

PLANNING APPLICATION: 06/01756/OUT

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

The Proposal

- This is an outline application for a single dwelling house and vehicular access.
- Public water supply and public drainage.

The Site

- The site lies towards the end of Spey Street on the eastern side of the town Rothes.
- The site is positioned on the south side of Spey Street fronting onto the public road and is currently used as a paddock for grazing.
- The site is rectangular in shape and is approximately 359m².

Policy / Objections-Representations / Consultations - See Appendix

History

None.

Advertisement

Advertised as a departure to the development plan.

Observations

Determining issues:

Housing Designation (R1 Spey Street OPP1 Greenfield Farm Steading - Emerging Local Plan - Impact on Highway T2, T4)

The proposed plot lies within the R1 housing designation as defined within the Adopted Local Plan. The majority of this designation has already been developed by Springfield Properties. Access at the end of the estate road has been left to allow entry into the remaining field. The proposal is considered to be acceptable in terms of character, as it would sit alongside a bungalow, which also has vehicular access from Spey Street. If Members are minded to approve this application a condition should be imposed restricting the height of the dwelling to one and a half storeys in height. The remaining land that falls within the designation would not be jeopardised by this proposal.

In the Emerging Local Plan the site lies within an OPP1 designation and this is now also a material consideration. This policy states redevelopment of the site for housing would be most

appropriate. A detailed Flood Risk Assessment is also a requirement of this policy. A flood risk assessment has been submitted, which is discussed in detail below.

In terms of the impact on the highway the Transportation Manager has been consulted and no objections are raised subject to all boundary fences being set back in line with the adjacent property.

Implications Arising From (L/ENV26 Control of Development in Flood Risk Areas (ii) Managed Risk Proposals EP7 - Control of Development in Flood Risk Areas - Emerging Local Plan)

The site is located just outwith but bordering SEPA's Indicative River and Coastal Flood Map (Scotland) and therefore falls to be assessed against policy L/ENV26 & EP7. This has necessitated the need for a Flood Risk Assessment to show that the development proposals have been designed to minimise the risk of inundation to the development itself and that this will not contribute to or increase the risk of flooding elsewhere.

The proposals also require consideration against the provisions of Scottish Planning Policy 7 (SPP7) - Planning and Flooding requires all new development to be protected from the 1 in 200 year return period flood event and to be able to maintain access to, and ingress from, the development up to, and including, this design flood.

A Flood Risk Assessment has been provided by the applicant (prepared by Fairhurst). The Flood Risk Assessment confirms that "Flooding can be satisfactorily mitigated by raising floor levels above the adjacent road level and will not increase flooding elsewhere." It states that "Development of the application site will not impede the flow of floodwater towards the River Spey. The site is subject to overland flow and is not considered to be floodplain, so it does not impair the ability of the floodplain to store water and to flood naturally." The report concludes by stating that "The risk of floodwater originating in the Burn of Rothes, surface water or groundwater will be addressed by setting building platform levels above the level of the surrounding ground by 600mm."

Following consideration of the Flood Risk Assessment, SEPA have objected to the application on the basis of possible flood risk citing the following points:

- The Flood Risk Assessment, although confirming the site is at risk of flooding, has failed to supply the estimated 1 in 200 year return period flood level (plus climate change) nor subsequent inundation depths on and around the site.
- The estimation of a proposed finished floor level cannot be made without first estimating the design flood level. An allowance of 0.5m on top of the design flood level should be included for 'freeboard'.
- The report has not considered compensatory storage to replace the lost volume to landraising, if landraising is required.
- It is also SEPA's national policy to object to new development on Greenfield sites within the functional flood plain.
- SEPA requests clarification on the statement within the FRA statement that the "development proposal will not impede the flow of floodwater towards the River Spey. The site is subject to overland flow and is not considered to be floodplain, so it does not impair the ability of the floodplain to store water and to flood naturally."

- SEPA are aware that a flood alleviation scheme is proposed for Rothes and although at an advanced stage of planning, it is not scheduled to be completed until December 2010. Moreover, the scheme is designed to contain a 1 in 100 year return period flood event (plus climate change) and SEPA must consider new development against the 1 in 200 year event (plus climate change).

Further consultations have taken place with SEPA, the applicant's agent and Moray Flood Team which have been summarised below:

SEPA's Comment: Moray Flood Team are correct to say that the map site is just outwith the 1 in 200 year line as shown on the SEPA floodmap, it was on the basis of information provided in Fairhurt's FRA that the queries regarding flood risk were raised. As the Flood Risk Assessment highlighted that the site was at risk in their FRA, it was felt that by highlighting this risk the issue has to be followed through and fully assessed. As the further information requested has not been provided SEPA cannot be satisfied in terms of flood risk. Moray Flood team refer to the level of protection that will be provided by the Burn of Rothes FPS, however that scheme is not near construction nevermind completion at the moment, so it would be premature at this stage to assume the site would be protected by that scheme. SEPA maintains its objection and would be prepared to support this position at an appeal if necessary.

Moray Flood Team's Comment: According to the SEPA web maps this site is just outside the influence of the 1 in 200 year Flood Risk from the River Spey. When the consultant was preparing a FRA for this site MFA was asked about the flood risk and provided information based on the work of the MFA. According to MFA flood risk maps the risk is between 1 in 50 and 1 in 100 years and the flood risk is from the Burn of Rothes. This has been discussed with the Scheme Manager and the risk is from out of bank flow from the Burn of Rothes flowing overland towards the River Spey. Although this is shown as blanket coverage over the 'flood plain' towards the River Spey, in practice there are significant barriers such as walls and kerbs. So the flow of water is more likely to follow routes such as roads that have not been accurately modelled when the MFA flood risk mapping was done. More accurate risk mapping would probably show that this site is not at risk but this work is not required for the Flood Prevention Scheme. Added to this is the fact that the proposed house's finished floor level would be well above the 1 in 200 year flood risk level based on current information.

On the basis of the MFA modelling of the River Spey the 1 in 200 year flood risk map contour is much closer to the River Spey than shown on the SEPA Flood Risk map. In summary:

- a) The information showing this house at flood risk is not as reliable as desirable. It cannot categorically state what the flood risk is as the MFA information is not accurate enough.
- b) The SEPA flood risk maps are now based on course information and in this instance appear more conservative than MFA information even though in the past SEPA claimed the opposite.
- c) When Rothes FPS is completed the risk from the Burn of Rothes will be less than 1 in 200 years regardless of any doubts that may exist now.
- d) There is no doubt that the Finished Floor level will be above the 1 in 200 year flood risk level.

Applicant's Comment: The Moray Flood Alleviation Team has confirmed that a flood scheme is being progressed for Rothes with work programmed to start in April 2008 with completion in 2011. The flood team has stated that: -

- The current flood risk to this site according to the modelling by MFA is between 1 in 50 and 1 in 100 years.
- The design standard for the scheme will be a minimum of 1 in 100 years.
- As the adjacent development has recently been completed with a similar level of risk exposure it would be unreasonable to object to this further development on flood risk grounds.

A Flood Assessment was asked for and this has been provided by the applicant. The consultants who carried out the assessment used the results of hydrological and hydraulic modelling carried out for the Council by Royal Haskoning as part of their work for the Moray Flood Alleviation Group. The assessment showed that flood risk could be addressed by setting the house 600mm above surrounding ground levels.

SEPA is not prepared to accept the proposal on the basis of the flood assessment and does not consider that the proposed flood scheme for Rothes resolves the situation. This is because the flood assessment acknowledged that the site is within an area identified by Royal Haskoning as being subject to overland flows between the Burn of Rothes and the Spey when the Burn of Rothes overtops. However the work carried out by Haskoning does not appear to be sufficiently detailed to establish with certainty the path of the overland flows or to know whether the site is affected by these flows at all.

The information SEPA requires is to what depth the overland flow reaches during 1 in 200 year flood event, what is the flowpath of the overland flow and what effect would new development have on neighbouring property? As stated already the Moray Flood team has stated that the risk to the site is between 1 in 50 and 1 in 100 with the flood scheme being designed to a minimum of 1 in 100. In addition the applicant has personal knowledge of this area going back 50 years. He has knowledge and experience of previous flood events from the Rothes Burn, during all of which, when the burn overtops, water has always flowed down Green Street and down towards the Rothes Sewage works. Not once have any flood waters flowed in the direction of Spey Street, or the proposed site. The owner of Greenfields Farm, who has 80 years past knowledge of the area, has also confirmed this.

The information SEPA is now looking for would require substantial additional survey work over a large area. The applicant has already paid approximately £4000 for the flood assessment he has submitted. The cost of the additional work is estimated at another £10000 to £15000. This is prohibitive and will render the site undevelopable for him.

There are a number of fundamental issues here which are outwith the control of the applicant;

- The plot is a small part of a designated housing site, most of which has already been developed, without being held back by concerns about flooding.
- A flood scheme is being promoted for Rothes, yet this does not appear to be sufficient to allow SEPA to accept the proposal.
- The applicant has provided a flood assessment from consultants who used data provided by the Councils flood consultants, some of this data has led to concerns from SEPA.

- The Councils flood team is happy with the flood assessment and has said that it would be unreasonable to refuse the proposal.
- The additional information being requested by SEPA will add prohibitive additional costs to what the applicant has already invested in flood assessment work.

We consider that there is a basis for approving the application although we also realise that if the Council wishes to do this the application will have to be referred to the Scottish Ministers because of SEPA's position.

Another option may be for the Council to look at providing the additional information being sought by SEPA. This would appear reasonable, as the information available from the Council is not sufficiently detailed to satisfy SEPA. The applicant is not in a position as a private individual to resolve the difference that appears to exist between SEPA and the Council. It also appears unfair for him to be asked to fund the level of work required by SEPA to allow a single house to be approved on what is after all a designated site, where a substantial amount of new housing has recently been allowed without being held back by concerns about flooding, and the site is within a community to be protected by a new flood scheme.

Comment: The above clearly demonstrates that there is a difference between SEPA and The Moray Flood Team. SSP7 states in the summary "The Scottish Executive expects developers and Planning Authorities to err on the side of caution in decision making whenever flooding is an issue". SEPA are clearly of the view that this is one such case where the Council should err on the side of caution and has confirmed that it would be prepared to defend a planning appeal on this basis, should the Council resolve to refuse planning permission. SEPA are the statutory consultee on flood related matters and these views have been taken on board and form the basis of a reason for refusal. The estimated cost of the additional works required by SEPA are not a material planning consideration.

Foul Drainage EP10 (Emerging Local Plan)

The proposals involve connecting the dwelling to the public sewer for foul drainage and surface water and SEPA have no objection to this aspect of the proposal. Scottish Water's response to the initial planning consultation advised that the Rothes Waste Water Treatment Works have insufficient capacity to serve the proposed development and therefore, in line with guidance within PAN 79: Water and Drainage, SEPA have been consulted on this matter. For the avoidance of doubt SEPA requests a condition is attached to any grant of planning permission that this development should connect to the public sewer and any alternative arrangement must be approved by the Planning Authority in consultation with SEPA.

For clarity, SEPA policy and Supporting Guidance on Provision of Waste Water Drainage in Settlements states that "where a settlement is served by a public drainage system, it is SEPA's opinion that new developments should connect to the public sewerage system and that "SEPA will oppose development in or close to a settlement served by a public sewerage system which proposes individual /private waste water arrangements" therefore SEPA considers that a connection to the public sewer is the best environmental option for this development and it is unlikely that SEPA would accept a private system as an alternative to the proposed sewer connection.

The applicant's agent has confirmed that they are agreeable to such a condition being imposed.

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Signature (*Alan Short, Development Control Manager*)

R A STEWART
DIRECTOR OF ENVIRONMENTAL SERVICES

APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2000

Policy 2: Environment and Resources

The Moray Structure Plan Strategy will be supported by: -

- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5.

Policy L/T4: Provision of Road Access

The Council will require that a suitable and safe access from the public highway is provided.

Policy L/T7: Parking Standards

Proposals for different forms of development must comply with the Council's 'Car Parking Standards' (available from the Council's Roads Service).

Where development (including housing) within the defined town centre cannot reasonably supply parking on site, (or where it is appropriate not to include parking), the developer will require to comply with the Council's system for 'commuted payments' for parking. Housing development in town centres which need not provide residential parking on site, must make provision for vehicular access for deliveries and emergencies.

In housing developments of over 30 houses, provision must be made for communal off-street parking, in addition to in-curtilage in order to permit the parking of large commercial vehicles away from road frontages.

Policy L/IMP1: Development in Built-up Areas

In areas covered by this policy, (i.e. all land within settlement boundaries and rural communities), the Council will, in considering applications for planning permission, try to ensure that proposals for development do not harm the general character of the surrounding area. Applications will therefore take account of the main uses of land and buildings in the vicinity, the mix of such uses and the architectural quality of the area. The main concern of the Council is to ensure that development proposals should neither conflict with nor detract from the character, amenity and design of an area. This policy will not preclude appropriate new development and is not intended solely to maintain the status quo.

In interpreting and clarifying this policy, the Council will take into account the guidelines on Character, Amenity and Design.

Guidelines on Character, Amenity and Design (L/IMP1)

a. Character

The character of an area is assessed by the;

- (i) main uses;
- (ii) appropriateness of a diversity of uses; and
- (iii) desirability of introducing a development which may detrimentally alter the existing balance of usage
- (iv) architectural style of the area.

b. Amenity

The amenity of an area is assessed in terms of both the people who will occupy the development site, and the adjoining occupiers. In short, new developments should be "good neighbours". Where there is an inherent incompatibility of neighbouring developments, or where remedial action cannot be made effective, applications are likely to be refused.

The important aspects of amenity which the Council considers are worth protecting are:-

- (i) **Privacy** - for both the occupants of a proposed development and surrounding neighbours. Loss of privacy can be minimised by re-orientation, reducing the densities of development reducing the size of buildings, and attention to building levels or by design modifications, for example, window proportion and size.
- (ii) **Traffic** - the introduction of increased traffic movement and resulting noise, can significantly detract from the amenities of an area.
- (iii) **General Disturbance** - protection from activities which create unreasonable levels of noise, smells and other discomforts including wheeled bin locations.
- (iv) **Sunlight/Daylight** - adequate levels of sunlight and daylight, and to a lesser extent, outlook, should be safeguarded for surrounding properties and afforded to new developments.

c. Design

Design of new development should not only relate to the type of development in the immediate vicinity but also to the wider issues of context and setting. This need not be restrictive to new or innovative architectural expression.

Applicants should, therefore, avoid design proposals which compromise the appearance of design characteristics of the surrounding area.

In considering the appropriateness of a design the Council will have regard to:

- (i) The scale of adjoining development.
- (ii) The materials, finishes and colours used in nearby development.
- (iii) Any features on or near the site worthy of reproduction, protection or enhancement, e.g. trees, hedges, views and other features of public importance.

- (iv) Principles of site sensitive design e.g. that pitched roofs are preferred to flat roofs, piended dormers to box dormers, vertical windows to horizontal picture windows etc., where these features predominate in an area.

Policy L/IMP3: New Building Design

(i) Design Principles

All building development must be designed to respond adequately to the locality. Applications must meet the following requirements:-

- a) appropriate location in landscape or townscape
- b) careful placement on a site, particularly in relation to character, amenity and energy conservation
- c) appropriate size and form in relation to existing buildings, sky line and landform
- d) appropriate density, layout and orientation in relation to character, amenity, privacy of neighbouring properties and energy conservation
- e) sensitive use of materials and colours in relation to existing setting and environmental impact

Standardised solutions to building design are not encouraged and will not be acceptable unless existing context (the design and character of the existing surroundings) suggests otherwise. Design solutions which seriously compromise the amenity and character of the area will not be permitted.

Highly innovative, experimental solutions will be encouraged but may not be suitable in every situation. In certain circumstances, the Council may request written design statements explaining various aspects of design solution e.g. explaining why a particular approach has been taken, and expect applications to show new buildings in their wider relationship with surrounding properties and the site (plans and elevations/perspective/ photomontages showing adjacent buildings, trees, landform etc)

Policy L/IMP7: Drainage Impact

New development must connect to a public sewer for the disposal of foul drainage if one is available within a Town, Village or Rural Community. If it is not available alternative forms of treatment may be considered and must meet with the approval of NOSWA and SEPA. The Council will promote the employment of Sustainable Urban Drainage Systems (Sustainable Urban Drainage Systems) in the disposal of surface water run-off, and unless otherwise advised by SEPA, will operate a presumption against the disposal of surface water directly to a watercourse. Proposals must meet the requirements of policies L/ENV21 (Private Waste Water Treatment and Drainage), L/ENV22 (Pollution Conditions), L/ENV23 (Private Water Supplies), L/ENV24 (Surface Water Drainage) and L/ENV26 (Control of Development in Flood Risk Areas) in Chapter 2, if relevant.

R1 Spey Street

This site comprises an area of agricultural land which fronts onto the south side of Spey Street. The site has been increased in size from the site previously designated in the Moray District Local Plan, and now extends to 2.11 hectares, capable of accommodating approximately 28 houses.

Access can be taken from the existing access point to the south west of Spey Street, in which case the following requirements will apply:-

- (i) Development along the Spey Street frontage should be set back to allow for future widening, and a landscaping strip provided.
- (ii) No individual access, vehicular or pedestrian, to houses from Spey Street will be permitted across this strip.
- (iii) An emergency access should be taken from the new development onto Spey Street, in a position to suit the overall layout and phasing of the site. This will be 3m wide and have 'knock over' bollards to prevent vehicular traffic. Any proposal to utilise the narrow section of Spey Street to provide access to the site will require improvements to be carried out including widening to 5.5m; the provision of 1.8m footpaths and a turning hammerhead.

The layout of housing should have a 'clustered' form to try and avoid the linear pattern along Spey Street. A public sewer crosses the site.

Allowance should be made for access to the fields to the south so that future development in this location is not jeopardised. This site is within a wider area considered to be at risk from flooding and proposals for development will be assessed in terms of their compliance with policy L/ENV26 (Control of Development in Flood Risk Areas), in particular with regard to arrangements for surface water disposal.

Policy L/ENV26: Control of Development in Flood Risk Areas

(i) High Risk Exclusions

The Council (advised by SEPA, NOSWA and the Council's Roads Service) will direct developments considered of 'high risk' away from areas, known to be at risk from flooding and will presume to refuse applications for such proposals that fall within such areas. Proposals will be considered a high risk if they fall within areas considered by the Council to be liable to flooding and;

- a) represent an unacceptable threat to public safety, or
- b) are likely to cause unacceptable levels of pollution or contamination of flood waters if inundated, or
- c) may give rise to high levels of public expenditure on flood protection works.

Examples of developments considered as 'high risk' would include; hospital, medical and the emergency services; special care residential developments for the physically impaired or elderly; commercial developments that involve polluting or contaminating processes such as sawmills, furniture restoration, unsecured chemical or fuel storage and distribution etc.

(ii) Managed Risk Proposals

The Council will seek to manage the threat from flooding for developments not considered as 'high risk'. Within this approach there is an acceptance of risk on the basis that developments must adopt appropriate mitigation measures and have the potential to make a contribution to the improvement of flood water management within the area at risk. Applications will only be approved where they can demonstrate that the development;

- a) has been designed to minimise risk of inundation and will not contribute to or increase the risk of flooding elsewhere.
- b) has adopted all reasonable measures to improve the management of flood waters on and adjacent to the site and to assist the protection of properties within the vicinity of the site.
- c) does not impede the flow of flood water or the ability of the floodplain to store water and to flood naturally and takes account of the impact on riparian habitat and wetland.
- d) incorporates building design measures and materials to assist evacuation and minimise damage from inundation.
- e) employs, where possible, the use of Sustainable Urban Drainage Systems in the disposal of surface water run-off to the satisfaction of SEPA and the Council, and provides for their maintenance.
- f) can provide for the maintenance of any approved privately funded flood defence measures, to the satisfaction of the Council, (river engineering works associated with flood protection must also meet the requirements of policy L/ENV25).

The Council will be advised on the acceptability of risk/mitigation measures by its Planning, Roads and Building Standards Services together with SEPA and NOSWA on the basis of the precautionary principle as defined in NPPG7.

Applicants may be required to submit hydrological survey and assessment information in support of their proposals and may be required to make a contribution to flood defences under the terms of policy L/F1.

Emerging Moray Local Plan 2008 - Material Consideration

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

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

EP7: Control of Development in Flood Risk Areas

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to

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

- a. in areas of little or no risk (less than 0.1%) there will be no general constraint to development.
- b. areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. However, these areas will generally not be suitable for essential civil infrastructure such as hospitals, fire stations, emergency depots etc. Where such infrastructure has to be located in these areas or is being substantially extended, they must be capable of remaining operational and accessible during extreme flooding events.
- c. in areas of medium to high risk (0.5% or above)
 - i. in built up areas most development may be acceptable if flood prevention measures exist, are under construction, or are planned.
 - ii. essential civil infrastructure will generally not be permitted.
 - iii. undeveloped and sparsely developed areas are generally not suitable for additional development. Exceptions may arise if a location is essential for operational reasons.

EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved if:

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

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

EP10: Foul Drainage

All development within or close to settlements (as defined in the Local Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to

the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed that investment to address this constraint has been specifically allocated within its current Quality and Standards Investment programme and the following requirements apply:

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

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

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

H3: New Housing in Built-Up Areas

New housing within settlement boundaries will be acceptable if:

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

T2: Provision of Road Access

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

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

T5: Parking Standards

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

IMP1: Development Requirements

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

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

Opportunity Sites (L/ED6)

ED6: Opportunity Sites

The town and village statements will identify 'opportunity sites' which present the opportunity for appropriate alternative uses in the event of a proposal to redevelop. These are often vacant or

derelict sites that are no longer required for their original or previous uses. Vacant or derelict sites are usually brownfield and therefore will require to be assessed with regard to contaminated land.

Any suggested uses that are given should be viewed as illustrative examples only, and not taken as a definitive list of acceptable activities.

OBJECTIONS-REPRESENTATIONS

None.

CONSULTATIONS

SEPA - SEPA acknowledges receipt of a Flood Risk Assessment Report produced by W A Fairhurst and Partners (dated April 2007) on behalf of Mr Mike Munro, 93 Land Street, Rothes.

The report confirms that "The site currently lies in an area of medium to high risk (0.5% or above)".

SEPA's Indicative River and Coastal Flood Map (Scotland) - 0.5% annual probability layer (or 1 in 200 year return period flood event) shows this site as just outwith, but bordering this flood event limit.

The Indicative River and Coastal Flood Map (Scotland) has been produced following a consistent, nationally-applied methodology for catchment areas equal to or greater than 3km³ using a Digital Terrain Model (DTM) to define river cross-sections and low-lying coastal land. The outlines do not account for flooding arising from sources such as surface water runoff, surcharged culverts or drainage systems. The methodology was not designed to quantify the impacts of factors such as flood alleviation measures, buildings and transport infrastructure on flood conveyance and storage. The Indicative River and Coastal Flood Map (Scotland) is designed to be used as a national strategic assessment of flood risk to support planning policy in Scotland.

Because of the indicative nature of the flood map, SEPA looks for, and welcomes, more detailed estimations of flood extents to be submitted in support of planning applications.

The report confirms that "The site is a vacant greenfield site currently forming a paddock for grazing".

The Report states that "Development of the application site will not impede the flow of floodwater towards the River Spey. The site is subject to overland flow and is not considered to be floodplain, so it does not impair the ability of the floodplain to store water and to flood naturally."

SEPA requires clarification of this statement. SEPA considers any areas that receive, store or convey floodwaters from a watercourse to be classed as a 'functional floodplain'.

The report concludes that "The risk of floodwater originating in the Burn of Rothes, surface water or ground water will be addressed by setting building platform levels above the level of the surrounding ground by 600mm."

Scottish Planning Policy 7 (SSP7) - Planning and Flooding, requires all new development to be protected from the 1 in 200 year return period flood event and be able to maintain access to, and egress from, the development up to, and including, this design flood.

It also specifies the following conditions where landraising is an issue:

LANDRAISING

Landraising which permanently elevates a site above the functional flood plain of a watercourse, or elsewhere if flooding is an issue may have a role. Proposals for landraising should:

- Be linked to the provision and maintenance of compensatory flood water storage to replace the lost capacity of the functional flood plain;
- Have a neutral or better effect on the probability of flooding elsewhere, including existing properties;
- Not create a need for flood prevention measures elsewhere;
- Not create 'islands' of new development but should adjoin developed areas outwith the functional floodplain; and
- Be set back from the bank of the watercourse.

In the context of this SSP the land created by landraising will no longer be part of the functional flood plain and landraising is not to be construed as a flood prevention measure."

SEPA are aware that a flood prevention scheme is proposed for Rothes and although at an advanced stage of planning, has not yet been passed by the Scottish Ministers. Moreover, the scheme is designed to contain a 1 in 100 year return period flood event (plus climate change) and SEPA must consider new development against the 1 in 200 year event (plus climate change).

Taking the above points into consideration, SEPA make the following comments:

The Flood Risk Assessment Report, although confirming the site is at risk of flooding, has failed to supply the estimated 1 in 200 year return period flood level (plus climate change) nor subsequent inundation depths on and around the site.

The estimation of a proposed finished floor level cannot be made without first estimating the design flood level. An allowance of 0.5m on top of the design flood level should be included for 'freeboard'.

The Report has not considered compensatory storage to replace the lost volume to landraising, if landraising is required.

It is also SEPA's current national policy to object to new development on greenfield sites within the functional floodplain.

SEPA therefore objects to this application on the basis of possible flood risk.

SEPA will reconsider its objection when sufficient data has been supplied.

The advice contained in this flood risk section of this letter is supplied to you by SEPA in terms of Section 25 (2) of the Environment Act 1995 on the basis of information held by SEPA as at

the date hereof. It is intended as advice solely to Moray Council as Planning Authority in terms of the said Section 25 (2).

Moray Flood Team - The current flood risk of this property according to the modelling by MFA is between 1 in 50 and 1 in 100 years. The Rothes FAS has been cleared by Scottish Ministers and should take at least 2 years to construct. The design standard will be a minimum of 1 in 100 years. An adjacent development has recently been completed that has similar risk and it would be unreasonable to object to this further development on flood risk grounds.

The Flood Risk Assessment is considered fair and reasonable and therefore acceptable.

Transportation Manager, Direct Services - Approve subject to conditions.

Environmental Protection Manager, Direct Services - No objections.

Environmental Health Manager, Development Services - Approve unconditionally.

Contaminated Land, Development Services - No objections subject to conditions.

Scottish Water - No objections subject to informative being imposed. Sufficient capacity at Badentian Water Treatment Works but insufficient capacity at Rothes Waste Water Treatment Works.