are that the SUDSs strategy provided by the applicant's consultants is reasonable, subject to the provision of suspensive planning conditions requiring submission of detailed SUDS designs to be provided and agreed prior to commencement of development. It was also stated that while increasing evidence suggests that there were issues with individual soakaways on the correspondents' (and others') properties during the recent heavy rains there is no adequate reason to justify refusal of the current application.

He also advised that further comment on the alleged flooding issues affecting individual properties in the developed R12 Linkwood site (now part of the overall R3 site) immediately to the west of the current application site and other householders on Fogwatt Lane, McMillan Avenue and Bain Road, had been received from the applicants (and also developers of the extant houses) which stated that consultants have been asked to review the drainage design of the plots affected, and that their findings will be acted upon. An investigation by the developer into the flooding on Bain Road discovered that a drainage manhole had been removed and the drain deliberately filled with materials to block it. Once cleared the water on Bain Road drained away. He stated that he had to rely on the applicants in this regard as he had no other witness to this.

In conclusion he advised that there is no justification for the Council to refuse this application or to defer it any further on the grounds of flooding and that the recommendation for approval of the development remains unchanged from that reported to Committee on the 29th September 2009 other than that a further condition of planning permission relating to SUDS be added to the list of conditions.

Following consideration, the Committee agreed, on the motion of Councillor Cree to approve the application subject to:-

- (i) subject to referral to Scottish Government;
 - (ii) conclusion of an appropriate legal agreement for developer contributions toward the new cemetery for Elgin; and public transport;
 - (iii) to the inclusion of a further condition that prior to the commencement of development, full details of SUDs for the development shall be submitted and agreed in writing by the Planning Authority in consultation with SEPA;
 - (iv) and the following conditions:-
1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
 2. That no development shall take place until a Landscape Scheme (drawn to scale) is submitted to and approved by this Council (as Planning Authority). This Landscape Scheme shall show: -
 - (a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
 - (b) details of the measures to be taken to protect any existing trees, shrubs and hedgerows during the course of developing the site;
 - (c) details of the numbers, species, position, planting distances and sizes of all planting to be undertaken;
 - (d) the position of any children's play areas and public amenity open space. Details of the surface finishes, boundary enclosures and number, type (for example, inclusion of manufacturer's specification) and position of pieces of play equipment to be provided.
 3. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the completion of the 48th residential unit on the application site. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.
 4. That a Schedule of Maintenance for the landscape areas and recreational areas shall be submitted to and approved by this Council (as Planning Authority) prior to commencement of development. This Schedule of Maintenance shall include a written undertaking which includes the arrangements for the implementation of the Landscape Scheme and the future maintenance.
 5. That prior to the commencement of house development works, the SUDS detention basin serving both the development site and the site previously referred to as R12

shall be constructed and in full working order before the existing facility serving the aforementioned R12 site is disconnected.

6. That the final SUDS scheme for any individual phase of development must be implemented and operational prior to the occupation of any development in that phase.
7. That prior to the commencement of development, a detailed site specific construction method statement shall be submitted for the approval in writing of the Planning Authority in consultation with SEPA.
8. The proposed housing development will have the following acoustic mitigation measures incorporated:
 - a) A standard overglass vent bar of suitable ventilation area and acoustically rated at approximately 36dB Rw shall provide trickle ventilation within all rooms of identified properties in section 10.1 of the Noise Impact Assessment.
 - b) Window double glazing of construction 4/12/4 of acoustic rating Rw 32dB or better shall provide suitable noise attenuation within all rooms of identified properties.
 - c) Concrete or natural slate tiles shall provide suitable noise attenuation from roof construction.
9. That prior to the commencement of development, details of recycling facilities for the development shall be submitted for the approval in writing of the Planning Authority.
10. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding the location, design, construction specification, external materials and time-scale(s) for provision and/or making available for use of the following to be provided within the site;
 - a) all traffic calming measures;
 - b) all bus stops;
 - c) all cycle/footways - including the connecting link between Linkwood East and Waulkmill sites;
 - d) street lighting;
 - e) a scheme of local footpath signage for key destinations including local schools and the town centre;
 - f) improved crossing facility for non motorised users on Reikit Lane; and
 - g) a 'Construction Traffic Management Plan'.

11. No development shall commence until details of Travel Plan packs for new residents have been submitted and approved by the Planning Authority for the provision of two access corridors to allow for possible future connections to the east of the site. The locations are shown on the marked drawing 09/01272/FUL 'Future Links'.
12. No development shall commence until details have been provided and agreed with the Moray Council as Planning Authority for the provision of two access corridors to allow for possible future connections to the east of the site. The locations are shown on the marked drawing 09/01272/FUL 'Future Links'.
13. The development shall be undertaken in three phases; phase one - up to 48 houses; phase two - up to 84 houses; and phase three up to 128 houses.
14. As part of the development hereby approved;
 - a) no house shall be occupied until two private car parking spaces for up to a three bedroom dwelling, and three car parking spaces for a 4 or more bedroom dwelling are provided and made available for use within each house plot and thereafter the parking arrangements shall be retained and maintained as parking spaces for use in conjunction with each house plot;
 - b) No flat unit of accommodation shall be occupied until the communal car parking arrangement serving the respective flat blocks has been provided in accordance with the approved plans at a rate of 150%, i.e. 6 spaces for each block of four flats, and thereafter the parking arrangements shall be retained and maintained as parking spaces for use in conjunction with these plots;
 - c) No boundary fences, hedges, walls or other obstruction whatsoever over 1m in height above the carriageway level shall be within 2.4m metres of the edge of the carriageway;
 - d) No unit of accommodation shall be occupied until all roads and footpaths leading to the units have been provided in accordance with the approved plans, or to a stage of construction previously agreed;
 - e) In the interest of public safety, no unit of accommodation shall be occupied until street lighting leading to, and adjacent to housing is operational;
 - f) Houses requiring 2 parking spaces shall have a driveway length of 6.0m minimum of any garage to permit a car to park, unless alternative parking arrangements are provided. No part of any required parking space shall be located on or within the public road, including any footway or within any service verge, or similar;
 - g) Parking provision shall be outwith visibility splays;
 - h) All private driveways shall be formed such that no surface water is discharged or loose material is carried from them onto the public road;

- i) A visibility splay of 4.5 x 35m (both directions) shall be provided at all internal road junctions and within the splay there shall be no obstruction to visibility over 1m in height;
 - j) Minor access or 'novel' roads shall be designed as 'open plan' with no fencing along rear of service verges;
 - k) Driveways over service verges shall be constructed to take vehicles and shall be finished in bituminous macadam.
15. No development shall commence on any units taking access from Bain Avenue until a road connection is provided between McMillan Avenue and Bain Avenue in accordance with approved plans, or to a stage of construction previously agreed.
16. No development shall commence on more than 48 new units taking access from McMillan Avenue until a road connection is provided between McMillan Avenue and Bain Avenue in accordance with approved plans, or to a stage of construction previously agreed. This access road shall have a carriageway width of 6 metres throughout and be designed to 'residential core road' standard.
17. No development shall commence on more than 84 new units across the R3 Linkwood East site until:
- a) junction assessments for the Reikit Lane/Linkwood Road/Thornhill Road and A941 New Elgin Road/Edgar Road/Linkwood Road junctions have been submitted to and approved by the Planning Authority; and
 - b) details have been submitted to and approved by the Council, as Planning Authority regarding the location, design, construction specifications and external material finishes for the proposed improvements at the roundabout at A941 New Elgin Road/Edgar Road/Linkwood Road junction.
18. No development shall commence on more than 48 units across the R3 Linkwood East site until the improved crossing facility for non-motorised users on Reikit Lane has been installed in accordance with approved plans.
19. No development shall commence on more than 750 units of accommodation (houses and/or flats) across the whole of the Elgin South development area (sites R11-R14, CF3, CF4 as identified in the 2008 Moray Local Plan) until the proposed new roundabout at A941 new Elgin Road/Edgar Road/Linkwood Road junction has been provided in accordance with the approved plans.
20. Prior to the occupation of any dwelling the approved Travel Plan packs are to be provided to new residents.
21. No water shall be permitted to drain, or loose material be carried onto the public footpath/carriageway.
22. That the measures proposed for compliance with policy ER2 be installed as specified in the developer's submission.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
2. In order that detailed consideration can be given to the landscaping of the site and provision of any play equipment.
3. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
4. In order to ensure that landscape/recreational areas are provided timeously with appropriate arrangements for maintenance in place.
5. In order to prevent potential water pollution.
6. In order to prevent the pollution of controlled waters.
7. In order to prevent potential water pollution.
8. In order to ensure an acceptable form of development.
9. In order to ensure an acceptable form of development.
10. To ensure an acceptable form of development in transportation terms including details of matters specified which are currently lacking from the submission.
11. In the interests of an acceptable form of development in terms of active travel journeys to and from the site by the occupiers if the dwellings in accordance with PAN75 and the provision of details currently lacking from the submission.
12. To ensure sustainable development with connections between the application site and possible future areas of development in accordance with 'Designing Places' policy.
13. To ensure phasing of the development is controlled to safeguard the amenity of the area.
14. In the interests of road safety and to ensure that a satisfactory standard of parking and access is provided at an early stage for use in conjunction with the development.
15. To provide the level of vehicle access for the scale of development in the interests of connectivity and access for emergency vehicles.
16. To provide the level of vehicle access for the scale of development in the interests of connectivity and access for emergency vehicles.

17. To ensure the assessment of the impact of development traffic on the road network in accordance with Moray Local Plan policy IMP2.
18. To provide for non motorised users from the development site in the interests of road safety.
19. To ensure a satisfactory form of development in transportation terms.
20. To ensure the promotion of active travel journeys to and from the site by the occupiers of the dwellings in accordance with PAN75.
21. In the interests of road safety for all road users.
22. To ensure that the development complies with the on-site carbon emission target of a 15% reduction.

ELGIN CITY NORTH: WARD 06

- (ii) **08/00077/EIA, 08/00796/FUL & 08/00078/LBC CONSTRUCT ELGIN FLOOD ALLEVIATION SCHEME BETWEEN GLEN MORAY DISTILLERY AND PITGAVENY (INCLUDES ALTERATIONS TO LISTED BUILDINGS AT MARY WELL MANSION HOUSE HOTEL AND BISHOPMILL BRIDGE) AT RIVER LOSSIE FOR THE MORAY COUNCIL**

Under reference to Paragraph 3(i) of the Minute of the Committee dated 29 September 2009 there were submitted reports by the Appointed Officer recommending that, subject to the adoption of the Appraisal by SNH, as the Council's "Appropriate Assessment", notification to Historic Scotland prior to issue of Listed Building consent and conditions detailed in the reports, planning and Listed building consent be approved in respect of applications to construct an Elgin Flood Alleviation Scheme between Glen Moray Distillery and Pitgaveny, including alterations to Listed Buildings at Mary Well, Mansion House Hotel and Bishopmill Bridge, Elgin, at River Lossie, Elgin and raise the ground level at Barmuckity Farm, Elgin for The Moray Council.

There were also circulated to members of the Committee, prior to the meeting, in terms of a policy decision of December 1991, copies of correspondence in respect of the application received subsequent to the issue of the Agenda and the Appointed Officer's report.

There were also tabled at the meeting copies of the draft conditions relating to the applications, copies of which had been circulated to Members, electronically, prior to the meeting.

The meeting noted that the applications had been referred to Committee in terms of the Scheme of Delegation given that they are a major development. The report also advised that application 08/00077/EIA had been advertised as a potential departure from the Development Plan, to which objections had been received, and the applications had been submitted by The Moray Council. In this regard, as intimated to the meeting on 29 September 2009, the Director of Environmental Services was of the opinion that the Elgin

Flood Alleviation Scheme is well heralded in terms of the Local Plan which has been recently approved and in consequence is well bedded within the policies of the Council. Also in preparing the flood scheme it was the whole Council that took the decision as to the format which that should take and that has been reflected in terms of the Flood Prevention order and also in the planning application. For these reasons the Director of Environmental Services did not consider that notification to the Scottish Government was required under Circular 3/2009 nor did he consider that there was a requirement for a pre-determination hearing or planning application hearing.

Members of the Committee visited various sites relative to the applications on Friday 25 September 2009.

Prior to considering the applications the Chairman stated that these were the most challenging of reports to come before him in regard to coming to terms with the wide range of issues that they contain. He stated that he found the site visit immensely helpful in understanding what was being sought and how these proposals are expected to go ahead. He further stated that flooding had to be expected as issues such as climate change would indicate that this will occur on a more regular basis and that floods which have been experienced once in a hundred years are being experienced far more regularly than that. It is the duty of the Council to manage these flood events and to mitigate the flood damage throughout the area most at risk. He stated that he fully recognised and had read the concerns of those particularly living in the downstream area, and also noted SEPAs comment, and the continued reassurance that no property in the downstream area will be worse off as a result of these proposals which was something that he took reassurance from. There will be flooding downstream and in the area of the scheme but this will be managed and for the greater good that is a worthwhile objective.

On the invitation of the Chairman, Councillor Ross addressed the meeting, stating that he would not wish his comments to be interpreted or misinterpreted as trying to delay the Elgin Flood Alleviation Scheme in any way. However there were genuine concerns of constituents of his, living downstream, that this current flood alleviation scheme may move the problem from Elgin down to them. He referred to an e-mail from Pitgaveny Estates which had been circulated to all Members of this Committee that stated there had been confirmation from SEPA who stated that they have now confirmed that they do not challenge the figure of a 26% increase in flood risk downstream as a result of the Elgin Flood Alleviation Scheme. He also referred to the consequences of flood banks breaching. In conclusion he asked whether the Members of this Committee can be content with a scheme that they know will increase the chance of this happening to the downstream constituents by over 25% ; whether Members have all the relevant information to make a decision; are they content that the decision they will make will not see houses flooded downstream of Elgin, or a chance of that happening, increasing by 26%; and are they happy that they have the fullest information to make that judgement.

In response the Director of Environmental Services advised that the Scottish Government Reporter conducting the Public Inquiry in regard to the Flood prevention Order for the Elgin Flood Alleviation Scheme has before him a myriad of documents prepared not just by the Council but also by various objectors, and he will have to balance his consideration of those documents as to whether in fact there is an increased flood risk or not and the extent of that. He further advised that the Council's officers and its Consultants, in putting forward the case, were satisfied that it was not a scheme which would just pass the risk downstream and

where there is a certain amount of risk involved it was considered against the greater good. In regard to the specific reference to the e-mail from Pitgavney, he advised that a copy of the response from SEPA referred to in the e-mail had been obtained from the SEPA Chief Hydrologist. To try and set the statement in context, what SEPA were saying is that whilst they were not challenging the figure of 26%, the actual increase in flood risk, in terms of annual percentage risk, is increased on average by about 2% and this equates to an increase in risk resulting in a change due to overtopping of the embankments from one in nineteen years to one in fourteen years.

The Principal Solicitor (Commercial & Conveyancing) advised that it was a very difficult legislative process that flood schemes have to go through but the technical detail of the scheme and looking at the issues around increased risk and the various issues put forward by the objectors and the Council do fall to be considered by the Reporter in terms of the Inquiry into the Flood Prevention Order, as the appropriate mechanism for the technical and very detailed consideration of the flood scheme itself. She further advised that sitting as the Planning Authority, what this Committee is being asked to consider is the scheme as promoted and assess it against planning policy. Whilst the Director has been happy to address the point which has been raised by Councillor Ross and speak to the correspondence, Members of this Committee needed to be clear that their responsibility at this Meeting is to look at the scheme as promoted and assess it in terms of planning policy. Many of the objectors have raised concerns about the Council sitting in judgement as the Planning Authority on its own application; that is allowed for in terms of planning law, there are safeguards in place and in certain circumstances if a Planning Authority is considering an application from itself, which is a significant departure from the Development Plan, and there are a considerable number of objections, there is a second step which has to be gone through which is a referral to the Scottish Government. That is not considered to be necessary here because the departure issues are not considered to be significant and she advised that she considered it entirely appropriate for this Committee to consider this application but that the Committee needed to do so judging it against planning policy.

The Chairman stated that he was of the opinion that this was a very useful and worthwhile comment, as this Committee is not here to determine if this is the best technical solution, it is here to determine whether the application, as presented, is in line with the Council policies and meets the Council's Development Plan requirements.

Following further discussion, during which officers responded to Members questions, the Committee agreed to approve the following applications, subject to the adoption of Appraisal (by SNH) as the Council's "Appropriate Assessment" and the following conditions:-

08/00077/EIA & 08/00078/LBC

Note: For the purposes of this schedule, "Elgin FAS" refers to Elgin Flood Alleviation Scheme; "ES" refers to the Environmental Statement (as submitted with application 08/00077/EIA) and "Addendum" refers to the Addendum to the ES (as submitted with application 09/00796/FUL)

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
 3. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) confirmation of the proposed date(s) for commencement of each work location and element comprised in the Elgin FAS together with a finalised detailed programme of works for the phased construction of the development. The programme details within the ES (Chapter 3, Appendix 3J) are not approved and the phased programme for the Elgin FAS works shall take account of
 - i) all environmental constraints, including all breeding and hibernating seasons for all aquatic and terrestrial ecological interests,
 - ii) all construction activity associated with the Elgin FAS, including site clearance, advance service diversions, establishment and restoration of site compounds, and periods of construction on each specific element of the scheme, including the proposal to raise ground levels at Barmuckity (application 09/00796/FUL refers), etc,
 - iii) all other pre-and post-scheme construction work including further survey and maintenance/inspection regimes as may be identified in the proposed Construction Method Statements or Environmental Action Plan (EAP) (see Conditions 30 and 32.
- and
- b) thereafter, the development shall be implemented in accordance with the approved details.
 4. Upon completion of each phase of the development (as defined/approved in Condition 3), as soon as practicable after doing so, the attached Notification of Completion of Development shall be completed and submitted to the Council, as planning authority to give notice of completion of that phase.
 5. Upon completion of the development (i.e. upon completion of the last phase of the Elgin FAS works are undertaken (as defined/approved in Condition 3), as soon as practicable after doing so, the attached Notification of Completion of Development shall be completed and submitted to the Council, as planning authority to give notice of completion of the Elgin FAS development.
 6. The Elgin FAS shall not be progressed without the implementation of planning application 09/00796/FUL to raise ground levels opposite Barmuckity Farm, as approved under formal decision notice dated (insert date). The area of ground raising shall be developed in conjunction with the Elgin FAS proposals hereby approved and as an integral part of the Elgin FAS (Addendum refers), the terms and conditions of this permission shall apply also to that proposal, including requirements for a phased programme of construction to include this work, Construction Method Statements and an Environmental Action Plan to identify all construction and

mitigation measures to be applied and adopted during construction and operation of the Elgin FAS.

7. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) in consultation with Historic Scotland, a finalised method statement for the dountaking, marking and storage of the existing balustrade stonework and its re-use/re-instatement on top of the raised floodwall at Mansion House Hotel, together with written confirmation from Historic Scotland regarding acceptance of the statement.
 - b) in consultation with Historic Scotland, a finalised method statement for the partial dismantling, marking and storage of the existing stonework at Old Bishopmill Bridge and for the re-use of the stone material during the re-building of the abutments at the proposed Lossie Wynd footbridge, together with written confirmation from Historic Scotland regarding acceptance of the statement.

and

- c) thereafter, the development shall be implemented in accordance with the approved details.
8. Sample panels of all new stone and reconstituted stone, including all size, coursing and pointing details shall be prepared on the site for inspection and approval prior to the stonework being erected/re-instated as part of the Elgin FAS works.
9. As part of the requirements of Condition 8:
 - a) natural stone to match the existing stone material finishes shall be used for the new floodwall at Marywell and Mansion House Hotel, and the existing abutments at the proposed Lossie Wynd footbridge, and at the stone wall at the turning area at Newmill Road at the turning hammerhead/new footpath leading to Brewery Bridge footpath.
 - b) lime mortar shall be used for coursing and pointing details where natural stonework is used.
 - c) details of the treatment at the junction or connection between natural and man-made/old and new materials shall be provided to protect the natural stone and historic fabric.
 - d) the proposed reconstituted stone for the new, redefined northern edge of the boating pond (Cooper Park) shall match the existing reconstituted stone material used to define the remainder of the edge of the pond.
10. Unless already specified or otherwise agreed, no development shall commence until detailed have been submitted to and approved by the Council, as planning authority regarding samples or specifications of all external finishing materials and colouration, including paintwork and timber staining and/or protective coating to be applied.
11. As part of Condition 10:

- a) for the Lossie Wynd footbridge, the proposed colouration of the parapets shall match the existing colour finish of the existing footbridge parapets.
 - b) details shall be provided for “concrete floodwall with reconstituted stone cap and cladding to match existing” for the new wall on the left hand embankment downstream of Lossie Wynd footbridge (drawing 9R3414/9163 P2 refers)
 - c) details shall be provided for “proposed sheet pile retaining wall clad and capped where exposed” (drawing 9R3414/9173 P3 refers).
12. No development shall commence until details have been submitted to and approved by the Council, as planning authority regarding:
- a) in consultation with the Council’s Adviser, Aberdeenshire Archaeological Services, a scheme for the implementation of a programme of archaeological work in accordance with a written scheme of investigation. The required scheme details shall include the arrangements for archaeological watching briefs during groundbreaking works, photo/building surveys, as appropriate and the recording and recovery of archaeological resources within the development site.
- and
- b) thereafter, the development shall be implemented in accordance with the approved details.
13. Construction work activity, including vehicular movement associated with the Elgin FAS shall only take place between 07.00 – 20.00 hrs, Monday – Saturday and not at any other time except with the prior written agreement of the Council, as planning authority.
14. Noise levels from night-time pumping operations where required at various locations including those identified in the ES (Chapter 16, 16.65), shall not exceed Noise Rating (NR) Curve 25, as measured within the bedroom or living apartment of the nearest noise sensitive property between 23.00 – 07.00 hrs. (The measurement period shall be a minimum of 10 minutes between 23.00 – 07.00 hrs).
15. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
- a) details of all locations where night-time pumping operations will be required and all proposed measures to be implemented prior to pumping operations commencing to ensure noise levels do not exceed Noise Rating (NR) Curve 25.
 - b) the arrangements to monitor on-site vibration where piling is proposed within 50 m of residential property (Elgin FAS, ES, Chapter 16, 16.76 refers) and to notify the Council’s Environmental Health Section in the event of complaints being received of perceptible vibration with proposed measures to mitigate, where possible, this impact and to progress the Elgin FAS works.
 - c) the location, design and external appearance, height and material finishes of all noise barriers including acoustic screens or similar to be erected where minor, moderate or adverse impacts are predicted to occur during construction of the Elgin FAS (ES, Chapter 16, Tables 16.3, 16.4 and Appendix 18A refers) and at

the temporary soil treatment centres e.g. at the wastewater treatment plant, Grampian Road. The noise barriers shall be erected prior to any construction works commencing and removed upon completion of construction activity within the locality of the identified noise sensitive premises.

and

d) thereafter, the development shall be implemented in accordance with the approved details.

16. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

a) the location(s), extent or area, and the arrangements for access including from haul routes within the site, to/from all temporary soil treatment centres to be provided during construction of the Elgin FAS. As part of the required details:

- i) all treatment centres shall be located within the site boundary of the Elgin FAS;
- ii) all soil treatment operations including stockpiling of material pre- and post-treatment shall be contained within the defined area; and
- iii) upon completion of soil treatment operations, all activity, plant and machinery and surplus material shall be removed from the site and unless otherwise agreed, the land shall be restored/re-instated in accordance with the details approved for the Elgin FAS including the proposed landscape planting arrangements.

and

b) thereafter, the development shall be implemented in accordance with the approved details.

17. Between 20.00 - 07.00 hrs battery powered temporary traffic lights shall be used to control traffic during construction works at Pansport Bridge (both ends), Grampian Road, (junction with Pinefield Road) and Bridge Street/North Street (Redwood Cottage).

18. Site compounds shall only be located at the locations identified on drawing 9R3414/9003 P1 and no other compound may be formed without the prior written consent of the Council, as planning authority and in relation to the proposed compounds:

- a) prior to use of each compound first commencing, the compound area shall be clearly defined using temporary fencing or similar.
- b) all compound activity associated with the construction phase of the Elgin FAS, including the storage and movement of materials and vehicles, and site accommodation and storage containers shall be located entirely within the defined compound area.
- c) the 'arrowhead' detail used to denote the location of the proposed access to/from each compound from adjoining road network (drawing 9R3414/9003 P1 refers) is not accepted and prior to establishment of any compound, full details shall be submitted to and approved by the Council, as planning authority in consultation

with the Transportation Manager regarding the location, design specification of any new access or modification to any existing access including visibility splay requirements for each site compound and the arrangements to stop-up the access once the use of the site as a compound ceases (see also Condition 25).

and

- d) thereafter, upon completion of construction activity at each Elgin FAS works serviced by each compound, the use of the land as a site compound shall cease and the land shall be restored/re-instated to its existing condition in accordance with written details of the arrangements for restoration/re-instatement of the land, to be submitted for approval by the Council, as planning authority not less than 4 weeks prior to the cessation of the land used as a site compound.

19. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

- a) Details of the re-aligned motorcross track at Woodside, to be located outwith the area of the proposed flood channel indicated on drawings 9R3414/9201 P2;
- b) Details of the proposed headwall and trash screen at the western end of the culvert proposed as part of the proposed Tyock Burn diversion (drawing 9R3414/9201 P2 and 9221 P2 refers);
- c) Detailed specifications for the surfacing finishes for all footpaths and maintenance tracks located along the crest of embankment defences;
- d) Details including location, design specifications and material finishes and landscaping arrangements to mitigate the environmental impact of all proposed alterations, where necessary, to existing passing places, for example along Kirkhill Road, Calcots Road and Pitgaveny Road to accommodate general and construction traffic use

and

- e) thereafter, the development shall be implemented in accordance with the approved details.

20. As part of the landscape scheme details as submitted,

- a) no development shall commence until details have been submitted to and approved by the Council, as planning authority regarding:
 - i) revised tree survey details to identify all trees/shrubs to be retained/removed where “tree removal through Johnstons will be minimised” (drawing 9R3414/9181 R3 refers);
 - ii) written confirmation that the tree survey details including identification of trees to be retained/removed remain unchanged for all other areas where Elgin FAS works are proposed OR revised tree survey details shall be submitted for approval for location(s) where changes are being or have been made to the design of the Elgin FAS between submission of the application and commencement of works.

- iii) revised planting specifications to replace non-native species with native plant species (applicant's agent's letter to SEPA dated 11 September 2008 refers).
- iv) the arrangements for the long-term maintenance and management of all landscaping.

and

b) in relation to the submitted details:

- i) trees/shrubs or other vegetation other than those identified for removal within the approved scheme details shall be removed either during the construction phase or thereafter, without the prior consent, in writing, of the Council, as planning authority
- ii) as part of the required details of the arrangements for protection of any existing trees, shrubs and hedgerows and bankside and channel vegetation during the course of developing the site:
 - a) temporary fencing or similar means of enclosure to demarcate defined working areas for construction activity and/or protect adjacent vegetation and trees from construction activity at all sites within the Elgin FAS, and
 - b) no construction activity, including the storage of material and use of equipment shall take place outside the defined working areas.

21. All planting, seeding or turfing comprised in the approved landscaping details shall be carried out not later than the end of the first planting and seeding season following the completion of construction works at each location within the Elgin FAS. Unless otherwise provided for within the detailed arrangements for landscape maintenance and management (Condition 20), any tree, shrub and plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species to the satisfaction of the Council, as planning authority.

22. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

- a) In consultation with the Council's Transportation Manager, a finalised Traffic Management Plan (TMP) to facilitate construction of the Elgin FAS, including the movement of construction traffic to/from the site. The required TMP shall:
 - i) be prepared upon and take account of all traffic management issues and mitigation measures identified in the ES (Chapter 15, including Table 15.6), including identification, where appropriate, of all temporary traffic and parking restrictions, lane closures, road markings and traffic signals, temporary stopping up of roads to general traffic, local measures to provide continuous access to residential and business during construction, temporary bridges and improvements to passing places, etc.
 - ii) include details of the proposed arrangements, including the location, design and visibility splay requirements for all accesses from the public

road to the temporary site compounds (drawing 9R3414/9003 P1 refers), including the location, design and visibility splay requirements (see also Condition 18)

- iii) include details of all haul routes to be used by construction traffic including an alternative route for a proposed haul route via Jock Inksons Brae which is not approved.

and

- b) thereafter, the development shall be implemented in accordance with the approved details.

23. There shall be no direct vehicle access to/from the A96, Trunk Road for construction related traffic between Waulkmill Cottages and Elginshill Road junction.

24. No part of the permission hereby granted relates to the formation and/or alteration of any new or existing access onto any public road, including any temporary construction access onto the public road (for example at Oldmills Road, or onto Calcots Road as part of current investigations for a temporary bridge crossing to Moycroft (ES refers)), without details regarding the location and design specifications for the access having been first submitted to and approved by the Council, as planning authority, in consultation with the Council's Transportation Manager.

25. In accordance with details of their construction, which shall previously have been submitted to and approved by the Council, as planning authority in consultation with the Council's Transportation Manager, a turning hammerhead(s) shall be provided and made available for use:

- a) at the western end of Grampian Road, as shown on drawing 9R3414/9181 P3, before Elgin FAS construction works commence downstream of Pansport Bridge, including the embankment at Johnstons, river re-alignment and the formation of the new flood channel and embankment along Grampian Road,
- b) at Newmill Road adjacent to Brewery Bridge/Brewery footbridge, as shown on drawing 9R3414/9162 P3, before Elgin FAS construction works commence in the vicinity of Brewery Bridge, including the new Brewery footbridge and the flood relief channel and works at the Kingsmills play area.

and

- c) all relevant statutory procedures as required for the stopping-up of these roads, in particular at Grampian Road have been completed.

26. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

- a) the location, design and external appearance of the temporary bridge to be provided across the River Lossie and new flood relief channel during the demolition and construction of the existing and new/replacement bridge

structures at Pansport Bridge, together with information on the impact of the temporary bridge upon any archaeological interest or Scheduled Ancient Monument in the locality. The temporary bridge shall be located downstream of the new/replacement Pansport Bridge; and

- b) following investigation, the location and design of any temporary bridge to be provided over the River Lossie at Moycroft (ES, Chapter 15, 15.191 refers);

and

- c) thereafter, the development shall be implemented in accordance with the approved details.

27. There shall be no storage of materials or tipping under the overhead transmission lines which cross the site.

28. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding

- a) in consultation with SEPA, the finalised arrangements to monitor the impact of the Elgin FAS on groundwater abstractions before, during and after construction. The details shall include:

- i) written confirmation from SEPA that the monitoring arrangements are acceptable
- iii) the location of the abstractions identified as being at risk and the measures to monitor groundwater level and quality, and in the event of significant adverse impacts or pollution incidents, the contingency plans to be implemented to address and/or remediate any such event.

and

- b) thereafter, the development shall be implemented in accordance with the approved details.

29. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

- a) in consultation with SNH and SEPA, a sediment management plan (to be integrated with a pollution prevention management plan) to include details to minimise elevated sediment loads and pollution of the watercourse. The details shall include both general and specific construction measures including de-watering, arrangements to protect the water course from run-off from stockpiled material, use of geotextile membrane to reduce scour and erosion on exposed banks, isolating/diverting flows when working in-channel, phased excavation of lowered floodplains, etc together with the arrangements to inspect and monitor the watercourse and banks both during and after construction for erosion and deposition. (This plan may be provided as part of the required EAP (see Condition 32));

and

b) thereafter the development shall be implemented in accordance with the approved details.

30. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

a) In consultation with SNH and SEPA, and for each work element within the Elgin FAS, finalised Construction Method Statements (which may form part of a Construction Environmental Management System) which define the method of construction and specify mitigation measures to be applied to the Elgin FAS. The Construction Method Statements shall:

- i) include plans for sediment management plan, pollution prevention and invasive species management,
- ii) detail of all on-site construction, drainage, mitigation measures to be adopted, including identification of all "best practice" methods to be employed, site restoration/re-instatement works, the timetable for construction and for tree felling and/or scrub clearance, and measures to ensure environmental and visual impacts are reduced, including the risk of pollution and to minimise disruption to habitats and species, etc. The statements shall also include details of the arrangements to monitor and ensure compliance with the approved details. (These statements may be provided as part of the required EAP (see Condition 32));

and

b) thereafter the development shall be implemented in accordance with the approved details.

31. As part of the requirements and development of Construction Method Statements (Condition 30):

a) in consultation with SNH and SEPA and prior to development works first commencing and for each element comprised in the Elgin FAS, a schedule shall be submitted to and approved by the Council, as planning authority, identifying all method statements/plans to be prepared together with their proposed time-scale for submission, an indication of whether the statements/plans are being prepared for planning or other regulatory purposes, and identification of which agencies or organisations will be consulted on the proposed statement.

b) thereafter, following preparation and consultation, a finalised copy of each statement/plan shall be submitted for approval by the Council, as planning authority together with written confirmation of acceptance of the statement/plan from SEPA and SNH, etc.

c) the finalised statements/plans shall identify and include proposals and measures to be implemented to reduce the risks to aquatic and terrestrial habitats and species and details of all surveys and monitoring to be undertaken before during and after construction.

- d) the statements/plans shall include provision for pre-construction surveys to identify further impacts on species in areas that afford potential habitat for freshwater pearl mussels, to check that no red squirrel dreys have been constructed subsequent to earlier survey works undertaken to inform the ES and the Elgin FAS, to check for signs of breeding birds, etc immediately prior to felling trees and/or clearance of scrub (where clearance operations are undertaken during the bird breeding season), and to check and record any new badger activity since earlier survey work undertaken to inform the ES and the Elgin FAS.
- e) in relation to tree felling/scrub clearance, etc. the statements/plans shall indicate the timing of such works, with the majority of tree felling to be carried out with the bird breeding season i.e. felling between August and March.
- f) in relation to the safety of any badgers throughout construction, the statements shall include provision for construction site areas, equipment and materials to be made safe from mammals, including otters and badgers.

32. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding

- a) a finalised Environmental Action Plan (EAP) to be based on the final detailed scheme design and contract documents and include all environmental recommendations and specification of all mitigation measures to be applied and adopted during construction and operation of the Elgin FAS and outline the responsibility for implementation of the measures. The EAP shall include written confirmation that all mitigation measures identified within the approved EAP will be implemented (To ensure all appropriate measures are implemented, the EAP may also include information provided as part of Condition 29 and 30)

and

- b) thereafter the development shall be implemented in accordance with the approved details.

33. As part of Condition 32 the EAP shall include:

- a) in consultation with SNH and SEPA and others where appropriate, proposals for post-construction monitoring of the development (as identified in the ES), including time-scales for undertaking and reporting on maintenance and inspection activities to monitor operation of the scheme and where required, identify improvements and remedy defects, together with surveys to determine the impact of the Elgin FAS upon aquatic and terrestrial habitats and populations including salmon and salmonids, otters, bats and water vole and riparian habitats along the River Lossie and Burns, tree/shrub (re)planting, etc; and
- b) where appropriate, the surveys should be submitted to and approved by the Council, as planning authority in consultation with SNH (and others as appropriate) should identify and detail all further remediation works as required to be undertaken and where any management and/or maintenance plans affecting riparian habitats are developed and/or up-dated for habitats created, these must

demonstrate how they take into account good management practices for wildlife including otter, bat, water vole, salmon and salmonids.

34. No development, except demolition of buildings required to facilitate investigation(s), shall commence on the area of land identified at each of the following specified locations until the results of investigation(s) to determine the nature, extent and potential impacts of any contamination have been submitted to and approved in writing by the Council, as planning authority. The results shall include, where applicable, recommendations and/or requirements for further supplementary investigation(s) and/or remediation, as necessary:

EFA0003 Glen Moray Distillery
EFA0008 Boroughbriggs Refuse Tip
EFA0009 Former Textile Mill, Decora DIY Store
EFA0010 Decora Embankment
EFA0015 Cooper Park Embankment
EFA0016 Cooper Park Landfill
EFA0017 Deanshaugh Mills
EFA0019 Cooper Park Nursery
EFA0020 Historic Scotland Yard
EFA0021 Kingmills, Newmill Road
EFA0022 Former Brewery
EFA0024 Johnston's Embankment, Newmill Road
EFA0025 Grampian Road Embankment
EFA0027 Scottish Water Depot, Grampian Road
EFA0028 Johnston's Store, Grampian Road
EFA0029 Units 1, 2 & 3, Grampian Road
EFA0030 Grant Construction Yard, Grampian Road
EFA0031 Pentland House, Grampian Road
EFA0032 Travis Perkins, Grampian Road
EFA0033 Riverside House
EFA0034 Sandy Reid MOT centre, Grampian Road
EFA0035 Council Workshops, Grampian Road
EFA0036 Elgin Truck and Van Centre, Grampian Road
EFA0037 Moycroft Transfer Station
EFA0038 Railway Embankment Land, Moycroft
EFA0039 Land at the Sewage Works, Moycroft Road
EFA0040 Chanonry Spur Industrial Estate
EFA0062 Rhinds of Elgin, Linkwood Industrial Estate
EFA0062a Baillie Bros, Linkwood Industrial Estate
EFA0063 Embankment at Linkwood Industrial Estate
EFA0063a Travellers' Site at Chanonry Industrial Estate

35. At any or all of the locations specified in Condition 34 above where the approved results identify further supplementary investigation(s) to be carried out, no development, except demolition of buildings required to facilitate investigation(s), shall commence until:

- i) full details of the methodology for the supplementary investigation of the site have been submitted to and approved in writing by the Council, as planning authority; and
 - ii) the supplementary investigation has been carried out in accordance with the approved details; and
 - iii) the results of the supplementary investigation have been submitted to and approved, in writing by the Council as Planning Authority. The results shall, where applicable, include recommendations and/or requirements for further supplementary investigation(s) and/or remediation as necessary.
36. At any or all of the locations specified in Condition 34 above where the approved results identify the requirement for remediation to be carried out, no development, apart from that required for remediation, shall commence until:
- i) full details of the remediation methodology have been submitted to and approved in writing by the Council, as planning authority; and
 - ii) the required remediation measures have been fully implemented in accordance with the approved details; and
 - iii) notification of the date of commencement of the remediation works has been given to the Council as planning authority not less than 7 days before remediation commences (contact Contaminated Land Section, Environmental Health, Environmental Services, Council Offices, High Street Elgin IV30 1RH, telephone 01343 563345); and
 - iv) full details of the validation methodology to be undertaken at the specified location have been submitted to and approved in writing by the Council as planning authority. The methodology shall include the time-scale for undertaking the validation and submission of a validation report.
37. Following remediation of the land, at any or all of the locations specified in Condition 34 above, in accordance with the previously agreed methodology, a validation report demonstrating that no pollutant linkages remain or are likely to occur shall be submitted to and approved in writing by the Council as planning authority, within the time-scale agreed within the methodology.
38. If significant unsuspected contamination is found during development then all work on that individual area of land (as described in condition 34) shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken and a remediation method statement has been agreed in writing with the Council, as planning authority.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding area.

3. To ensure an acceptable form of development, including details lacking from the current submission, or where an existing 'draft' programme has been provided, and to provide a detailed phased programme of works to allow the Elgin FAS to progress in an effective and efficient manner.
4. In accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, and to ensure that the Council, as planning authority is aware that a particular phase of the development is complete and is able to follow up any conditions.
5. In accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, and to ensure that the Council, as planning authority is aware that the development is complete and is able to follow up any conditions.
6. To ensure an acceptable form of development, this additional flood defence at Barmuckity being considered as an integral part of the Elgin FAS (Addendum refers). Despite the details of the works to raise ground levels being omitted from the current application, the land area for that development is included in the application site boundary for this development and account of an embankment at this locality was included in the modelling exercise used to assess flood risk. Without this element of the Elgin FAS, property would be placed at increased risk downstream of Elgin.
7. To ensure an acceptable form of development in the interests of maintaining the historic character and appearance of these Category B Listed Buildings, in particular to ensure the retention and re-instatement of the balustrade and the abutments supporting the bridge and to mitigate against the any adverse impacts associated with this work.
8. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality.
9. In order to ensure that the development harmonises with the appearance and character of the listed buildings and the surrounding area and to mitigate against any impact associated with the Elgin FAS and in accordance with the applicants agent's submissions.
10. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality.
11. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality, including the use of 'colour' to reflect the association between the new bridge and the current/previous bridges on the site.
12. To ensure an acceptable form of development where details are currently lacking from the submission and to safeguard and record the archaeological potential of the area, both known and unknown archaeological features.
13. To ensure a satisfactory form of development and safeguard the amenity and appearance of the area from construction impacts identified during the construction

phase of the Elgin FAS development, including noise disruption and disturbance and in accordance with the applicants agent's letter dated 3 June 2008 (to Environmental Health Manager).

14. To ensure a satisfactory form of development in the interests of the amenity of the development and surrounding property and to reduce or mitigate the impact of noise disturbance likely to be associated with this operation where required as part of the Elgin FAS.
15. To ensure an acceptable form and impact of the development upon the locality including details currently lacking from the submission, in accordance with the applicants agent's letter dated 3 June 2008 (to Environmental Health Manager) and to ensure that arrangements are in place to mitigate and monitor identified noise and vibration disturbance impacts associated with the Elgin FAS.
16. To ensure an acceptable form of development and in the interests of the amenity and appearance of the surrounding area, including details of matters currently lacking from the submission.
17. To ensure and acceptable form of development, in accordance with the applicants agent's letter dated 3 June 2008 to the Council's Environmental Health Service and to mitigate the impact of noise levels arising from implementing measures to control traffic during construction activity upon nearest residential receptors in the locations identified.
18. To ensure a satisfactory form of development including details currently lacking from the submission, in the interests of the amenities and appearance of the development and the surrounding locality and in terms of road safety.
19. To ensure an acceptable form of development in the interests of the amenities and appearance of the development, including the provision of information currently lacking from the submission.
20. In order that further consideration can be given to the landscaping details for the site, including information currently lacking from the submission, to safeguard new planting from disturbance and construction activity and to ensure an acceptable form of development in the interests of the amenities and appearance of the development and the surrounding locality.
21. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
22. To ensure an acceptable form of development in terms of road safety and to manage and mitigate traffic impacts before during and after construction of the Elgin FAS.
23. To minimise interference with the safe and free flow of traffic on the trunk road.
24. To ensure a satisfactory form of development in road safety terms and in the interests of the amenity and appearance of the locality.

25. To ensure an acceptable form of development in road safety terms and ensure that the required statutory process is observed as part of the proposed implementation of the Elgin FAS.
26. To ensure an acceptable form of development, including details currently lacking from the submission and/or are under investigation, in accordance with the applicants agent's submission and to safeguard the impact of the works upon any archaeological interest.
27. To ensure an acceptable form of development in health and safety terms and to manage the risk associated with Elgin FAS works and operations in proximity to overhead transmission lines.
28. To ensure an acceptable form of development in groundwater terms including measures to mitigate against the impact of the Elgin FAS upon groundwater resources.
29. To ensure an acceptable for of development and to mitigate and manage the risk of sediment and pollution upon the water environment and aquatic habitats.
30. To ensure an acceptable form of development, including details lacking from the submission and to provide method statements/plans for all aspects of site work that might impact upon the environment, contain further preventative action and mitigation to limit impacts on the water environment and on aquatic and terrestrial habitats and populations, including otters, bats, water vole, red squirrel, birds, freshwater pearl mussel, salmon and salmonids and badgers, and ensure the long-term retention and value of these species/habitats.
31. To ensure an acceptable form of development, including details lacking from the submission and to provide method statements/plans for all aspects of site work that might impact upon the environment, contain further preventative action and mitigation to limit impacts on the water environment and on aquatic and terrestrial habitats and populations, including otters, bats, water vole, red squirrel, birds, freshwater pearl mussel, salmon and salmonids and badgers, and ensure the long-term retention and value of these species/habitats.
32. To ensure an acceptable form of development, including details lacking from the submission and to ensure appropriate mitigation is implemented to further minimise impacts on aquatic and terrestrial habitats and populations including otters, bats, water vole, freshwater pearl mussel, salmon and salmonids, and ensure the long-term retention and value of these species/habitats.
33. To ensure an acceptable form of development, including details lacking from the submission and to ensure appropriate mitigation is implemented to further minimise impacts on aquatic and terrestrial habitats and populations including otters, bats, water vole, freshwater pearl mussel, salmon and salmonids, and ensure the long-term retention and value of these species/habitats.

34. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.
35. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.
36. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.
37. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.
38. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.

08/00796/FUL

Note: For the purposes of this schedule, "Elgin FAS" refers to Elgin Flood Alleviation Scheme; "ES" refers to the Environmental Statement (as submitted with application 08/00077/EIA) and "Addendum" refers to the Addendum to the ES (as submitted with application 09/00796/FUL)

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. Upon completion of the development, as soon as practicable after doing so, the attached Notification of Completion of Development shall be completed and submitted to the Council, as planning authority to give notice of completion of the Elgin FAS development.
4. The Elgin FAS shall not be progressed without the development hereby granted, which forms part of and shall be developed in conjunction with the Elgin FAS works as approved under formal decision notice 08/00077/EIA dated (insert date). As the works to raise ground levels will be undertaken as an integral part of the Elgin FAS (Addendum refers), the terms and conditions of that development are hereby reiterated in so far as they relate to this development including requirements for a phased programme of construction to include this work, for Construction Method Statements and for an Environmental Action Plan to identify all construction and mitigation measures to be applied and adopted during construction and operation of the Elgin FAS.

5. No development shall commence until details have been submitted to and approved by the Council, as planning authority regarding:
 - a) in consultation with the Council's Adviser, Aberdeenshire Archaeological Services, a scheme for the implementation of a programme of archaeological work in accordance with a written scheme of investigation. The required scheme details shall include the arrangements for archaeological watching briefs during groundbreaking works, photo/building surveys, as appropriate and the recording and recovery of archaeological resources within the development site.and
 - b) thereafter, the development shall be implemented in accordance with the approved details.
6. There shall be no direct vehicle access to/from the A96; Trunk Road for construction related traffic between Waulkmill Cottages and Elginshill Road junction.
7. There shall be no storage of materials or tipping under the overhead transmission lines which cross the site.
8. If significant unsuspected contamination is found during development then all work on that individual area of land shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken and a remediation method statement has been agreed in writing with the Council, as planning authority.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding area.
3. In accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, and to ensure that the Council, as planning authority is aware that the development is complete and is able to follow up any conditions.
4. To ensure an acceptable form of development, this additional flood defence being considered as an integral part of the Elgin FAS (Addendum refers). This land area is included within the application site boundary for application 08/00077/EIA. Details of the works to raise ground levels were omitted from that development although account of an embankment at this locality was included in the modelling exercise used to assess flood risk. Without this element of the Elgin FAS, property would be placed at increased risk downstream of Elgin.

5. To ensure an acceptable form of development where details are currently lacking from the submission and to safeguard and record the archaeological potential of the area, both known and unknown archaeological features.
6. To minimise interference with the safe and free flow of traffic on the trunk road.
7. To ensure an acceptable form of development in health and safety terms and to manage the risk associated with Elgin FAS works and operations in proximity to overhead transmission lines.
8. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.