

**THE MORAY COUNCIL**

**MINUTE OF SPECIAL MEETING OF THE PLANNING & REGULATORY SERVICES  
COMMITTEE**

**WEDNESDAY 12 NOVEMBER 2014 AT 9.30AM**

**COUNCIL OFFICE, ELGIN**

**Present**

Councillors D. Ross (Chair), C. Tuke (Deputy Chair), G. Alexander, J. Allan, J. Cowe, G. Cowie, J. Divers, M. Howe, M. McConachie, G. McDonald, A. McLean, P. Paul and A. Wright.

**Also Present By Invitation**

Mr T. Muir, Technical Director, Mr L. Davies, Noise Specialist, Mr M. Lancaster, Landscape Specialist, Ms R. McLenaghan, Environment (EIA) Team Leader, Mr B. Sloey, Traffic/Transport Planning Officer and Mr D. Robertson, Roads Engineer (all Jacobs) representing The Moray Council (Applicant).

Of those who submitted representation on the application:- Miss K. Cameron, Mr G. Esson, Ms A. Fagan, Mr A. Grant, Mr S. Hood (on behalf of Mr & Mrs Hood), Mr M. Kellaway (also representing Mrs M. Cameron and Mrs M. Kellaway), Mr A. Kennedy (representing Elgin Community Council), Mr D. Low, Mr J. Mackessack-Leitch (representing Mrs S. Mackessack-Leitch), Dr M. Mehta, Mr I. Millar, Mrs W. Milne (on behalf of Mr G. and Mrs W. Milne), Mr T. Simpson, Mrs E. Smart, Mrs N. Strachan, Mr S. Szylak (representing Mrs J. Crowley, Mr J. Crowley, Mr D. Williamson and Mrs L. Williamson), Mr J. Wiseman (also representing Mr I. Davidson, Mrs A. Quirie and Mr L. Quirie), Ms C. Webster (also representing Elgin Designing Streets Action Group).

**In Attendance**

The Head of Development Services, the Head of Direct Services, the Acting Head of Legal and Democratic Services, the Manager (Development Management), Mr N. MacPherson, Principal Planning Officer (Development Management), Mr R. Gerring, Senior Engineer (Transportation), Mr D. Caldwell, Environmental Health Officer, Mrs E. Penny, Engineer (Traffic), Mrs A. Scott, Legal Services Manager (Property & Contracts) as Legal Adviser to the meeting and Mr D. Westmacott, Committee Services Officer as Clerk to the Meeting.

**1. DECLARATION OF GROUP DECISIONS**

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the agenda nor any declarations of Member's interest in respect of any item on the agenda.

## 2. PUBLIC HEARING

**14/00551/APP NEW AND AMENDED ROADWAY, NEW AND AMENDED ROAD JUNCTIONS (INCLUDING A NEW JUNCTION ONTO A96(T) AT WEST ROAD), NEW BRIDGE ACROSS ABERDEEN-INVERNESS RAILWAY LINE, NEW AND AMENDED FOOTPATHS, ASSOCIATED DRAINAGE WORKS AND LANDSCAPING AT SITE LINKING A96(T) TO WITTET DRIVE TO EDGAR ROAD, ELGIN FOR THE MORAY COUNCIL**

There were submitted reports by the Head of Legal and Democratic Services and the Appointed Officer in regard to an application for a new and amended roadway, new and amended road junctions (including a new junction on to A96 (T) at West Road), new bridge across Aberdeen-Inverness railway line, new and amended footpaths, associated drainage works and landscaping at site linking A96 (T) to Wittet Drive to Edgar Road, Elgin for The Moray Council.

The report by the Head of Legal and Democratic Services advised that the application had been referred direct to a Hearing by this Committee at its meeting on 17 June 2014 (paragraph 11 of the Minute refers) to which the Applicant and those submitting representations have been invited to attend and afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing and advised that members of the Committee visited the site of the application on 7 November 2014.

The Chair welcomed those present and advised them that submissions must be restricted to those already submitted. He further advised that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted Mr T. Muir; Technical Director (Jacobs) was in attendance and representing the Applicant.

The Clerk advised the Committee that, of those submitting representations on the application as listed in pages 39 - 55 of the Appointed Officer's report, Miss K. Cameron, Mr M. Kellaway, Elgin Community Council (represented by Mr A. Kennedy), Mr G. Esson, Ms A. Fagan, Mr A. Grant, Mr & Mrs Hood, Mr D. Low, Mr H. MacDougall, Dr M. Mehta, Mr I. Millar, Mr G. and Mrs W. Milne, Mr T Simpson, Mrs E Smart, Mrs N Strachan, Mr J. Wiseman and Ms C. Webster had accepted the invitation to address the Committee.

The Committee also noted that the following were unable to attend but would be represented:- Mrs M. Cameron (represented by Mr M. Kellaway), Mrs J. Crowley, Mr J. Crowley (both represented by Mr S. Szylak), Mrs M. Kellaway (represented by Mr M. Kellaway), L. Latham (represented by Mr I. Walker), Mrs S. Mackessack-Leitch (represented by Mr J. Mackessack-Leitch), Mrs A. Quirie, Mr L. Quirie (both represented by Mr J. Wiseman), Elgin Designing Streets Action Group (represented by Ms C. Webster), Mr D. Williamson and Mrs L. Williamson (both represented by Mr S. Szylak). The Committee noted that Mr Walker was not in attendance at that time.

The Clerk advised that of those submitting representations on the application, Mr and Mrs Burnie, Mr and Mrs Coyle, Mrs F. Cumming, Mr S. Duff, Mrs E. Fordyce, Heldon Community Council, Mr M. Looseley, Mr I. MacFarquhar, Mr P. Quick, Mrs E. Robertson,

Dr C. Smith and Mr S. Turnidge were also unable to attend but had submitted statements to be read out at the appropriate juncture in proceedings.

Thereafter, the Chair outlined the procedure to be followed for the Hearing, which was accepted by the Committee, Mr Muir and all those in attendance who had submitted representations on the application.

## **REPRESENTATION ON BEHALF OF THE APPLICANT**

**Mr Tim Muir, Technical Director (Jacobs)** addressed the meeting on the application and advised that he had over 25 years experience as a Town Planning Consultant working on major road and infrastructure developments. Mr Muir also introduced Mr L. Davies, Noise Specialist, Mr M. Lancaster, Landscape Specialist, Ms R. McLenaghan, Environment (EIA) Team Leader, Mr B. Sloey, Traffic/Transport Planning Officer and Mr D. Robertson, Roads Engineer (all Jacobs) who would assist with any technical questions which the Committee may have.

Noting that he would outline the needs and benefits of the proposed development and address the key issues of concern raised in the third party representations, Mr Muir stated that Elgin has always been identified as the administrative and commercial capital of Moray. He noted that the city's role, both historic and current, as the main population and business centre has seen significant growth in the physical boundaries of the city over the years. He advised that the speed and scale of growth to date, and the projected future growth, has led to a need for transport infrastructure improvements to support existing and proposed development. He stated that it was the Applicant's belief that one such transport infrastructure improvement is the WLR (WLR), the need for which had been supported by The Moray Council for a number of years and featured in the Council's Development Plans since 2000.

Mr Muir advised the meeting that the Moray Local Plan 2000 first identified the WLR as a way of addressing weaknesses in the existing road network on the South West of Elgin. He noted that a full appraisal was undertaken in 2006 and 18 potential traffic management and junction improvement options were identified. Following a rigorous process of assessment, he noted that the Council selected two route corridors and, in parallel with this work, the Moray Local Plan 2008 identified the WLR on the Elgin proposals map. Mr Muir advised that the Link Road was part of the planned south side road improvements for Elgin and was separate from any designated bypass route or future dualling of the A96 trunk road. He noted that the Local Plan identified a range of strategic infrastructure improvements and transport infrastructure improvements (TSPs) associated with the indicative route, the key ones being an extension of Edgar Road towards Wittet Drive (TSP10), a new railway bridge connecting Wittet Drive with Edgar Road extension (TSP11) and a new junction between the A96 trunk road and Wittet Drive (TSP12).

Following the publication of the Local Plan 2008, Mr Muir advised that more work was undertaken on the two route options, taking into account the TSPs that had been identified. He noted that in 2011, the Council's Economic Development and Infrastructure Services Committee approved the urban inner route as the preferred option for the WLR and advised in 2012, following initial design activities and comprehensive stakeholder community engagement, the Committee gave approval to progress the option through detailed design to a planning application. He stated that the scheme as presented in the planning application would involve the construction of just over a mile of new and

amended existing carriageway incorporating the Designing Streets Policy (DSP) by including a range of innovative approaches to street design that enhance the overall street layout and is sympathetic to the surrounding environment. He advised that it was the Applicant's opinion that the scheme has benefits for both the South West of Elgin and the town as a whole including promoting economic development, increasing the resilience of the local road network, reducing traffic congestion and improving facilities for pedestrians and cyclists.

Mr Muir, referring to the promotion of economic development, advised that the Moray Economic Strategy (MES) recognises the importance of good transport links within Elgin and stated that the scheme will provide the critical transport infrastructure improvements needed to facilitate economic growth in the town by improving access to sites allocated by the Council for current and future development.

Referring to the increased resilience of the local road network, he advised that the A96 and the A941 are the key arterial routes which divide Elgin into four quadrants. He stated that three of the four quadrants are supported by a number of local roads which help to spread traffic between the two arterial roads but noted there is no comparable provision in the South West quadrant. As a result of the scheme, Mr Muir advised that local traffic will be distributed more effectively within the South West of the town therefore reducing traffic levels in other streets.

Mr Muir advised that the existing New Elgin Road railway bridge is currently used by most traffic crossing the Aberdeen to Inverness railway line. He noted that the junctions on either side of this railway bridge are close to capacity and have limited scope to accommodate additional traffic. He stated that the scheme will provide a further crossing point of the railway line by way of a new bridge and with this and the extension of Edgar Road, the required link between Wittet Drive and Edgar Road will be provided which will help reduce traffic congestion in the South and West of Elgin.

Referring to improved facilities for pedestrians and cyclists, Mr Muir stated that the scheme contains a wide range of road safety measures and street design improvements, including the implementation of Toucan crossing facilities at junctions throughout the route and the construction of a 3 metre wide shared footway and cycle track that will run from the A96 along Wittet Drive, past Greenwards Primary School to Edgar Road. He advised that this shared footway and cycle track will allow for safer travel for pedestrians and cyclists along the entire route and encourage greater connectivity to other residential areas and community facilities in Elgin, with the inclusion of the signalised crossing of the A96 to connect to the existing River Lossie cycleway.

Addressing concerns raised in third party representations lodged, Mr Muir stated that these could be summarised into the impacts associated with increased traffic speeds, increased traffic noise and the visual impacts of the new road.

Referring to increased traffic speeds, Mr Muir advised that design principles from the DSP indicate that the most effective way to reduce driving speed is to reduce the width of the carriageway and, in recognition of this, noted that the scheme has incorporated a reduced carriageway width of 6.6 metres throughout its entire length. He also advised that regularly spaced junctions and traffic calming features along Wittet Drive have also been included to assist in managing traffic speeds. He stated that both design principles were promoted in the DSP.

Mr Muir, addressing noise impacts, stated that a distinction needs to be made between an increase in noise to a level above tolerable standards and where noise will increase but still remain within acceptable guidance levels. He advised that if development results in an increase in noise, it should be allowed to progress if the resultant noise still remains within acceptable levels. He noted, for example, that during both the construction and operation phases, some residences along Wittet Drive are likely to experience an increase in noise levels, however, a number of mitigation measures, such as the use of low road noise surfacing and the construction of timber fencing of varying heights, will ensure the resultant traffic noise will remain within acceptable levels. Referring to Greenwards Primary School, Mr Muir advised that it is considered that the proposed mitigation measures will ensure that the anticipated internal classroom noise levels, even with the windows open for ventilation, would not exceed the acceptable upper limits for new build and refurbished classrooms. He noted that the planning application is subject to a range of suspensive conditions that address the potential impacts of construction noise through the preparation of a Construction Environmental Plan and the potential impacts from the operational phase through the carrying out of noise monitoring at Greenwards Primary School.

In respect of concerns regarding the visual impacts associated with the new road, Mr Muir advised that a comprehensive suite of mitigation measures have been proposed that will help screen views of the traffic from neighbouring properties. He stated that these will include the construction of timber fencing in key locations, coupled with extensive landscaping and tree planting. Mr Muir advised that the submission of a further scheme of additional landscaping is also a suspensive condition recommended to Committee by Officers.

Having identified the benefits of the WLR scheme and addressed the key issues of concern raised in the third party representations, Mr Muir highlighted the potential adverse impacts for the local community should the proposed scheme not go ahead as a result of the refusal of the application. He advised that Wittet Drive is an existing 'C' classified road and already essentially fulfils a function in distributing traffic to and from the A96 trunk road on the west side of Elgin. He noted that Wittet Drive will continue to fulfil this function in the future even without the implementation of the WLR scheme. Referring to traffic movements, Mr Muir stated that, without the scheme, there was a predicted increase of approximately 1,200 vehicles a day by the year 2029. He advised that the predicted increase in vehicle numbers will see an associated increase in traffic congestion, particularly at existing junctions, and an increase in noise levels for residents living along Wittet Drive.

Mr Muir advised that pedestrians and cyclists already using Wittet Drive to access other parts of South West Elgin are doing so at their own risk due to the lack of any shared footway, cycle track or signalised crossings along the route. He noted that the predicted increase in vehicle numbers using Wittet Drive to access the A96 trunk road will have an adverse impact on the future safety of pedestrians that wish to cross the road and of cyclists that will continue to ride on the road.

Mr Muir stated that there are likely to be a range of adverse environmental impacts that would arise, even if the WLR scheme was not implemented. He noted that impacts such as noise, visual intrusion and loss of amenity would be associated with the predicted increase in traffic and would occur even without the scheme. He advised that these environmental impacts are likely to have a greater adverse impact on the local community in the absence of the WLR scheme as they would not be offset by any of the mitigation works associated with the proposed scheme.

In concluding, Mr Muir reminded the Committee of the benefits that the WLR scheme will have for the residents of the South West and of the whole town of Elgin. He advised that the proposed scheme will promote economic development, increase the resilience of the local road network, reduce traffic congestion and improve facilities for pedestrians and cyclists. He further reminded the Committee of the requirement to determine the planning application before them in accordance with the relevant Development Plan, unless material considerations indicate otherwise. He stated that the application is in accordance with both the adopted and emerging Development Plans as well as relevant national guidance, is supported by both the statutory consultees and the relevant Council departments, provides a range of comprehensive mitigation measures to address any potential impacts on the local community and is recommended for approval by Council's planning officers. On behalf of the Applicant, Mr Muir requested that planning permission is granted for the proposed WLR scheme.

The Chair requested an overview of the economic assessment and benefits analysis, its results and what the Applicant thinks that it shows. In response, **Mr Brian Sloey, Traffic/Transport Planning Officer (Jacobs)** advised that the transport assessment, which has an input to the economic assessment, is based on a comprehensive modelling exercise. He noted that the assessment compares the cost, including journey time, of the existing and proposed situation as well as examining future scenarios with and without the scheme. He advised that it was based on core growth scenarios and that the benefit to cost ratio would be 1.9 to 1, which is almost double the benefits to costs. Mr Sloey noted that the Stage 3 assessment looked beyond the current level of design and that the ratio would rise to 3.4 to 1 as a result. He stated that this proved a good business case existed for the scheme and offered value for money.

Referring to the Designing Streets Quality Audit, the Chair queried what would have been offered to meet all the criteria of the DSP. In response, **Mr David Robertson, Roads Engineer (Jacobs)** advised that there were a number of considerable constraints when designing the scheme. He noted that the area to the North of the railway was constricted by existing property boundaries. He advised that the Applicant had tried to achieve a cross section which accounts for vehicle users, pedestrians and cyclists and felt that all users were suitably accounted for. Mr Robertson stated that the DSP covers a wide range of considerations such as planting and that the Applicant had incorporated as many principles as they feel is physically possible. The Chair queried what could have been achieved if there no constraints with property boundaries. Mr Robertson advised that additional planting would have been considered if the roads within the cross section were wider.

The Chair queried the process behind the proposed traffic forecasting and what the Applicant felt about its outcome. In response, Mr Sloey advised that a model was used that identifies a baseline level taking into account potential developments that would proceed and any that were likely to come in the future. He noted that the core growth was based on track record and the build out rate of housing in the area. The Chair sought assurances that the Applicant had confidence in the model's finding and whether contingency plans were in place. Mr Sloey advised that the data used for forecasting was more robust as it was based on current rates that have been achieved and confirmed his confidence that the projections were realistic.

Referring to the increase in traffic volumes, the Chair noted that the Appointed Officer's report stated that the increase from 5,100 to 7,000 traffic movements would not significantly alter the noise character of Wittet Drive. He queried where the traffic

forecasting model took into account various types of vehicles. Mr Sloey advised that the Applicant was obliged to and that the model takes all types of vehicles into consideration. He stated that Transport Scotland also undertakes an independent review of the information and was in agreement with the findings. In response, the Chair queried what percentage increase of larger vehicles had been used in the forecast. Mr Sloey advised that whilst numerically the numbers increased by 100 - 200 vehicles, the proportion would remain the same at approximately 5% of vehicles.

The Chair, referring to Greenwards Primary School, queried why the Applicant felt it was appropriate at one stage that closing classroom windows was an acceptable mitigation for increased noise levels. In response, **Mr Leyton Davies, Noise Specialist (Jacobs)** advised that this had not been suggested as a solution for noise levels at Greenwards and that in the Applicant's noise chapter within its Environmental Statement went to great pains to show potential for acceptable internal noise levels. He noted that a number of mitigation measures had been investigated and as a result the noise barrier's height had been increased, resulting in an internal noise level of 37.7 decibels which was acceptable for refurbished classrooms, and slightly above that for new build classrooms, which was the Applicant's target. He advised that it was hoped that the low noise surfacing proposed would bring the internal noise level to an acceptable internal noise level for a new build classroom and confirmed that this would be monitored.

Under reference to page 21 of the Appointed Officer's report and visual impact, the Chair queried at which point a significant impact is deemed as "not acceptable". In response, **Mr Mark Lancaster, Landscape Specialist (Jacobs)** advised that there was a defined procedure that was required to be followed and that a significant impact doesn't necessarily mean it is an unacceptable impact on visual amenity. He stated that the impact must be balanced with other benefits that a development may provide.

Councillor McDonald queried whether, by narrowing roads to slow vehicles, there would be issues with tailbacks at peak times. In response, Mr Sloey advised that the situation would deteriorate if progress was not made on improving the road network. He stated that speeds are influenced by speed limits and by junctions on a vehicle's route.

Noting that there are no traffic lights on the A96 at its junction with Wittet Drive currently, Councillor McDonald queried what impact would there be on A96 traffic, noting that it may improve matters for Wittet Drive. Mr Sloey advised that there was no control currently on the A96/Wittet Drive junction and that the traffic lights would offer a mechanism that would analyse current situations and could be altered as required. He noted that it would offer better control for the flow of vehicles, pedestrians and cyclists. He stated that one of the main benefits of traffic lights was reduced congestion. Councillor McDonald queried how traffic lights could improve journeys for A96 road users who have no restrictions currently. Mr Sloey advised that the junction currently can restrict movements and control can allow vehicles to keep moving. He noted that this had been proven in modelling, which was required to be provided to Transport Scotland.

In response, the Chair queried how the model proves traffic lights would be better than the current junction which also stops vehicles. He noted that similar assessments would have been conducted in Nairn where there continues to be concern about its traffic light system. Mr Sloey advised that traffic lights allow the best level of control to adjust to circumstances. He noted that that it was a standard approach and common practice to assess the current situation as well as the scenarios with and without traffic lights and it had been proven that the signals provide an optimum solution. In reference to situations

elsewhere, Mr Sloey stated that the solution has to be fit for the location, the scheme's aims and objectives.

Councillor McDonald queried whether the model had assumed that the A96 would not be dualled by 2029. Mr Sloey advised that a number of options were looked at with the model, including the current situation as well as potential bypasses. He noted that options for a Southern bypass would result in traffic still being attached to the proposed route but with benefits remaining high including journey time savings and junctions continuing to work within capacity. He advised that a Northern bypass would see no significant changes but would result in an increase in economic benefits. Mr Sloey stated that the model had shown that the scheme would operate successfully with or without a bypass. In response, Councillor McDonald queried what the benefit ratio would be for a Southern route when the Northern route would have economic benefits and stated that it was a dualled road, not a bypass that was being introduced for the A96, querying how the model worked out routes of the yet unannounced preferred route. Mr Sloey advised that the route was modelled, looking at the extreme options, as a dual carriageway with both routes joining the A96 in the East and West. He noted that the benefit ratio for a Southern route would be 1:0.4 which still represented good value for money. He advised that modelling looks at the current and future scenarios with and without the scheme.

Referring to speed, noise and visual impacts, Councillor Cowe queried what measures had been used to mitigate the perceived issues. In response, Mr Davies stated that, in respect of noise, 6 barriers had been incorporated to address major and minor impacts. He noted that that low noise road surfaces was also hoped to have an effect on noise emissions. In response, the Chair queried why these mitigation measures had been selected and what they were expected to do. Mr Davies advised that the noise barriers would reduce the noise levels by approximately 5 decibels. In respect of the low noise road surface, Mr Davies stated that a majority of research had been done at higher speeds but noted that there would be benefits at slower speeds of 30mph and below. He advised that some cases of low speeds had shown a significant reduction in noise levels by 3.7 decibels when new however there would potentially be maintenance issues to maintain this level. The Chair queried whether this would result in regular road works. Mr Davies advised that it would be a number of years before the surface would deteriorate to such a level that it would require to be redressed. He noted that if the surface did not make any contribution to mitigating noise levels, the level of 37.7 decibels was still acceptable for refurbished classrooms.

The Chair, referring to page 19 of the Appointed Officer's report, noted that the proposed planting would not have an immediate mitigation benefit until such time as it had matured and queried what noise benefits were expected and what the timescale for this would be. In response, Mr Davies advised that no noise mitigating benefits, only a screening benefit, was expected from the proposed planting as it required to be much denser to have a noise mitigating effect.

There were no further questions to Mr Muir or any other representative of the Applicant.

## **REPRESENTATIONS ON THE APPLICATION**

**Mr Ian Millar** addressed the meeting on his concerns, stating that his objections were based on the impact on the natural environment, the development being contrary to the Local Plan, noise, poor design, procedures not followed correctly, road safety, smell and traffic.



Referring to the Local Plan, Mr Millar advised that he believed there are two deviations with the proposed new road exiting off the A96 onto Wittet Drive and the proposed new bridge over the railway and subsequent new road round Edgar Road. He noted that Edgar Road is not a 'C' Class and that the DSP has been almost completely ignored and a total redesign is required in order to ensure public safety.

Mr Miller advised that traffic volumes will lead to more noise, vibration and pollution to a quiet residential street where both elderly and children live. He noted in the Appointed Officer's report, and reiterated earlier in the meeting, that the Applicant admitted that the road will be more difficult and more dangerous for the elderly to cross. He advised that the road will increase traffic and the use of the retail park, which is good news but will impact negatively on the High Street and is therefore at odds with the Elgin City of the Future.

Referring to the Appointed Officer's report, Mr Millar reiterated his belief that the road will be less safe for both elderly and children. He advised that there is a 3 metre carriageway which will be for use by both pedestrians and cyclists but there would not be a barrier between the two. He stated that elderly people are not used to walking around Elgin on a shared surface which cyclists also use.

Mr Millar noted that there will be at least four traffic light junctions created between the A96 and Edgar Road which will increase pollution and noise in a residential area while cars, lorries and busses are idling. He expressed his opinion that had the DSP been properly implemented a road could have been designed that self policed the speed and did not require the use of traffic lights. He accused the Applicant of failing to hold genuine consultations with the public, noting that there is evidence and feedback given that suggested a box ticking not listening attitude by the Applicant. He stated that there is a requirement to properly and honestly engage in a consultation process and he felt the Applicant have failed to do so in this case.

Expressing his opinion that the existing route, if improved, would route cars and lorries onto Edgar Road from Wittet Drive just as effectively as the proposed new road, Mr Millar noted that the Appointed Officer's report states that the road width will reduce and therefore it will be safer but failed to mention that double yellow lines will be placed up and down Wittet Drive to the point where the actual carriageway width will increase. He advised that the planned traffic lights are a recipe for speed and accidents as it is a known fact that when users are travelling on a road and there is a green light, they tend to speed up to make sure they catch the green light in order that it doesn't stop their journey.

Mr Millar noted that the Applicant have calculated traffic volume rising from the current 5,100 movements to 7,500 which means they do not have to allow for expensive noise mitigation to the houses affected along the route. He advised that a fact sheet previously produced by the Applicant had the figures at 3,800 rising to 9,600. Noting the outcomes of various reports, including an Annual Average Daily Transport (AADT) report, Mr Millar advised that the 2012 report determined that between 2009 and 2012 on 15 out of 16 roads within Moray there was a reduction of vehicle movements over that 3 year period. He stated that the movement from 5,100 to 7,500 allowed the Applicant to squeeze out of providing noise mitigation to the houses along the affected route and sought some realistic figures with evidence given that the Applicant had already published figures which are at odds with the figures presented earlier in the meeting.

In concluding, Mr Millar stated that the consultation process was limited to a set of parameters which prevented discussion about the route chosen or any alternative. He

advised that suggestions offered were often met with refusal to even record the suggestion let alone discuss it. He stated that true consultation is a requirement of any such project and, in this case, the Applicant failed to truly engage in the consultation process.

There were no questions to Mr Millar.

**Miss Kelsey Cameron**, accompanied by a friend, addressed the meeting on behalf of Greenwards Primary School pupils past, present and future. She stated that the pupils of object to the development because the road will go past the main school gate.

Miss Cameron noted that at the time the petition was signed, the expected volume of traffic was 10-15,000 vehicles per day. She advised that this will create lots of noise, pollution and distractions for the pupils of Greenwards and make it less safe for any of the pupils to walk or cycle to school.

There were no questions to Miss Cameron.

**Mr Scott Hood, representing himself and Mrs Hood**, expressed their opinion that the proposals for the road will destroy not only their own human rights but everyone residing on the route.

Mr Hood advised that the proposal will encroach on a number of properties. He stated that the noise, pollution and increased volume of traffic, coupled with the increased vibration and pollution, will have a real detrimental impact on residents and families as well as the pupils of the surrounding schools.

Referring to barriers and the visual impact of the scheme, Mr Hood advised that it will be unsightly and destroy the surrounding area. He stated that the amount of traffic that is expected to use the road will also increase noise pollution.

In concluding, Mr Hood noted that there were quite a number of schools potentially affected by the proposal with Elgin High School, Elgin Academy, West End and Greenwards Primary Schools in the vicinity. He expressed his opinion that children should be able to go to school without coming across any sort of danger. He advised that their concerns were regarding speed and the flow of traffic, believing that the layout was not the correct one.

There were no questions to Mr Hood.

**Dr Milind Mehta** advised the meeting that he had worked at Dr Gray's Hospital for the last 11 years. He stated that the medical oath he took on becoming a doctor was firstly to do no harm.

Referring to the Applicant's presentation, Dr Mehta expressed his opinion that their words were quite ambiguous, hopeful and general. He noted that it now appeared that the road surface may only last a few years before it would require maintenance. Noting that he specialised in orthopaedics, he suggested that if a child came to him with a broken bone, and whilst treating the patient stated to the parent that he had not researched the treatment and that it might have benefits but he was not sure if this treatment works questioned whether any person would have confidence in him treating the patient.

Dr Mehta stated that various terminologies had been used for the scheme, including a bypass, a link road and a new and amended roadway. Putting the scheme into context in

medical terms, he stated that if Elgin town centre is considered as the heart of the community - or the heart of a body - and there are congestion problems then a short term benefit could be to put in a stent but to achieve a long term confirmed and solid result, a bypass is required. He advised that by creating the road, the Applicant was actually putting a stent through the town and that is going to stunt the growth, rather than having a bypass which is evident in surrounding towns like Huntly, Fochabers and Forres. Noting that there is enough evidence in the research of journal of trauma that children and vulnerable society, being elderly and animals, Dr Mehta advised that there is increased incidents of trauma when users are asked to go through congested roads which are splitting a populated residential area. He stated that more than one out of three children who are feeding into Elgin Academy, Elgin High School, Greenwards Primary School and West End Primary School is going to be affected by the WLR. He questioned who would be held responsible if an accident were to occur.

In concluding, Dr Mehta stated that a serious risk would be imposed on the vulnerable society of the population and the people who are living around it should the scheme prove not to be a significant improvement, nor lead to expansion of the town or decongest the traffic. He advised that it would destroy his soul to be at the receiving end of the scheme's effect at Dr Gray's Hospital Accident and Emergency in his role as an Orthopaedic Surgeon.

There were no questions to Dr Mehta.

**Ms Alison Fagan** addressed the meeting on her concerns, stating she had recently moved from Wittet Drive to a nearby street having sold her house at a considerable sum below the valuation price of a few years ago.

Noting that some of her original objections were no longer applicable due to her change of address, Ms Fagan stated her concerns were regarding safety, parking, traffic speeds, noise and pollution. She advised that many of her friends and neighbours have grown old on Wittet Drive, bringing up families there in a safe, quiet and private residential area. She noted that those same young children were now adults who also opposed the current proposals. She advised that it was heartening to see new younger families moving into the area but that it was heartbreaking to think that these families are not going to be given the same opportunity as others if these proposals go ahead.

In concluding, Ms Fagan requested that the Committee consider people's welfare and happiness before what is an unwanted and unpopular scheme which is probably going to be redundant in a short space of time because of the dualling of the A96 and which is going to cost the Council an incredible amount of money that could instead be spent improving and refurbishing schools to the benefit of all children.

There were no questions to Ms Fagan.

**Mr Michael Kellaway, representing himself, Mrs Muriel Cameron and Mrs Margarita Kellaway**, addressed the meeting on their concerns. He advised that the planning application and background to the application had materially changed, noted that the Appointed Officer's report states that the proposal conforms to the DSP and, in their opinion, stated the economic assessment of the project is fundamentally flawed.

Referring to the Appointed Officer's report, Mr Kellaway stated his belief that it was a biased report and that it aimed to minimise the impact of any objections and as such did not create a level playing field by any standard.

Mr Kellaway advised that there has been a material change in planning landscape and noted that in December 2011 the Scottish Government published its infrastructure investment plan which commits it to the dualling of the A96 by 2030, which will include a bypass for Elgin. He stated that both the Council's Moray Structure Plan and Local Plan 2008 state, as its first priority, a commitment to the dualling of the A96 and bypasses for major towns including Elgin. He noted that the Appointed Officer's report dismissively states that the two things are unconnected and that the link road should go ahead. He queried why, in light of the Scottish Government's plan, the Applicant was pursuing this short sighted high impact link road proposal when it is clear that the whole justification for the link road is blown apart by the long overdue bypass. This material change, he stated in his opinion, is a sufficient reason in itself to reject the application.

Referring to the DSP, Mr Kellaway noted that the Appointed Officer's report and recommendation devotes considerable effort to placating the objectors but, on close examination, is laced with biased opinion and conclusions. He stated that it was as if the Applicant believes that their opinion hold more weight than that of the objectors. He expressed his opinion that the Appointed Officer has clearly set out to try and minimise the huge disparity of the 797 objectors as opposed to the 10 supporters. He stated that the objectors, in a ratio of 80 to 1, are by any standard a significant democratic majority.

Mr Kellaway, noting that neither the Appointed Officer's report nor recommendation make reference to the economic assessment of the project, advised that the Applicant has stated that it provides a positive economic return. He accepted that it is not the role of the Planning Committee to consider such matters but advised that the issues of planning and economic impact cannot be separated. Stating, in his professional opinion, that the economic assessment is flawed, he advised that it is based on assumptions that are based upon biased data supplied by retailers and property developers in the Wards Road area who believe that it would improve their business. He noted that it was clear that the economic assessment also failed to identify benefits, some of which could be intangible and fails to take into account money spent by the Applicant on this and previous proposals unsuccessful since 2004.

In concluding, Mr Kellaway stated that the proposal lacks any vision, fails to recognise material changes and is based upon flawed economic assessments and the application should therefore be denied.

The Chair, noting a comment regarding professional opinion, queried what Mr Kellaway's professional background was. In response, Mr Kellaway advised that he had spent 40 years as an adviser in the transport industry, advising governments across the world, and was a member of the Chartered Institute of Logistics and Transportation. He noted that he mainly advised on matters of aviation but also on transport infrastructure in general and his penultimate project was as an adviser to the Department of Transport in Abu Dhabi.

There were no further questions to Mr Kellaway.

**Mr Stuart Szylak, representing Mr and Mrs Crowley and Mr and Mrs Williamson,** advised the meeting that he had 16 years of professional experience as a qualified Town Planner and an Environmental Impact Assessment Manager.

Mr Szylak advised that the arguments of the four individuals that he was representing could be summarised under 5 topics; there will be many sensitive receptors experiencing both temporary and permanent significant residual impacts as a result of the scheme, the

fundamental base line traffic data used to inform the whole project is flawed and inappropriate, certain mitigation measures are inappropriate and of limited benefit, the environmental impact assessment is deficient in a number of areas and the environmental statement fails to clearly report and conclude on a number of issues, and the proposals contravene a number of key Council and Government policies, advice and guidance.

Referring to sensitive receptors, Mr Szylak requested acknowledgement from the Committee that there will be many experiencing both temporary and permanent significant residual impacts as a result of the scheme which had been reported in the supporting environmental statement of the application and discussed in the Appointed Officer's report. He advised, in respect of noise impact, that there will be temporary, but significant, impacts at residential properties and schools during construction activities and there will be permanent significant impacts at about 55 residential properties during operation. He noted that 52 properties will be experiencing significant visual impacts for up to 15 years, reducing to about 19 properties on a permanent basis. He stated that there will be temporary significant visual impacts at Greenwards Primary School for up to 15 years and potentially a permanent visual impact given the increased height of the noise barrier as a result of complying with proposed Condition 4a. In respect of landscape, he advised that a significant impact is predicted to be experienced on both the urban landscape character area and the wetlands local landscape character area for a period of up to 15 years until the proposed planting is matured. During construction of a new outfall, Mr Szylak stated that there will be significant impact on the water quality of the River Lossie and as a result a significant impact on the local biodiversity. He advised it is clear that there will be many significant impacts, whether temporary or permanent, as a result of constructing and operating the scheme. He noted that the representatives do, however, agree that there could be a reduction in noise that would bring the noise impacts in the classroom at Greenwards Primary School to acceptable levels as detailed in the Applicant's supplementary report which addresses the permanent noise impacts there at the school, subject to a few corrections.

Mr Szylak stated that there was evidence to suggest that the fundamental baseline traffic data utilised for the purposes of modelling and assessment to inform the whole project is flawed and inappropriate and as such its validity should therefore be questioned. He noted that it could be suggested that this baseline data is possibly the most fundamental data associated with the scheme as it is utilised not just to ascertain the need for the scheme but also the economic benefit being documented and the assessment of environmental impact. He advised that one of the key data inputs used within the traffic model and overall assessment relates to journey time data, noting that this data is referred to in a number of application documents such as the model validation report, the forecasting report and the economic assessment report. Explaining that journey time data is an exercise of collecting journey time information, he advised that it is undertaken manually by surveyors sitting in a vehicle and travelling a number of different routes and recording specific details about the transportation network. He referred to recognised Government guidance which states that journey time data is "an essential part of assignment model validation for most urban traffic appraisals since the majority of scheme benefits tend to be related to journey time savings".

Noting that the Applicant was very confident with the data used, he advised that it was collected and used to inform and develop a week day traffic model and a Saturday traffic model, both of which combined to provide data on which to assess the benefits of the scheme. He stated that the majority of journey time data collected to inform the Saturday model is considered inappropriate given it was collected on the day of the Elgin Christmas lights festival on 26 November 2011. He advised that the Design Manual for Roads and

Bridges (DMRB) identifies certain situations where the collection of journey time data would be considered untypical or inappropriate and such a circumstance is quoted in that document as being “local events such as market days, sports events etc”. As a result, Mr Szylak noted that from a total of 69 journey time surveys undertaken by the Applicant, it is estimated that about 50 of these were undertaken on the day in question. He advised that it was the view of the representatives therefore, that this invalidates the model and ultimately means the application is flawed. He stated that it could be concluded that as this inappropriate data has been used to inform, calibrate and validate the model then the outcomes, conclusions and ultimately the decisions made based on such are to be heavily questioned and reconsidered by the Committee.

Stating that certain mitigation measures are inappropriate and of limited benefit, Mr Szylak noted noise barriers as the first issue. He advised that a total of 520 metres of noise barriers have been proposed as mitigation to address significant noise impacts, some of which is 3 metres high, and questioned the use of these barriers given only 27 properties are removed from the significant impact category as a result of implementing the barriers. He noted that it is clear that over 50 properties would still experience significant noise impacts even with the introduction of these barriers. He advised, furthermore, that the proposed noise barriers would be such obvious elements within the street scope but noted there is no mention of them in either the Design and Access Statement or the Designing Streets Quality Audit. Noting that there were no images of the noise barriers within the environmental statement or the public exhibition material, he advised that the Council’s Environmental Health Officer requested further information regarding detail of these features. He noted that typical images do appear in the supplementary noise report which was issued after the submission of the application.

Mr Szylak advised that the representatives encouraged the Committee to familiarise themselves with the design and location of these elements and question whether there had been appropriate levels of public consultations. Noting the proposed 65 metre long section of barrier at a height of 3 metres, he advised that the Appointed Officer stated in their report that “a barrier greater than 2.5 metres in height is likely to result in an unacceptable visual impact”. For the remaining residential properties that cannot be mitigated fully by the installation of noise barriers, Mr Szylak noted that the supplementary report suggests offering better noise insulation on windows and doors of properties facing the scheme but stated that this measure is voluntary to the home owner and there is no guarantee that any of the properties experiencing significant noise impacts will indeed be mitigated. He further stated that there is no evidence that such a measure would be appropriate or feasible in any of these locations which means that there would still be many properties experiencing significant noise impacts when all feasible noise mitigation measures are implemented. He questioned whether the cost of installing secondary glazing in windows and doors at over 50 properties had been taken into account in the economic report.

Mr Szylak, referring to landscape and planting, stated that mitigation measures relating to planting are only predicted to be effective at reducing long term significant visual impacts at 33 properties and reducing impact after 15 years from 52 properties to 19 properties. He queried how effective the proposed planting would be at reducing the visual impact of the scheme particularly when it would take up to 15 years to be effective. Referring to the Appointed Officer’s report, he noted that it stated that there are locations within the scheme where visual impacts cannot be fully mitigated.

Referring to the Environmental Impact Assessment, Mr Szylak stated that this is deficient in a number of areas and fails to clearly report and conclude on a number of issues. He

noted that no assessment has been made of combination or cumulative impacts that a large number of sensitive receptors will experience as a result of the scheme. He advised, for example, that this may include residential receptors that experience both visual impacts and noise impacts which individually may not be considered significant but when assessed in a cumulative way, the impact on the receptor may become significant. He stated that such an assessment will likely identify a great deal more locations where residual significant impact would occur over and above those already reported. Referring to construction noise, he stated that it is predicted that there will be significant construction noise impacts at a number of sensitive residual receptors and schools but advised that it is wholly inappropriate to solely rely on a commitment to implement best practice and guidance to mitigate these likely significant impacts without first demonstrating that this will indeed be appropriate and effective. He advised that the Appointed Officer, in their report, responds by saying “for construction this is a generally accepted principle within planning that disruption for a temporary period is inevitable but can be mitigated to a tolerable level through the imposition of a number of planning conditions”. He noted that there is no evidence to demonstrate that this will indeed be achievable particularly with regards to, for example, night time working which will need to happen for most works associated with the construction of the new railway bridge which will only be permitted by Network Rail when possession of the railway can be achieved at night. He advised that this case arises for a second time when the existing bridge will be removed, however, there are no measures mentioned as to construction noise impacts in the middle of the night to mitigate nearby properties. He stated that, in his opinion, there is no certainty or evidence that all construction impacts can be mitigated to a tolerable level.

Mr Szylak, noting that there have been many objections on the impact on deer using the Wards Wildlife Site, advised that there was no mention or assessment of deer made in the Environmental Statement. He noted that during the consultation exercise, Scottish Natural Heritage (SNH) had indicated that The Wards Wildlife Site was of local importance for people and wildlife but the Appointed Officer suggests in their report that, in a letter from SNH, it was agreed that no assessment of the impact on deer need be undertaken. He further advised that the Appointed Officer’s report also suggests that SNH’s scoping response did note the presence of roe deer on the site and that measures such as signage and a 30mph speed limit be implemented to minimise the risk of deer vehicle collision. He stated that as none of the documents had been made public, the representatives would wish sight of the full responses before accepting the Applicant’s opinion that SNH required no consideration or assessment of the impact on deer.

Stating that the proposals contravene a number of key Council and Government policies, advice and guidance, Mr Szylak stated that ultimately the application should be assessed against relevant policy and guidance. He advised that it is evident that there are clear non-conformity issues that are underplayed in the Applicant’s supporting documentation and, furthermore, the representatives are of the opinion that the Appointed Officer’s report aims to counter these arguments by stating that, because the scheme is identified in the Local Plan, it has already passed the test on conforming with policy. He stated that this is not an acceptable response and that it is clear the application must be assessed in detail against all current policy at that moment in time.

Referring to page 6 of the Appointed Officer’s report, Mr Szylak advised that it is stated that “the proposals accord with the relevant policies and designations of the Moray Structure Plan 2007 and the Moray Local Plan 2008 and there are no material considerations that indicate otherwise”. He stated that there are some noteworthy non-compliance issues and the representations highlight these. Referring to Policy T2 of the Local Plan, regarding the provision of road access, he noted that the policy states “Access

proposals which have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused". He stated that there is no argument that the proposals have significant environmental impacts on many sensitive receptors, as raised earlier, so the application should be refused. In relation to the element of the scheme where it joins the trunk road, as addressed on page 16 of the Appointed Officer's report, he advised that the Applicant argues that new junctions onto a trunk road would be considered acceptable to Transport Scotland where economic growth or regeneration benefits are afforded and that reference is made in this regard to Scottish Planning Policy (SPP) 17, as amended by SPP 2014. He noted that SPP17 was specific in stating new junctions onto a trunk road would only be acceptable where nationally significant economic or regeneration benefits can be demonstrated and that SPP 2014 holds a similar position albeit without the reference to the word national, although he expressed his opinion that given the national status of the policy document, the national reference would still apply. He advised that Transport Scotland or the Government would only consider junctions designed in accordance with DMRB and expressed the representative's opinion that the junction in question does not accord with design standards and that the economic benefit being attributed to this scheme, which is discussed in regards to the trunk road acceptability as identified in the economic report, are far from being considered nationally significant. Noting that figures of £5m to £13m appear to be a large economic benefit, he stated that what must be made clear is that these benefits are attributed over a 60 year appraisal period, creating an average benefit of only £83,000 to £216,000 per year. He advised, in his opinion, that this cannot be considered by the Government and Transport Scotland as a nationally significant economic benefit. He stated that the junction does not comply with site line standards which will make Transport Scotland's consideration, let alone approval, even more unlikely.

Mr Szylak, referring to Policy T2, advised that the wider scheme does not comply with design standards at 26 separate locations. He noted that the Appointed Officer stated within their report that "the proposed new roadways and upgraded roads are designations within the Local Plan and for reasons identified in the observation section it is not considered to have a significant adverse impact. As the designated route was adopted in the same Local Plan...as general Policy T2 it has already been subject to scrutiny and involvement by the public, elected members and considered at Public Inquiry. Local Plan Policy T2 should be used to assess the design and layout in terms of landscape and environment...is not intended to override the principle of currently designated TSPs". He noted that the observation section of the report details why the proposals would not depart from landscape and environment impacts protected under Policy T2. He stated that the representatives have demonstrated that the proposal does raise significant adverse impacts contrary to what the Appointed Officer's report states and advised that, just because the scheme has been identified in the Local Plan, it does not mean it is exempt from the detailed environmental assessment and its detailed consideration at the planning application stage.

Councillor McLean queried how the representatives came to the conclusion for baseline traffic data in respect of 69 journey time surveys undertaken by the Applicant. Mr Szylak advised that the Applicant undertook the surveys on 6 different routes. He noted that 3 of the routes had their journey time data collected to inform the Saturday model on the day of the Elgin Christmas lights festival on 26 November 2011. He advised that the other 3 routes used an additional Saturday.

There were no further questions to Mr Szylak.



**Mr James Wiseman, representing Mr Ian Davidson**, advised the meeting that he had known Mr Davidson for many years and had spoken to him about his objections and the content of what he was saying on his behalf.

He stated that Mr Davidson objects on the grounds that the application is not in the public interest, that there are issues with the DSP as well as human rights and lack of detail in the vicinity of Fairfield.

Mr Wiseman advised that it was not in the public interest to build on what Mr Davidson's believes is public land and he is seeking evidence that this is not the case. He also sought evidence from the Applicant that they owned the land in question otherwise it would question the validity of the planning application. Referring to the DSP, he stated instead of following the policy, the Applicant was in complete conflict with the national policy by placing people at risk in terms of safety, pollution, stress and their health. He also advised that people's human rights for peace and quiet "...depend on the environment in which they live. A safe, clean, healthy sustainable environment is integral to the full enjoyment of a wide range of human rights including the right to life and health. Without a healthy environment we are unable to fulfil our aspirations or even live at a level commensurate with the minimum standards of human dignity and at the same time protecting human rights helps protect the environment. When people are able to learn about and participate in decisions that affect them and to help ensure that those decisions respect their need for a sustainable environment".

Referring to the lack of detail in the Fairfield area, Mr Wiseman advised that the application on the south of Fairfield Avenue giving access to future housing lacks any detail therefore Mr Davidson objects to the proposal. He stated that that it was Mr Davidson's understanding that within the future Local Plan, there is a proposal to block the bridge crossing the railway line from Mayne Farm to Wiseman Road. He advised that this would mean that farm traffic will need to be diverted and suspects that would be via Fairfield Avenue, expressing concern about the impact it would have on its residents and children and stating that it was a contravention of the DSP.

Mr Wiseman noted the claim within the Appointed Officer's report that the anticipated noise levels experienced at Greenwards Primary School post development would still fall well below these experienced by many other primary schools in Elgin and stated that Mr Davidson did not believe this to be accurate and sought justification of the statement. He stated that he was not aware of any primary school in Elgin having heavy traffic passing within metres of its boundaries and classrooms. He advised that the proposal to build 2-3 metre fences around the primary school would shut out the natural environment and stimulus for outdoor learning which he believed was nothing short of ridiculous from a Council that allegedly prides itself on the views of its young people.

In conclusion, Mr Wiseman advised that Mr Davidson was of the opinion that it was unbelievable that, having regard to modern day thinking, the Applicant is considering putting a link road past a flourishing educational establishment creating a situation which will most definitely impact on the environment and education of many young people for years to come, clearly breaching their human rights. He encouraged the Committee not to allow this to happen and make the decision to refuse the application.

There were no questions for Mr Wiseman.

**Mr Alastair Kennedy, representing Elgin Community Council**, advised the meeting that Elgin Community Council members were originally asked to comment on five options

that were on the table for improving traffic flow in Elgin, mainly to the west of Elgin but including taking pressure off the New Elgin railway bridge. He noted that their members met, had a robust debate on the possibilities and what effect they thought the options might have on traffic flow. He advised that at the end of that discussion, they were unanimous in supporting one option which had evolved somewhat into the option being considered by the Committee.

Since the start of the process, Mr Kennedy advised that the Community Council had had some changes to its membership and it was no longer unanimous in its collective view. He noted that they now have one member, who would be personally affected due to where they reside, who is against building the road.

Mr Kennedy advised that the Community Council had always looked at the scheme as a link road and not, as some have described it, as a bypass. He noted that they had sought, and were given, assurances that signage would not indicate the ability to reach the other side of Elgin by the route either east to west or west to east. He advised that the Community Council meetings are open to the public and advertised as such, but have never had any member of the public attend to offer a different view or challenge the fact that the Community Council constantly supported the link road in principle. He stated that there was some sniping in the local press about how representative the Community Council's view is but assured the Committee that they represent the whole of Elgin and not simply one area. He noted that no member from any other area of Elgin has been approached by individual members of the public objecting to the application and advised that, in fact, a number of people have said that they wish that the Applicant would "just get on and build it. He advised that at the very end of the representation period, the Community Council had 2 or 3 people come forward seeking support with their objections. He noted that the Community Council's response to the application highlighted that there were a number of objectors and that many of the objections are on the ground of cost, which the Community Council understand but which they believe is not a material consideration. He stated that whilst objectors have a right to have their representations listened to and considered, if someone holds a different view from the objectors they are sometimes seen as maybe not understanding the situation.

At this juncture in the proceedings, the Chairman advised Mr Kennedy that when invited to attend the Hearing and address the Committee on the Community Council's representation, this was to give him the opportunity to amplify these views, whereas he was now introducing new concerns that were raised with the Community Council since its representation was submitted.

Mr Kennedy advised that the Community Council's members do have sympathy with the people who live in the vicinity of the scheme. He noted that he lived on a road which was quiet when he moved there but like most roads has become increasingly busy over the last 20 years as it is a direct link from the A96 to the A941 into Lossiemouth. He stated that people living in the area of the WLR have had a huge input into the design of the road, including traffic calming measures and the redesign of the Wittet Drive area, something residents in the Lesmurdie area would have enjoyed.

Referring to the Community Council's response, Mr Kennedy advised that there were a number of factors which they took into account which they believe are all very relevant. He noted that three out of the four quadrants in Elgin have distributor or link roads - namely Morrision Road, Lossiemouth Road onto Lesmurdie Road and Reiket Lane onto Thornhill Road - and that the south west quadrant does not have any proper traffic distribution but the proposal would create that. He advised that over 1,000 new homes

are being built in the south of Elgin and that the A941 through New Elgin wasn't fit for purpose many years ago and questioned how it is going to carry the traffic generated by that amount of development. He noted that part of that road has no pavement to speak of so can be dangerous. Mr Kennedy advised that it was the Community Council's understanding that a substantial area is designated for housing further to the west of the two New Elgin schools which would put even more pressure on the current system. He stated that it therefore made sense to have a link to allow the further traffic which will be generated to have a more direct route to the west of Elgin and beyond.

Mr Kennedy noted that a £187m improvement package has been agreed for the Inverness to Aberdeen rail link. He advised that the result of these improvements will be more frequent rail traffic, which means the level crossing at The Wards being closed to traffic more often with ensuing hold ups to traffic backing up onto Wards Road. He stated that 2 members of the Community Council had met with Abellio - the new franchisee which takes over rail travel in April 2015 - and they say they are definitely keen to maximise the use of this line.

Stating that the current road system is hardly suitable for large delivery and heavy goods vehicles, with so many such vehicles coming from west of Elgin to deliver to the Springfield Retail Park, he advised the Committee that delivery vehicles for the large stores have to cross the railway at the New Elgin Railway Bridge and double back on themselves. He stated that one of the most important aspects to any retail park is good infrastructure for all manner of business links, including good access. He noted that the New Elgin Railway Bridge was closed due to flooding a few years ago and the whole area was gridlocked. He stated that this showed how desperately needed a further railway crossing is. He advised that if maintenance or remedial work to the bridge was required then there would be serious traffic problems.

Mr Kennedy advised that it was the Community Council's understanding that the Hearing process is not about whether the WLR goes ahead but rather about the application and whether it is suitable in planning terms and whether there is adequate information available to make a judgement on whether it should be granted or refused on the basis of that information. He stated that the Scottish planning system is designed for people to object to planning applications, although it is possible to support. He stated, as such, that the default position must be that if someone does not object then they either have no view on the subject or they support the application. Not intending to detract in any way from those objections received, he stated that there is a silent majority of public not objecting and encouraged the Committee to give some thought and credence to that silent majority during the future deliberations.

Noting that, like most towns and cities, Elgin is growing, Mr Kennedy advised that the development to the west of the wetlands had its boundary curtailed to suit the expected route of this road and noted that this was made clear when the Community Council commented on that planning application. He stated that Moray had to look well into the future and see the bigger picture and allow for future economic development, both business and housing, as well as build infrastructure to allow them to happen. He noted that there were two large sites waiting to be developed in the Springfield Retail Park as were many houses around south Elgin and stated that too often traffic measures, like stacking lanes for example, are shoehorned into an old narrow road that was never built for modern day traffic.

In concluding, Mr Kennedy advised that the proposed route has been on the agenda for many years and to date has had a considerable amount of money spent on getting it to

what was before the Committee. He stated that the project was not something new and keeps coming back because it is believed to be a necessity for the future and the Community Council agree with that. He advised that the proposal was an opportunity for the Committee to think strategically and future proof a large area of Elgin. Acknowledging that the scheme would not suit some people, Mr Kennedy stated that the majority view, as the Community Council sees it, is that the Committee should grasp the nettle and take the opportunity.

The Chair queried whether, on the basis of the presentation, the Elgin Community Council was supportive considering their representation neither supported nor objected to the scheme. In response, Mr Kennedy advised the majority of the Community Council were in support of the scheme however, one individual was not in support due to personal circumstances.

There were no further questions to Mr Kennedy.

**Mr Michael Esson**, although not a resident in the west end of Elgin, expressed sympathy with people that reside on the proposed scheme. He noted that his family have had strong ties with Elgin since the 1930s.

Mr Esson stated that the Applicant and Committee can surely see how unpopular the proposal is with the general public, notwithstanding the unfortunate householders living in Wittet Drive and Sandy Road who are directly affected by the route which, in his opinion, to all intents and purposes is a bypass. He advised that people repeatedly object to the proposal in the local press but yet it keeps being resurrected by the Applicant. He noted that it was his understanding that when the late Alistair Bissett successfully opposed the route then that would be the end of the matter but regardless it keeps reappearing in spite of pressures against. He noted that very few letters of support are received but there are many voices of objection showing that it is quite obvious that the general public are against the proposal. He encouraged the Planning Department and Committee to listen to the taxpaying people.

In concluding, Mr Esson stated that the latest proposal is to have no less than 4 sets of traffic lights positioned outside or near residential properties. He advised that traffic fumes and noise will undoubtedly affect the poor householders outside whose premises the lights are placed. He noted that for the Applicant to be prepared to spend an additional £8.5m on the route while closing essential libraries, toilets etc. is an extremely unpopular move. He encouraged the Committee to be patient as a proper bypass around Elgin has been promised by the Scottish Government and asked that they listen to the huge majority of Elgin residents who oppose the planning application.

There were no questions to Mr Esson.

The Committee noted that Mr I. Walker, representing L. Latham, was not in attendance as was previously intimated.

**Mr Alastair Grant** addressed the meeting on his concerns, noting that he was a resident of Wittet Drive. He advised that he voiced his objections on two fronts, one in relation to how the plan would affect his home in Wittet Drive and the other on how the plan will affect his business, Relax on Lossie Wynd.

Mr Grant stated his belief that the scheme is a plan that has developed badly over the many years it has been in process, advising that it has changed emphasis and grown arms

and legs. He advised that he had lived at 74 Wittet Drive, situated between Petrie Crescent and Mayne Road, since 1988 and has entered and exited his drive with care as the number of vehicle movements have gradually increased over the years. At a meeting held by the Designing Streets Action Group earlier in 2014, he noted that it had been brought to his attention a toucan crossing had been added to the WLR plan, immediately at his gateway which would mean that as soon as the crossing is activated, the first vehicle travelling south on Wittet Drive will stop directly in front of his entrance. He stated that this will prevent him being able to drive in or out as he would have to wait for all queuing traffic in both directions to clear, potentially taking some time. He added that at busy times of the day, such as before and after school, the pedestrian button may be activated again before the previous backlog of traffic has cleared leaving him still blocked. With regard to entering the drive, Mr Grant advised that he would normally have to swing out into the middle of the road if travelling south to negotiate the entrance and, no matter which direction he approaches from, have to wait for a gap in the traffic to allow him to manoeuvre in. He stated that this will become substantially more of a problem with a narrower road, which is planned, and with queues of traffic developing at the proposed toucan crossing at the gateway. He also noted that a toucan crossing at this location will also block the Mayne Road crossroads as any vehicle travelling north will have to stop across Mayne Road and vehicles on Mayne Road will suffer the same problems as he will, especially during the morning rush hour.

In respect of the lights that are proposed at the Pluscarden Road crossroads, Mr Grant noted that there would then be an obvious rat run involving Fleurs Road, Fleurs Drive and Bruceland Road. He advised that anyone living to the west of Wittet Drive will experience much greater delays in crossing the drive on their way to central Elgin. Noting that his home is the only one south of Pluscarden Road that actually needs vehicle access onto Wittet Drive, he stated that it seems particularly iniquitous to site a toucan crossing there. He stated that this crossing would experience high levels of use at certain times of the day with all pedestrians and cyclists from Wards Road, Forteach Avenue, Mayne Road, Petrie Crescent, Fairfield Westfield Estate, Wiseman Road and all other streets being obliged to use it, including school children. In his opinion, Mr Grant stated that there appears to be a perfectly acceptable alternative to this by providing a pedestrian and cyclist's underpass under the new bridge, raised in a previous version of the scheme, which would also keep Wittet Drive free of another set of traffic lights. He advised that during the time that traffic is stopped outside his home, he will be subjected to increased noise and exhaust pollution from all types of traffic including farm vehicles, heavy goods and articulated lorries sitting waiting for the lights to turn green. He stated that this will pump far more exhaust fumes into the locality than currently and, on top of the beeping noise, will disturb everyone in the neighbourhood. Mr Grant advised that the original plan to have the pedestrian and cyclist's underpass would have been a lesser evil than the current proposal and would have been safer and prevent many people, possibly several hundred a day, having to press the button, stop the traffic and cross Wittet Drive.

Mr Grant stated, in his opinion, that the current proposal constitutes an unacceptable depreciation to his quality of life, involving him having to keep windows shut to keep out noise and atmospheric pollution, be reluctant to use or work in his front garden nor allow his grandchildren to play there. He noted that it is becoming increasingly difficult and dangerous for him and his wife to get their car in or out of their property. He advised that the development does not comply with the Moray Local Plan which talks of promoting green spaces and pleasant places to live as it patently will cause significant transport problems for their household and to traffic crossing Wittet Drive at Mayne Road and thus the application should be refused.

Referring to his objection as a retailer in Elgin, Mr Grant stated that it is surely apparent to everyone that the town centre has been spiralling downward in quantity and quality over the last 20 or more years. He noted that independent shops have been closing and, on occasion, being replaced with chain stores of cut price and low quality. He advised that, in his opinion, building the new road - which has been claimed to safeguard the economic future of Elgin - will contribute to an even greater decline in Elgin town centre's viability. He noted that footfall in Elgin town centre has fallen dramatically and hazarded a guess that it is now less than 25% of what it used to be, while Edgar Road is already extremely busy with parking spaces becoming difficult to find sometimes.

He advised that he had opened Relax in 1985 and gained customers who travelled to Elgin regularly from places such as Inverness, Grantown, the Black Isle, Peterhead, Fraserburgh, Banff, Aberdeen and lots of places in between. He stated that Elgin was a shopping centre to be proud of but over the last 20 years Elgin town centre has been allowed to die and is now broken. He advised that, during the previous year, customers from Dunfermline who are annual visitors to Elgin visited his store and said to his staff "What's happened to Elgin? The High Street is terrible. We won't be coming back". He questioned whether anyone who has taken a walk through Elgin town centre could say they are surprised and not agree with those visitors sentiments. Mr Grant stated that it is not the case that coffee shops are all that the public wanted now, advising that a mix of independent and national shops and stores with nice clothes, gifts and food is what is being sought. He noted that the last few surviving shopkeepers of Elgin are close to despair and customers are telling them regularly that it isn't worth coming to Elgin anymore yet the Applicant is repeatedly stating that the economic future of Elgin depends on the Western Link Road and he questioned how this was the case. He stated his annoyance that his Council Tax is being spent on providing a link road to supermarkets and multi nationals in Edgar Road, while the traders of Elgin are left to go bankrupt.

At this juncture in the proceedings, the Chair advised Mr Grant that when invited to attend the Hearing and address the Committee on his objections, this was to give him the opportunity to amplify these objections, whereas he was now introducing new evidence not previously submitted.

Referring to the Moray Local Plan, Mr Grant advised that it states that if a proposed development may have potentially significant environmental transport or retail impacts on the surrounding area it will be appropriate for the Applicant to undertake further assessments so that the impacts can be quantified. He stated that, in his opinion, the proposal has potentially significant retail impact on the Elgin area and the Applicant has either not undertaken suitable formal assessment, or if so, has ignored the result and as such the proposal does not comply with the Moray Local Plan and should thus be refused.

In concluding, Mr Grant reiterated his objection to the application because it will deny him access to his home and there is no doubt that the noise and fumes from additional stationary traffic at four sets of traffic lights will cause significant extra pollution. He also advised that he objects on the grounds that it will adversely affect the once loved town centre of Elgin. He stated that as a local business person, he judges it to be a bad decision to borrow large sums of money with no plans of paying it off, only the interest, so that in 20 or 30 years, the children will inherit the debt. He encouraged the Applicant to spend some of the money in the town centre instead and the public will love them for it.

The Chair, referring to a comment by Mr Grant regarding a pedestrian and cyclist's underpass, queried whether the inclusion of an underpass would see him support the

proposal or if he was against the scheme as a whole. In response, Mr Grant advised that he was against the scheme completely.

Councillor Wright sought the basis of Mr Grant's claim regarding footfall figures, stating that Elgin Business Improvement District (BID) claim it is increasing all the time. Mr Grant advised that he had not done a survey on footfall but based his figures on business experience.

There were no further questions to Mr Grant.

**Mr Douglas Low** advised that he was a resident at 39 Wittet Drive and addressed the Committee on his objections. He noted that the scheme had been referred to as a distributor road, a link road and a western approach road and there seemed to be more names than there are reasons for the road.

Mr Low stated that he believed there to be a clear contravention of the Scottish Government's DSP which, in effect, advocates the return of residential streets and neighbourhoods to the benefit of the public by putting pedestrians first, cyclists second and a car a very poor third. He advised that it is obvious that Wittet Drive, in particular, is a residential street in the true sense of the word and changing the original terminology from distributor road to link road does not alter the fact that extremely heavy volumes of traffic being directed down a residential street is going to impact severely on the lives of all residents.

Advising the scheme was originally to impact adversely on three or four houses at most, Mr Low noted that 20 Compulsory Purchase Orders (CPOs) have been issued ranging from complete demolition of family homes to garden encroachment. He advised that, whilst it is extremely difficult for a lay person to plough through technical planning processes, it is as clear as day to all concerned that the proposal will blight the lives of hundreds of families along the route. Noting that the Applicant has claimed that the proposal is supported by the public, he advised that there have been significant protests and campaigns against the scheme since before 2004 and again since. He stated that there have been several extremely well attended marches and a huge ground swell of opinion against the proposal including a petition with 1,000 signatures that was handed in to The Moray Council but it appears that this does not seem to have been taken into account. He noted that up to date figures reveal that there are 797 objections and only 10 supporting. Stating that public opinion is such that there is no sound economic basis for the exorbitant unnecessary scheme, Mr Low noted that there has never been a satisfactory explanation for its inclusion. He advised that significant noise impacts will be experienced by households along the route during construction and that this has the potential to impact on properties structurally. He noted that it has been stated that it is good practice to mitigate these impacts but there is no evidence to support this conclusion and as such was a very misleading statement.

Mr Low stated that, in the longer term, properties will be subjected to a significant increase in nuisance levels. He advised, in his opinion, that the fact that the road will have a significant impact on Greenwards Primary School has not been taken fully into account and the instruction that the windows at the school will have to remain shut because of noise nuisance is totally inappropriate, as is the 2 metre high fence which is to be constructed and which will be a blot on the landscape. He questioned whether this was enough of an admission of defeat and noted that it would curtail the current open aspect of the school. He stated his disbelief about deliberately re-routing such a road past a primary school in this day and age as well as the Cedarwood Day Centre, which is used by

adults with learning disabilities. Noting that the road is being forced through two residential areas, Mr Low advised that it will impact severely on quality of life with low air quality and pollution being of severe detriment to the residents, especially the elderly and the very young, and those already suffering from ailments such as asthma.

Noting that Wittet Drive and adjacent streets are currently used heavily by walkers, joggers, pedestrians and children walking and cycling to school, Mr Low advised that heavy traffic will curtail these activities significantly and will certainly not balance the needs of other road users as stated by the Applicant. He stated his opinion that the proposal contradicts the Moray Structure Plan 2007 which states that a key objective is safeguarding and enhancing the natural and built environment, advising that this is reason enough to refuse the application as the proposal does the exact opposite. He noted that the intention to include traffic lights, instead of the current small roundabout, at Wittet Drive-Pluscarden Road junction will cause even more pollution. Advising that when temporary traffic lights were situated there the previous year, Mr Low noted that the traffic was tailed back for a considerable distance and the revving and running of engines, as well as the noise generated by the beeping of the traffic lights, severely affected the quality of the life of residents day and night. He also expressed concern that traffic will be stacked up along Pluscarden Road which will mean residents of Fleurs Road, who have garages backing onto the Wittet Drive private lane, along with the residents of Wittet Drive will be unable to emerge from the lane due to the patterns of the lights and the build up of traffic.

Mr Low stated that proceeding with CPOs prior to planning permission having been granted appears to be a classic case of the cart before the horse. He advised that the Applicant is perceived by the electorate to be conducting a ploy to ensure that such a deeply unpopular and undemocratic scheme is foisted on the public by sheer force. Noting that a public consultation several years ago delivered only thirteen per cent in favour of this option presented, Mr Low advised that it was the least favoured of all the options tabled and questioned why hold a public consultation with all its ensuing costs, and then totally ignore the outcome.

Advising that the scheme will be a viable alternative to the A96 and as such has the capability of generating new traffic movements within Elgin, Mr Low stated that this was in contradiction to the Applicant's statement that the scheme will not generate new traffic movements within Elgin. He also questioned the Committee to consider how abhorrent a CPO is and how they would cope if their own home was under threat.

Mr Low noted that although Wittet Drive has received most publicity, the residents of Pluscarden Road, Fairfield, Edgar Road, Glenmoray Drive, Sandy Road, Birnie Road, Thornhill Road and Reiket Lane are all going to have their lives badly affected by noise, congestion, exhaust fumes creating an unpleasant place to live. He stated that there was virtually no support from the public, noting as stated earlier that there were 797 objections and 10 supporting. He advised that, although cost is seen as not a reason for objection, the original figure of £12.5m now watered to £8.5m seems suspiciously low. He stated that vast sums of money borrowed over 30 years will put even more pressure on the Council's already stretched budget. He reminded the Committee that the Council was in debt for 40 years to pay for the flood alleviation scheme. Referring to a statement made by Councillor Wright on 5 November, he advised that the Council will have to find more money to repair the schools from other sources.

At this juncture in the proceedings, the Chair advised Mr Low that when invited to attend the Hearing and address the Committee on his objections, this was to give him the



opportunity to amplify these objections, whereas he was now introducing new evidence not previously submitted.

Mr Low appealed to the Committee to turn down the application and vote against the WLR.

There were no questions to Mr Low.

**Mr James Mackessack-Leitch, representing Mrs Suzanne Mackessack-Leitch,** advised that his academic background is in sustainable road development and that he has worked on a number of environmental, energy and transport projects in Scotland and Africa.

Referring to noise pollution and the Moray Local Plan Policy EP8, Mr Mackessack-Leitch advised that planning applications that are subject to significant pollution, such as noise, will only be approved where a detailed assessment report on levels, character and transmission of potential pollution is provided by the Applicant to show how the pollution can be appropriately mitigated. He stated his belief that the application fails in complying with this fundamental policy, specifically in terms of the two and a half metre barrier alongside Greenwards Primary School that may not be effective. Advising that the road traffic noise impacts response notes in the conclusion that the barrier at Greenwards would be in the order of meeting the upper limit for ambient noise level, he noted that it continues to state that monitoring is recommended in the following years to ensure acceptable noise levels but that if the measures are not providing the expected benefit consideration should be given to the provision of mechanical ventilation and thus yet more upheaval and distraction for future primary school pupils. He stated that this suggests that the mitigation measures are questionable from the outset and thus fail to meet the terms of Policy EP8 as the noise pollution is not being, and perhaps cannot be, appropriately mitigated.

Mr Mackessack-Leitch, addressing the visual and landscape impacts, advised that the proposal for the noise barriers topping the embankment, particularly overlooking Fairfields, constitutes an unacceptable impact on the landscape and that the barrier itself adds on about half again in height to the embankment coming off the bridge. He noted that the Appointed Officer's report recognises that this will be substantial as it constitutes a significant change to the aspect of residences facing east towards the development but contends that the barrier does not breach policy IMP1 due to the use of climbing plants on the barrier. He expressed his opinion that climbing plants will not however be able to replace the loss of view and stated that the loss of early sunlight, particularly in winter, will dramatically affect the character of the residential housing. Similarly, he advised that the mass planting of trees and shrubs to mask the impact of the road and barrier is in itself in contravention to IMP1 in terms of dramatically changing the character of the surrounds from open farmland to scrub woodland. He advised that it was unhelpful that none of these barriers appear in the cross sections of the plan as submitted within the application and noted that they fail to provide an accurate impression of what the finished development would look like, particularly in the case of the Figure 11.4b where the barrier should be quite clearly visible. He stated that the application also contravenes IMP1 (a) in that the scale, density and character must be appropriate to the surrounding area, IMP1(b) in that the development must be integrated in the surrounding landscape and IMP1(i) in that the conservation of natural and built environment and resources must be demonstrated.

Questioning the benefits of the proposal to the people of Moray, the public interest and the underlying economics, Mr Mackessack-Leitch advised that the Appointed Officer's report

notes that the MES is a material consideration relevant to the determination of the application. He noted that it proceeds to clarify that, for the avoidance of doubt, the economic benefits of the scheme, and the extent to which it will benefit the local economy, are material considerations. He advised that the Economic Assessment Report states that the cost of the projects, as at March 2014, stood at £6.14m, noting that this figure excludes “do minimum” elements and money spent to date. Stating that this causes a problem from the outset, Mr Mackessack-Leitch advised that it is the only economic document available and the public cannot be sure how the figures are calculated nor of the benefits for the scheme and therefore the cost benefit ratio as calculated include the benefits but not the cost of the “do minimum” elements that are not being included. He stated that the fundamental flaw in the calculations is the failure to recognise the impact of the dualling of the A96 and the de facto bypass that it provides. He noted that the Economic Assessment Report covers the first 60 years of the development so even if the Elgin part of the dualled A96 is the last to be built, and is a decade behind schedule, it still eats into two thirds of that model and its predictions.

Mr Mackessack-Leitch noted that previous traffic studies state that around a quarter of the traffic entering Elgin on one side passes out the other and the reduction in volume of this will have a marked effect on traffic flow in and around Elgin, hence the necessity of these proposals. He advised that excluding the aspiration growth model leaves the fact that the core growth model shows it that the project will, at best, breakeven but is more likely to be unviable. He noted, assuming that the figures for the benefits are correct, that the model shows that the net benefit will be in the area of £10.5m at March 2013 prices. Using the £6.14m figure, he advised that - unsurprisingly - it gives a decent ratio of 1.9, almost 2 to 1 in terms of investment. He advised, however, by November 2014, the predicted costs were around £8.5m with approximately £1.5m already spent, giving a total project cost of just over £10m and a very marginable favourable ratio of around 1 to 1.03.

At this juncture in the proceedings, the Chair advised Mr Mackessack-Leitch that when invited to attend the Hearing and address the Committee on Mrs Mackessack-Leitch’s objections, this was to give him the opportunity to amplify these objections, whereas he was now discussing the capital cost of the scheme which was not a material planning consideration.

Referring to the MES, Mr Mackessack-Leitch advised that it was a wide ranging document backed by the public and a range of private organisations, businesses, community groups and others which articulates the ambitions of Moray’s Community Planning Partners to achieve a strong, diverse and sustainable economy for the area and a high quality of life and well being for its residents. He noted that the MES makes no mention of the proposed WLR, a proposal that was well known during the strategy’s development. He stated that the health of central Elgin is positioned at the core of the strategy and must remain the prime civic, retail, cultural and events base in Moray. He advised that diverting Elgin bound traffic away from the town centre therefore clearly undermines the aspirations of this aim and can be considered in total opposition to the overriding aims of the MES.

In concluding, Mr Mackessack-Leitch advised that the Appointed Officer’s report does note that the MES briefly mentions that other local road improvements to improve traffic flow between north and south Elgin are linked to the development of Edgar Road area. He stated that, given the minor significance of this note as accorded, its vagueness means the balance of weight has to remain with the WLR proposals being directly in opposition to the MES and notes that this is therefore a material consideration.

There were no questions to Mr Mackessack-Leitch.

## ADJOURNMENT OF MEETING

The Committee agreed to adjourn at 12:34pm and reconvene at 2:00pm.

## RESUMPTION OF MEETING

The Committee reconvened at 2:00pm.

### Present

Councillors D. Ross (Chair), C. Tuke (Deputy Chair), G. Alexander, J. Allan, J. Cowe, G. Cowie, J. Divers, M. Howe, M. McConachie, G. McDonald, A. McLean, P. Paul and A. Wright.

### Also Present By Invitation

Mr T. Muir, Technical Director, Mr L. Davies, Noise Specialist, Mr M. Lancaster, Landscape Specialist, Ms R. McLenaghan, Environment (EIA) Team Leader, Mr B. Sloey, Traffic/Transport Planning Officer and Mr D. Robertson, Roads Engineer (all Jacobs) representing The Moray Council (Applicant).

Of those who submitted representation on the application:- Miss K. Cameron, Mr G. Esson, Ms A. Fagan, Mr A. Grant, Mr S. Hood (on behalf of Mr & Mrs Hood), Mr M. Kellaway (also representing Mrs M. Cameron and Mrs M. Kellaway), Mr A. Kennedy (representing Elgin Community Council), Mr D. Low, Mr J. Mackessack-Leitch (representing Mrs S. Mackessack-Leitch), Dr M. Mehta, Mr I. Millar, Mrs W. Milne (on behalf of Mr G. and Mrs W. Milne), Mr T. Simpson, Mrs E. Smart, Mrs N. Strachan, Mr S. Szylak (representing Mrs J. Crowley, Mr J. Crowley, Mr D. Williamson and Mrs L. Williamson), Mr J. Wiseman (also representing Mr I. Davidson, Mrs A. Quirie and Mr L. Quirie), Ms C. Webster (also representing Elgin Designing Streets Action Group).

### In Attendance

The Head of Development Services, the Head of Direct Services, the Acting Head of Legal and Democratic Services, the Manager (Development Management), Mr N. MacPherson, Principal Planning Officer (Development Management), Mr R. Gerring, Senior Engineer (Transportation), Mr D. Caldwell, Environmental Health Officer, Mrs E. Penny, Engineer (Traffic), Mrs A. Scott, Legal Services Manager (Property & Contracts) as Legal Adviser to the meeting and Mr D. Westmacott, Committee Services Officer as Clerk to the Meeting.

## REPRESENTATIONS ON THE APPLICATION

**Mrs Wilma Milne, representing herself and Mr Graham Milne,** encouraged the Committee to reconsider key national policies and the Local Plan which do not support such a development as that before them.

Referring to Planning for Transport Guidance on Traffic Management, Road Safety and Environmental Factors, Mrs Milne advised that it states that economic development should depart from a roads mentality. She advised that the case for economic development has

not as yet been identified other than short term house building and that the roads mentality referred to in this case is the driving of a busy transporting road through highly residential areas of Elgin. She noted that the supply route for any substantial economic developments would require a new road built for purpose.

Mrs Milne, referring to the National Planning Framework for Scotland, stated that protection for national heritage and landscape should be in place but noted that the development has a bridge, increased noise, increased air pollution and restricted access to the Wards wetland site and will have an obvious negative impact on the already fragile wildlife. She noted protection is also required for the young and elderly people and those with additional support needs. Referring to the impact on Greenwards Primary School, which she noted supports a number of young people with additional support needs, Mrs Milne advised that the school currently enjoys a quiet location and an open outlook and this would be replaced by a busy road with noise and air pollution and high sound barriers. She stated that this constitutes a huge environmental change for the school and, in her opinion, is totally unacceptable. Noting that the new Elgin High School entrance is to be via Edgar Road, Mrs Milne stated her belief that this undoubtedly will increase both traffic and pedestrian footfall, further highlighting the inappropriateness of the proposed road.

Referring to the non-adherence to the national DSP, Mrs Milne stated that, in her opinion, the Applicant should be adhering to such national policies but there is no evidence of sustainable application of this policy and consequently the WLR should be rejected. She advised that her objection was submitted on the basis of estimated traffic figures of 9,600 per day by 2029, which was taken from a fact sheet issued by the Applicant at the time, but noted that this figure has been reduced 7,000 per day by 2029 which was a significant and perhaps convenient change.

In concluding, Mrs Milne reiterated the strong objection to the WLR from both her and her husband as it is an inappropriate, unsympathetic development which affects the natural and built environment of our time.

There were no questions to Mrs Milne.

**Mr James Wiseman, representing Mr Leslie and Mrs Angela Quirie**, advised the meeting that he had known both for some time and had spoken to them about their objections and the content of what he was saying on their behalf.

Mr Wiseman stated that Mr and Mrs Quirie were concerned that the application is not in the public interest because it goes against Council and Government policy and therefore should be refused. He advised that they were concerned about the impact on the environment from the increase in traffic pollution in a residential area which was linked to the dominance of motor vehicles in those residential areas which breaches the DSP which the Council had adopted as in 2010.

Expressing their opinion that the proposals endanger the lives of pedestrians, school children, elderly and infirm and those who use the wetlands area, Mr Wiseman stated that this breaches the Health, Work and Well-being - Caring For Our Future Policy which empowers people to promote and protect their own health and notes that many of those who object to the proposal are people seeking to protect their health and wellbeing.

Mr Wiseman advised that the school is a place where people gather and interact and the buildings and barriers do not help that function either visually or functionally. Referring to the scheme's impact on pedestrians and cycle traffic, which he noted in turn impacts on

the character of a place, public health and social interaction, advised that the dominance of the motor vehicle over other forms of transport does not help reduce carbon emissions.

In concluding, Mr Wiseman stated on behalf of Mr and Mrs Quirie that the application is not in the public interest, goes against Council and Government policy and therefore must be refused.

There were no questions to Mr Wiseman.

**Mr Tim Simpson** addressed the meeting on his concerns and why he did not believe that the proposal was the appropriate answer to the traffic problems Elgin may have.

Mr Simpson stated that the proposal is clearly in direct contradiction to national roads design policy, namely the DSP. He expressed his opinion that the matter was not really up for debate as the Applicant had admitted several times within their application that they have not been able to comply with the DSP. Referring to page 16 of the Appointed Officer's report which states that principles of designing streets have been applied where appropriate, such as at the northern end of Wittet Drive which he assumed was the redundant section of Wittet Drive that is no longer going to be used as a distributor road, Mr Simpson agreed that principles of designing streets have been applied to that tiny element of the whole scheme. He expressed concern that, due either to physical constraints on the route or in order to ensure other requirements of this scheme are met, not all of the principles of designing streets have been applied. He stated that in his opinion the fundamental problem with this whole issue is that the Applicant cannot apply the DSP whilst still meeting the overall requirements of the scheme. He stated that this was not acceptable in planning terms as the DSP was national planning and roads policy and it expressly states that planning permission may be refused and refusal defended at appeal solely on design grounds. He advised that the policy is not something just to be put to one side if it doesn't suit the aims of the scheme. He noted that the consultation response from the Roads Authority to the planning application did not even mention designing streets once.

Mr Simpson advised that the policy overview section of the Appointed Officer's report lists the Moray Local Plan 2008, the Moray Structure Plan 2007, the Moray Local Transport Strategy 2010, the MES and Elgin City for the Future but noted that that the DSP is not mentioned at all. Noting that the DSP was implemented in 2010, he stated that the proposal's design may have been appropriate in 2007 and 2008, when the Moray Structure Plan and Moray Local Plan were respectively adopted, but advised that in 2010 the way streets were designed was fundamentally changed by the introduction of the DSP. He advised that this is a material change that has been introduced since it was first considered appropriate to include the route along Wittet Drive in the Moray Local Plan. Expressing his belief that there is a real risk to safety as a result of the proposal, he advised that Wittet Drive is a long straight wide section of road, much of it downhill from north to south, which is exactly the type of road the DSP advises against. He stated that the aim of the scheme is to improve traffic distribution but the design of the road does little to ensure this will be done in a safe way. He advised that, in his opinion, it is essentially closer to a trunk roads design than it is to an appropriate designing streets layout. Stating that he drives along Wittet Drive every day, Mr Simpson expressed his opinion that there are 5 things that control vehicle speeds on the road, namely the priority junction on the A96, the bend in the road just north of Brucelands Road, the roundabout at Pluscarden Road, the presence of parked cars on both sides of the road and the right angle bend adjacent to the railway and stated that the design of the proposal removes all 5 of these features.

Referring to Page 63 of the Appointed Officer's report, Mr Simpson expressed his disappointment that concerns about speeding traffic on the road were dismissed as speculative. He noted that the Appointed Officer comments that the proposed road design, pedestrian crossing islands, street markings and signage are designed to control traffic speeds but questioned how this would be successful. He advised that the design is a long and extended straight section of road where there are only 3 traffic islands along the whole length and their effect on speed will be negotiable, as will street markings and signage. Noting that the Road Safety Auditor who assessed the safety of the design, he advised that they concluded that throughout the scheme pedestrians could be struck by vehicles and a variety of accident types could occur due to vehicles travelling at speeds in excess of the posted speed limit. He questioned why something as fundamental to the proposal as a safety audit was not included to support the planning application. Referring to the Road Safety Auditor's report, Mr Simpson advised that the northern end of the proposed link road from Wittet Drive through to Wards Road is in an urban area surrounded by residential properties. From Wards Road, he noted that it was stated that the WLR continues in a southerly direction but the southern surrounding area is rural in nature through to its junction with Edgar Road, whilst the alignment of the road through the northern extent of the scheme is a straight carriageway which may encourage drivers to travel at speeds in excess of the posted 30mph speed limits. He advised that the only feature likely to slow vehicle speeds through this section is a signalised crossroads junction at Pluscarden Road.

Noting that presently the carriageway through the Wittet Drive area is wide but narrowed by parked vehicles along both sides of the road, Mr Simpson advised that the proposed WLR scheme narrows the carriageway but removes parked vehicles from the side of the road with the provision of a number of parking bays on both sides of the carriageway. He stated that this layout may lead to drivers travelling at inappropriate speeds, increasing the risk of collisions occurring or pedestrians crossing the WLR being struck by vehicles. He noted that it is proposed to extend the 30mph speed limit through the rural section of the link between Wards Road and Edgar Road but advised that the rural nature of this section may encourage drivers to increase their speed above that of the proposed 30mph speed limit, especially as it is a different road environment to the northern section of Wittet Drive. He advised that the safety audit was carried out by 2 Principal Road Safety Engineers from Jacobs who are very well qualified to talk about road safety and as such the Committee should not dismiss the potential for speeding and the associated road safety issues. He advised that he had to carry out a Freedom of Information (FOI) request to see the road safety audit and expressed his disappointment that it was not included in the application. Noting that the response to his FOI request commented that any design changes have been commented on by the Road Safety Audit team, he advised that he made a follow up request to find out what those comments were however he not receive a response. He expressed concern that the Council as Road Authority did not mention the safety audit or requests it as part of this application and noted that their response also states that once planning permission is granted there will be further examination and scrutiny of the design. He stated that he did not believe this is acceptable and that the design must be examined and scrutinised at this stage particularly in view of the very obvious safety issues raised in the safety audit.

Mr Simpson advised that his concerns regarding the DSP and road safety are directly related to each other and stated that had the DSP been properly applied to this proposal then the Road Safety Audit would have been far more positive than it is. He noted that, similarly, if a trunk road style design, such as that which was being proposed, been taken and applied on one of the outer rural routes which were initially proposed again it wouldn't

have flagged up the same problems. He stated that trying to force a bypass style design through existing residential streets whilst paying no heed to present roads policy is a recipe for disaster and noted that the safety audit spells this out loud and clear.

In concluding, Mr Simpson advised that the proposal was the wrong one, in the wrong place and at the wrong time. Expressing sympathy with the Committee for the many difficult decisions that they are required to make, he stated his belief that some of the decisions regarding the proposal have been made even more difficult by some of the one sided and agenda driven reports that have been put in front of them. He queried whether the decision would comply with planning and roads policies and stated his belief that there are no assurances that there are no road safety implications. He noted that the Road Safety Audit, carried out by 2 road safety experts, wasn't included with the application and expressed his opinion that this was because it flags up a number of serious road safety concerns and encouraged the Committee to refuse the application.

The Chair noted that Mr Simpson only received the Road Safety Audit after requesting it through a FOI request but had not received a response to his further request. He queried the timescales involved with his further request, noting that there was a 20 day responding period for the Council. In response, Mr Simpson advised that the second request was made during the summer.

Councillor McLean sought clarification that Mr Simpson had stated that he believed the northern end of Wittet Drive was the only section of the scheme that takes the DSP into consideration. Mr Simpson confirmed that this, in his opinion, was the case and that the scheme should be self enforcing against speed in terms of the Policy.

In response to a further query from Councillor McLean in relation to complying with the DSP, Mr Simpson stated that he could accept the need for distributing traffic in the south west quadrant of Elgin and that he could support a WLR if it were designed properly. He advised that he believed there were better options available to what was being proposed.

**Mrs Edith Smart** advised the meeting that she had been a resident of Wittet Drive for over 30 years and noted that her objections are mainly related to safety issues, access and egress as well as some other practicalities which she feels is important.

Noting that she has reversed up the lane behind 48 to 70 Wittet Drive for over 30 years, she advised that the Applicant has acknowledged that the lane is a problem with access and egress, in that it varies in width between 3 and 4 metres which makes passing movements difficult. She noted that the Applicant has highlighted 2 gaps in the wall which they are going to make to try and alleviate the problem but questioned whether they were aware that the adjacent lane and the access road are on 2 different levels with the gradient becoming greater the further up the lane that it goes. Advising the Committee that historically, when The Moray Council introduced the wheelie bins, residents campaigned and received 2 gaps in the dyke with a ramp to push a wheelie bin up onto this access road but advised that this was short-lived for various reasons and several months later the holes were bricked up again.

Mrs Smart advised that, at the front of these houses, 10 parking spaces were originally allocated for the 13 houses however these had been cut down to 6 and she assumed that the 10 houses opposite Wittet Drive - from Pluscarden Road to Petrie Crescent - will also be sharing these 6 parking spaces. She questioned whether 6 parking spaces were deemed suitable for 23 houses. She noted that, as a result of the Road Safety Audit, parking is planned to move to an off street car park and queried where this was, whether it

would be secure, how many spaces it would have and whether there is disabled provision. She stated that to move it to the north side of the Pluscarden roundabout, where there are 4 sets of traffic lights proposed, would create more of a problem than what currently exists for access and egress with traffic being stacked up at the lights. Noting that the houses have no turning spaces, she advised that residents have to either reverse in or reverse out which is further complicated in that most houses have got more than one car.

Referring to the shared pedestrian and cycle route as detailed in the application, Mrs Smart queried whether there is a half a metre division strip between the two aspects on one part of the road and not on another and whether it is needed or not or was it just a luxury. She questioned what arrangements were in place for Mondays when each house has 3 wheelie bins and a glass recycling box out on the pavement, especially on the side that she lives where the pavement size is proposed to be reduced.

Mrs Smart advised that there was a property just off Witted Drive, which had a 'B' Listed status. She noted that the Applicant has stated that there will be no impact on listed properties within the surrounding area and as such satisfies the requirements of Policy BE2 and queried how it can be claimed that the property would not be affected.

In concluding, Mrs Smart stated that there remained many unanswered practical questions for her, noting that at the moment the traffic flows on Wittet Drive and is not stacked up at roundabouts. She advised that she could see this proposal causing problems where they currently do not exist and stated her opinion that the Applicant is merely relocating the congestion from one area of Elgin to another.

Councillor McLean queried the location of the land that Mrs Smart referred to for access and egress. In response, the Chair advised that the lane could be identified in scheme Plan Sheet 2 of 6, using the reference for gaps to be inserted into the existing wall to indicate the lane. Mrs Smart noted that the lane was on different levels with the gradient becoming greater the further up the lane that it goes.

**Mrs Norma Strachan** addressed the meeting on her concerns, noting that she was a resident of Wittet Drive in the 1970's when the WLR was first suggested as a solution to Elgin town centre traffic congestion. She advised that at that time, Alexandra Road was constructed instead, cutting through the historic centre of Elgin and which has proved to be inadequate. She questioned how long it will be before the WLR will be deemed as inadequate.

Mrs Strachan stated her belief that irreversible damage will have been done to pupil's environment and to the character of just one of Elgin's residential areas should the proposal proceed. She advised that the road network around and through Elgin should be planned in conjunction with plans for the A96 and other major trunk roads.

Advising that proposals for the A96 being dualled and the changes to predicted traffic movement merit refusal of the application, Mrs Strachan questioned the timing of the application as it did not seem to make sense to her against the background of these material changes and the current economic climate of the present along with the predicted budget constraints which all local authorities are going to have to confront.

Mrs Strachan advised that she believed that the application fails to address the environmental impact, noting that there were no satisfactory solutions suggested. She stated that the residential area was never designed to cope with heavy goods traffic. She advised that she is now a resident in Fleurs Drive and could personally testify to the impact



of heavy goods vehicles braking to cope with the gradient of the street and its junctions. Noting that it would be that braking that the residents of Wittet Drive are going to have to put up with, she assured that it goes on at all hours of day and night and that it is going to happen at every single crossing point within the proposals. She advised that it was not just a case of traffic flow that residents would have to deal with but also the type of traffic that is going to use the scheme. Speaking from personal experience, Mrs Strachan warned that residents would have to deal with vibration, noise and the squeaking of brakes day and night. She questioned what happens if the proposed noise mitigation proposals aren't enough and whether the Applicant would just raise the fence by another metre or plant more shrubs. Noting that the Applicant would be monitoring the noise, she queried who is responsible for the ongoing maintenance of the shrubs, trees and landscaping.

Referring to the economic development benefits of the scheme, Mrs Strachan noted that it was stated the scheme will benefit Elgin and the local community and was cited as one of the first key benefits by the Applicant but advised that, in her opinion, it has not been backed by any evidence. She questioned how the scheme meets the aim of the Moray Local Plan to promote the vitality and the viability of the town centre when only house building was given as an example of sustainable economic activity. She stated her belief that anything else is speculation.

In concluding, Mrs Strachan queried that if the welfare of the residents is going to be disregarded, who in Elgin or any other area of Moray can be sure that a proposal that involves the demolition of their house or their neighbour's won't affect them in the future. She advised that as she was neither a planner nor engineer, she took advantage of the consultation opportunities to make some sense of the maps and documentation but came away worried because, in response to a question, she was told by Council officials they couldn't answer my question because they were not engineers. She noted that when she queried the impact on the surrounding roads including West End and Mayne Road, she was told by the Applicant's representatives that it did not form part of the application. She stated that there was an assumption by many people that she spoke to at the event, and since, that it was a done deal. She encouraged the Committee to prove the cynics wrong and show that they are listening by refusing the application planning permission.

There were no questions to Mrs Strachan.

**Mr James Wiseman** advised the meeting that he was a qualified engineer, a chartered civil engineer and a chartered water environment manager and had lived on Edgar Road for 20 years.

Mr Wiseman advised that he suffered from information overload when the application was submitted from the sheer number of documents and noted that it took some time to go through them all, focusing on trying to find out how the scheme was going to impact on him. He stated his belief that the scheme has no sound economic basis and was a departure from the Local Plan. He also noted that there is a statement from Transport Scotland advising that they do not normally allow junctions onto trunk roads unless there is an economic case for it.

Stating that the proposal does not have community support, Mr Wiseman advised that he objected to the inclusion of the route in the Local Plan 2008, presenting a petition to Richard Hartland with over a thousand signatures against it and noted to date there did not seem to have been any material movement. He noted that one example of this is that he has made a number of comments in the past on a crossing outside his neighbour's house that might make his access difficult but has yet to receive an answer. He queried how the

access to his property, and his neighbour's, had been considered in the design of that section of road.

Mr Wiseman advised that building a road such as proposed through 2 residential areas will have a material effect on the quality of life in terms of noise. He noted that there would be a bigger impact on Edgar Road because the houses are nearer to the road. Referring to the DRB3 Environmental Statement Volume One report, he advised that Chapter 15 talks in part about natural ventilation by the opening of windows currently enjoyed at Greenwards Primary School - using the school as an analogy - and stated that his property is closer to the road than Greenwards is. He noted that in same report, Chapter 21 states significant noise levels would remain if the school uses natural ventilation by opening the windows and questioned whether that means he will not be able to open his windows or if he will get noise that will distract him from whatever he is doing. He advised that noise impacts would reduce to non-significant upon closing the windows and expressed his opinion that it was an unacceptable mitigation of a noise impact, stating that the scheme should be placed further away from properties and ideally out of town.

Referring to the DSP and the aim to balance the needs of road users, Mr Wiseman advised that on Edgar Road there is housing for people with learning difficulties, elderly, children and that there are a lot of people who cross the road to go to the wetlands and expressed his opinion that the scheme does not balance the needs of those road users. He noted that, within the Department of Transport Circular 1/2006, it was suggested that in similar situations a 20 mph permanent scheme would be appropriate. Stating that he sees the road as a viable alternative to the A96 and the A941, Mr Wiseman expressed concerned that the road is going to get a lot more use than forecast. He stated that the scheme was being tested by a large number of people who have objected and who have come and been prepared to say so. He advised that whilst these people are not qualified engineers, they are people who have had to take the time and trouble to look at what the proposal imposes on them and work out how it affects them.

Mr Wiseman expressed concern about parking, advising that he went to the expense of putting in a space to park his cars off the street, as had his neighbour, and it would seem that he might not be able to use it now. He advised that he had queried with the Applicant how they considered his access as part of the design but he did not receive an answer. He further advised that he also sought the Road Safety Audit but could not find it within the application but stated that it was a reasonable expectation that without the WLR, Edgar Road will be quieter therefore safer and more secure.

Noting that the non-technical summary states that a key objective of the programme is to provide quicker, safer and more reliable transport system in and around Elgin, Mr Wiseman questioned how intentional the placing of quicker ahead of safer was but stated his belief that quicker was the priority and that was played out by the straightness of the roads and the lack of self-enforcing in the style of the road. He advised that the Appointed Officer's report acknowledges the opportunistic approach to the DSP and the conclusions that the scheme deviates from the policy. Referring to the non-technical summary page about the noise barriers at Greenwards Primary School, he advised that it was stated that potentially significant noise levels remaining as a result of increased traffic along Edgar Road and the predicted noise levels and potential disturbance and that the noise barrier will reduce visual impacts however significant noise would remain if the school uses natural ventilation by opening the windows. He reminded the Committee that anticipated noise impacts would reduce to non-significant upon closing the windows and there are no cumulative noise vibrations impacts.

In concluding, Mr Wiseman stated that the application should be refused on the grounds that it does not comply with national policies, was a departure from the Moray Local Plan and the personal impact that pervades the curtilage of his property.

The Chair sought further clarity as to how the scheme would affect Mr Wiseman's parking arrangements and whether any assurances were given by the Applicant. In response, Mr Wiseman advised that a traffic island was proposed immediately in front of his neighbour's property, which would affect his access and egress, but he did not receive an answer from the Applicant as to how his access was taken into consideration during design. He noted that designated, un-surfaced parking spaces were allocated for residents further up the road which would be more remote and less secure. He advised that the emerging Local Plan had an aspiration for properties to have a public entrance at the front of a property, and private entrances to the rear and stated that the proposal would discourage him from using the front entrance.

Councillor McLean queried whether relocating the start of 20mph speed limit zone further back and increasing the parking area and relocating it nearer the properties would assist in alleviating Mr Wiseman's concerns. In response, Mr Wiseman advised that having his vehicle outside his house was more secure. He suggested an arrangement similar to that at Thornhill Road which has parking in front of properties and the road pushed back away from the properties. He advised that the increase of traffic, not speed, was the fundamental concern.

There were no further questions to Mr Wiseman.

**Ms Caroline Webster**, representing herself and Elgin Designing Streets Action Group, advised the meeting that she was a Chartered Surveyor who had been involved in planning for over 20 years.

Ms Webster advised that her main objection to the proposal was that it does not adhere to the DSP that was introduced in March 2010 by John Swinney as Cabinet Secretary for Finance and Sustainable Growth. She advised that the policy derives from the English version, Manual for Streets, which was introduced in March 2007 and has been used as the basis for street design in England for over 5 years very successfully. Referring to the main principles of Designing Streets and noting that the policy can be a material consideration in determining planning applications and appeals, she advised that street design must consider place before movement and the design of a street must respect existing places and uses. She stated that she did not believe that the proposal respects any of these as it involves the partial demolition of the place and a complete disrespect of buildings' heritage and use. She advised that Designing Streets should be based on balanced decision making and must adopt a multi disciplinary collaborative approach. Noting that this, in essence, means that planners, engineers, architects and the community should all work together to produce a well designed proposal that takes into account all main policies in producing an inspired design, she advised that there appears to be very little in the way of collaboration between these disciplines or the community.

Requesting that the Committee bear the WLR in mind, Ms Webster quoted John Swinney's introduction to the DSP:-

"Designing Streets is now positioned at the heart of planning, transport and architecture policy. This document underpins Scottish Ministers resolve to move away from the prescriptive standard based approach in order to return to one which better enables designers and local authorities to unlock the full potential of our streets to become vibrant,

safe and attractive places...The Scottish Government is committed to an agenda of sustainable development that focuses on the creation of quality places and Scottish Ministers believe that good street design is of critical importance in this effort. This policy statement represents a step change in established practices and, given the direct influence that streets can have on our lives and environment I believe it to be an essential change.”

She stated her belief that the WLR proposed does not move away from prescriptive standards based approach and actually harks back to the 1970s when swathes of wonderful towns and cities were demolished for what were deemed as essential road networks. She advised that the DSP was a national one and should be taken into account by local authorities when determining planning applications and producing guidance.

Referring to the six key principles for designing streets as set out in the policy, Ms Webster summarised each accordingly. Stating that designs should be distinctive, she noted that the street design should response to local context to deliver places that are distinctive to add quality to those in and around the street including users but that the proposal delivers none of these. She advised that designs should be safe and pleasant, adding that streets should be designed to be safe and attractive places with a street hierarchy considering pedestrians first and motor vehicles last. Noting that designs should be easy to move around, she advised that this should be easy for all users and connect well to existing movement networks. She stated that the proposal actually cuts across existing key movement networks, including Wards Road and Mayne Road.

Ms Webster advised that street design should be welcoming, stating that street layout and detail should encourage positive interaction for all members of the community. She expressed her opinion that the layout proposed for the WLR only encourages vehicular movement and interaction. Stating that designs should be adaptable, she advised that street networks should be designed to accommodate future adaptation and stated that she believed that the proposal is self dominating, inflexible and does not lend itself to future adaptation. She noted the final principle was that the design should be resource efficient and advised that it should consider using attractive, durable materials, stating that tar is not one of these.

In concluding her objection, Ms Webster referred to the conclusion from the Applicant in their Designing Streets Quality Audit document and quoted “As a result of the requirement of this scheme the final design proposals do deviate from the Designing Streets Guidance”. She stated that the Applicant tried hard to mould the policy to fit into certain criteria for the quality audit but has had to admit a failure in adhering to the DSP and the proposal should be refused on this basis.

Addressing the objections of the Elgin Designing Streets Action Group, a group acting on behalf of over 1,000 people who signed a petition against the proposal, Ms Webster advised the Group’s main concern was that the proposal compromises the quality of life for all the inhabitants. She stated that the WLR reduces the quality of air for the adjacent community, increases noise pollution and compromises safety along the entire route and is therefore not fit for purpose. She also advised that the DSP clearly states that “Streets should allow for and encourage social interaction” and questioned whether the Applicant can identify what elements within the proposal allows for and encourages social interaction. Referring to the proposed sound barriers placed in front of schools, Ms Webster sought an explanation from the Applicant for the community as to what these, in addition to separating a community by on old style distributor road, would do for encouraging and promoting social interaction.

Ms Webster questioned whether the Applicant had heard of the DSP, air quality and noise pollution. Referring to the Appointed Officer's report, she noted that in reference to the anticipated noise levels experienced at Greenwards Primary, the Officer had stated "The Applicant has now proposed increased noise mitigation measures near the school where the noise barriers north of the school along the edge of the playground is to be increased in height by 0.5 to 2.5 metres." She questioned how this was deemed acceptable mitigation when there was a policy that clearly states that it is essential that all parties involved in street design should ensure that streets contribute positively to their environment.

Addressing noise pollution, Ms Webster noted that the Applicant's myth busting fact sheet, launched on their website in November 2012, clearly states that the anticipated traffic numbers are to be 9,600 vehicle movements per day. She advised that the Appointed Officer stated in their response to noise pollution that the traffic numbers are around 7,000 vehicle movements per day and question the difference in vehicle movements in a short period of time. Noting that former Corporate Director (Environmental Services), Mr Richard Hartland had insisted that the myth busting fact sheets ensured that productive debate could only be had if the starting point was accurate information but yet the Applicant had now changed their projected figures and questioned whose information is accurate and what they are supposed to believe. She advised that the Appointed Officer reports that that Wittet Drive is a 'C' classified road but stated that the introduction to the Designing Street Policy states that "Reference should no longer be made to road hierarchies."

Ms Webster stated that crash barriers, traffic lights, official crossings, noise barriers and other alien features all relate to a road which is too fast, not fit for purpose and therefore unacceptable. She advised that the dichotomy that the Applicant has got into wanting to provide was "A quicker, safer and more reliable transport system in and around Elgin while accommodating future development". Noting that straight lines, no parking and traffic lights, where it had been proven that motorist speed up to catch a green light, she questioned statements that the Applicant want to provide a safe place for the rather irritating residents who need to cross the road. Ms Webster stated that there was a simple solution to the matter and that was the DSP, which derives from England's Manual for Streets. She advised that it sets out how busy streets in excess of 20,000 vehicle movements per day can be accommodated by moving at 20 miles per hour and being dictated by the design of the road where vehicles are not put before people and there is not a single official crossing or traffic light to be seen anywhere on these roads.

In concluding, Ms Webster stated that the whole of Moray will have to pay and suffer a dreadful scheme which does provide a quicker transport system but at the cost of safety. She expressed her belief that the proposal is so contrary to the principles of the DSP that it is almost laughable but neither she nor the community is laughing because the scheme could kill their children. She stated that this is not acceptable and the application must be refused.

Councillor Wright queried if Ms Webster considered the 3 metre cycle and walkway proposed did not contribute to road safety. In response, Ms Webster advised that it was the absolute minimum proposed to adhere to the DSP. She noted that there were examples in England where improvements have been made that mean there is no need to designate areas for any specific users.

Expressing his support of the DSP, Councillor McDonald queried whether the Committee refusing the application could also be detrimental to the policy as congestion would just be

shifting to another area of Elgin. In response, Ms Webster advised that she had consulted engineers in England who had stated that the proposal will make things worse as it cuts off the flow from existing streets and that consistent speed is what is required. She noted that there was a video available online that demonstrates a successful example of England's Manual for Streets.

At this juncture in the proceedings, the Chair advised Ms Webster that when invited to attend the Hearing and address the Committee on her objections, this was to give her the opportunity to amplify these objections, whereas she was now encouraging the Committee to view new evidence which was not acceptable.

There were no further questions to Ms Webster.

### **STATEMENTS ON THE APPLICATION**

Thereafter, the Clerk read out a statement on behalf of **Mr and Mrs G. Burnie**, advising that they had requested that their original objection be read out.

Mr and Mrs Burnie noted that it appeared in proposals that a parking lane was to be located at their house and queried whether, as Mrs Burnie was a "Blue Badge" holder and required access at their gate on Wittet Drive, they will be designated a space.

In concluding, they stated that the proposed road is being put through a residential area and as a result, traffic will increase significantly as will air pollution and traffic noise. They advised, in their opinion, that Elgin required a bypass and not the road proposed which was basically similar to the one rejected in 2004.

The Legal Adviser read out a statement on behalf of **Mr Tom and Mrs Patricia Coyle**.

Referring to their original objection, Mr and Mrs Coyle advised that they were concerned about the increased traffic on Glassgreen Road and all other residential areas right through to Wittet Drive. They stated that the Applicant's response that no increase in traffic levels on Glassgreen Road is predicted beggared belief.

In concluding, they stated whether or not the route is signed they believed that it will be used as a bypass. They advised that, given how quickly information spreads in this information age it will not be long until the scheme will be the preferred route for traffic crossing Elgin. Mr and Mrs Coyle questioned whether the road would become a bypass through residential streets by accident or design.

The Clerk read out a statement on behalf of **Mrs Fiona Cumming**.

Mrs Cumming stated her belief that the long-term impact of the noise and visual disturbance created by the proposed scheme has not been adequately addressed. She noted that the Appointed Officer's report states "The anticipated noise levels experienced at Greenwards Primary post development would still fall well below those experienced by many other primary schools in Elgin". She advised that the Applicant has failed to provide any evidence for this and questioned when noise levels have been tested outside other primary schools in the town. She noted that no other primary school in Elgin is located on a major road with the level of anticipated traffic flow of the proposed scheme.

Referring to the visual impact of the scheme on the school, in particular the siting of a 2.5m high wooden barrier around the playground, Mrs Cumming noted that this is predicted to be moderate, reducing to only slight/moderate after 15 years with landscaping. She advised that the Visual Impact Assessment, whilst stating that this will reduce over time, anticipates a number of properties - including Greenwards - will still experience "significant noise & visual cumulative impacts." Stating that the learning environment that is created for the next generation is a crucial legacy and should not be underestimated, Mrs Cumming advised that the proposal does not take into consideration the detrimental effects this disturbance will have on the learning opportunities of Moray's young people.

Mrs Cumming advised that the routing of a road with increased number of vehicles will create a "less safe" environment as it is an area with significant pedestrian and vehicle flow of young people attending the two primary and one secondary schools. She noted that the Appointed Officer's report recognises that "whilst the intentional increase in traffic upon Wittet Drive and Edgar Road will clearly be a concern for pedestrians, substantial efforts to mitigate this impact do demonstrate compliance with Policy T2 and IMP1 in terms of ensuring safety and footpath provision for pedestrians." She stated that whilst the provision of a number of controlled crossings along the route will provide safe crossing points for pedestrians and cyclists, no consideration has been given to the fact that the number of these "push button" crossings at traffic lights will themselves create frustration for drivers, with the likelihood of traffic increasing speed between lights and the consequent dangers for all road users.

Referring to the Applicant's supporting documents to the planning application, Mrs Cumming noted that it had been suggested that adverse impacts be accepted given the need for economic expansion, the desire to allow further development in south west of Elgin and the need to improve north/south traffic flow across the town. She expressed her opinion that the economic argument underpinning the proposal runs contrary to the Council's policy of seeking to regenerate Elgin's town centre as a commercial and visitor hub. She noted that the Moray Structure Plan 2007 and Moray Local Plan 2008 Policy 1 aims at "sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development" and questioned whether the comparative economic cost-benefit analysis been completed regarding the considerable investment required,

Mrs Cumming stated that despite the list of mitigations put forward by the Applicant in response to the objections listed by nearly 800 people, the adverse impacts of the Link road would still contravene the Council's Moray Structure Plan 2007 key objective "safeguarding the natural and built environment."

In concluding, Mrs Cumming urged the Committee to refuse planning permission for these reasons.

The Legal Adviser read out a statement on behalf of **Mr Stephen Duff**. She advised the Committee that due to the introduction of new information, and in line with the Chair's ruling on the matter, some aspects of the statement would be omitted.

Mr Duff stated his belief that the proposal is a comprehensive, carefully-considered package that attempts to tackle the concerns of residents, whilst ensuring that a vital infrastructure improvement for Elgin is delivered. He advised that the scheme had been in the pipeline for over ten years in the pipeline and that it is now time for work to begin.

Noting that the scheme would bring numerous benefits and represents a badly-needed capital investment that will easily repay the price tag, Mr Duff advised that an improved traffic flow around Elgin would mean that the time taken by car journeys is reduced and are spread more evenly across the city, improving the environment for all users. He noted that Reiket Lane and Lesmurdie Road already act in this capacity, without any difficulties and no reports of increased accidents or significant complaints about volume of traffic.

Mr Duff advised that the scheme would enable new housing and business developments to happen which would benefit everyone in Elgin through the greater prosperity that these can bring. He also advised that the proposal would ensure that Elgin is properly bypassed when the A96 becomes dual carriageway, noting that the Scottish Government have already stated that the town would need to play its part in improving traffic before this work can happen.

In concluding, Mr Duff strongly urged the Committee to delay no longer and give the green light for this badly-needed improvement.

The Clerk read out a statement on behalf of **Mrs Evelyn Fordyce** who question why the Council had gone to the expense of another Committee meeting when they were ignoring advice from its Legal department.

Referring to safety, Mrs Fordyce stated that the road is going to pass through residential areas where children play and expressed her concerns that there will be fatalities if the road goes ahead. She noted that, in her opinion, Thornhill Road is already being used as a race track, especially at night, and was another accident waiting to happen.

Mrs Fordyce advised that she believed the Councillors who represent and work for the public seem to conveniently forget about them and the proposed route will not affect them as no Councillors live near or on the route.

Questioning the objective of the scheme, Mrs Fordyce stated that no amount of traffic lights are going to ease congestion. She noted that the "rush hour" on the A96 only lasts 30 minutes at present and questioned the need to upset residents along the proposed route. Advising that the route will be built over a nature area, she questioned why this was when a bypass was what was needed.

In concluding, Mrs Fordyce queried where the money would come from to pay for the scheme, expressing her opinion that it will be by closing schools and libraries. She noted that this would mean more buses to take pupils back and forth at a financial and environmental cost.

The Legal Adviser read out a statement on behalf of **Heldon Community Council (HCC)**, advising that they had requested that their planning consultation response be read out.

Referring to noise, HHC advised that there will be short term noise and disruption to many households during the construction process and that there is no specific mention of particular properties which will be subjected to unacceptable noise and visual disturbance post development, which is the most necessary requirement. They noted that there will be long term noise and pollution impact from traffic to more than 150 households in what is at present a relatively tranquil residential housing area. Noting that Planning Advice Notice (PAN) 50 and other statutory noise guidance states that suitable mitigation is required to any items that will be affected by these proposals, they advised that to state there will be less cumulative effect is not appropriate and there will still be properties upon Wittet Drive



which will be unduly affected by the increase of noise levels. HCC stated that when the traffic lights are installed at the various junctions/crossing points, vehicles - especially heavy goods - will be stationary directly outside properties which will in turn cause issues, especially in the evening when background noise is at a lower level. They noted that this was already a problem which can be directly related to the traffic signals on the A96 at Tesco in Keith. HCC, referring to PAN 1/2011, advised that the PAN indicates that noise from a new development should not unreasonably affect the quality of life. They expressed their opinion that with the amount of traffic involved, the proposed scheme is contrary to the Government's advice.

HCC advised that Moray Local Plan Policy IMP1 'Development Requirements' states that the development must meet certain requirements relating to noise pollution and expressed their opinion that the scheme does not meet these requirements in many cases. They stated that the mitigation they would expect for example is an upgrade to the windows and any ventilation vents to the front facades, in line with Government Policy. They advised that to do nothing on this aspect is against all National Guidance and all other applications that come before The Moray Council.

Referring to Greenwards Primary School, HCC stated that the school will be subjected to noise and adverse visual impact from the screening of the proposed road. They noted that the proposed screening and advice to keep windows closed is not a sensible solution to the issue and a more appropriate proposal should be provided as the children's education is paramount.

HCC advised that air quality, in accordance with National Guidance, requires to be reviewed and mitigation proposed. They noted that documents included within the application state that there will be a 'slight impact' and stated that this is unacceptable as the CO2 emission to those living in Wittet Drive especially, will have an increase which is greater than any permissible level and totally unacceptable.

Noting that the Site of Special Scientific Interest (SSSI) will be disrupted and the roe deer, which at present venture into this area, will have their habitat disturbed, HCC stated that they have not seen any mitigation for the provision of any wildlife corridors which is common on this type of development. They advised that the scheme will have an adverse effect on the Wards Wetlands and has the potential to alter the current status of this area when a 'barrier' is installed to the west. Advising that this means that all four sides will be developed and will change the current ground conditions and affect the fauna and flora, they stated their opinion that this is against Council Policy.

HCC advised that the Sustainable Drainage Systems (SUDS) should and will require a positive outfall, which in this case will be the Tyock Burn. They noted that Scottish Environment Protection Agency (SEPA) made a direct comment on this aspect in their response and had stated that further advice should be sought from The Moray Council Flood Alleviation team. They expressed their opinion that, in respect of the 1:200 year flood risk (including climate change), this will have an adverse effect on the adjacent area and will potentially cause flooding which was against National Policy and appropriate mitigation should be provided but none had to date.

Advising that the Moray Local Plan 2008 Policy T2 suggests refusal of any scheme that cannot mitigate adverse effects on the environment and landscape, the HCC stated that they believed the proposed scheme will have an adverse impact on both the environment and landscape. They noted that the Moray Structure Plan 2007 has a key objective of safeguarding and enhancing the natural and built environment and that the proposal runs contrary to that guidance. They advised that existing properties will be adversely affected

in terms of visual impact with the greater volume of traffic overlooking them, which is not in accordance with Council Policy.

HCC advised that the increased traffic levels will create a higher risk of road accidents between cars and pedestrians, especially for children coming from West End Primary School. They expressed concern that the visibility splays, especially at the junction of Wittet Drive and Pluscarden Road, are not appropriate for the large vehicles who - when turning right or left – will have to enter the opposite lane. Noting that there will be a greater volume of traffic, they expressed their opinion that this will have an impact on traffic movement and has not been designed out. They stated that this junction and similar ones along the new route require to be reviewed.

Referring to car parking spaces which are currently served on street along Wittet Drive, the HCC noted that these will be removed from existing residents but no proposals have been placed within the scheme. They stated that this requires to be reviewed as these properties currently have this benefit and insufficient space to the rear of the properties and land levels do not permit installation to the front.

The HCC advised that its biggest issue, and one of most concern, is that the new route will take a large percentage of traffic and funnel it on to Edgar Road and the adjacent road network which is not designed or suitable for this volume. They stated that to 'fix' one part of Elgin will have great issues for the local residents of Edgar Road with a bottleneck being created. They noted that there is a day care centre for disabled people, a Primary School and a Secondary School with a Special Needs Centre whose users use Edgar Road throughout the day and stated that a full review of this point requires to be done with appropriate mitigation proposed.

In concluding, the HCC advised that they believed the wider road safety should be reviewed and not just the isolated application site. They noted that the application's supporting documents state that the cost of works is estimated at circa £5,300,000. They stated that on past experience, these costs are always under estimated by The Moray Council and this will have a cumulative effect on their resources.

The Clerk read out a statement on behalf of **Mr Michael Looseley**, advising that he had requested that his original objection be read out.

Referring to the DSP, Mr Looseley advised that the policy states "Street design must consider place before movement. Street design guidance, as set out in this document, can be a material consideration in determining planning applications and appeals." He noted that the result of the proposal, as set out in the application, is "...forecast to re-distribute traffic in the southwest quadrant of Elgin. The proposed scheme represents a significant improvement to the existing road network, enabling more effective internal traffic distribution" and that "improvements to the existing transport network within this part of Elgin, in the form of the WLR, will provide: Improved connections to/from areas in South Elgin [and] Additional network capacity to facilitate current and future traffic growth within the town..." He stated that the whole purpose of the proposal therefore can be seen to be about "movement", whilst "place" has been sacrificed. He advised that the Designing Streets Audit concludes "As a result of the requirements of this scheme the final design proposals do deviate from the Designing Streets Guidance" and that this alone should be grounds for rejecting the application.

Mr Looseley expressed his objections on the grounds of principle. He stated that whatever way the scheme is presented, it is fundamentally a proposal to divert traffic from a trunk

road through residential areas. He expressed his opinion that although the Applicant has often stated that the scheme is nothing to do with traffic transiting through Elgin, it will inevitably be used as such by trunk road traffic routing from the west towards Rothes and the A9 as well as A96 traffic avoiding the congested section between the “Tesco” and the “Pansport” roundabouts. He stated that the creation of such a “rat run” is contrary to planning policy.

Referring to the environment, Mr Looseley advised that common sense tells that the increased traffic generated by the proposal will generate noise, vibration, pollution and visual impacts along the length of the new route and will fundamentally change the residential nature of the places through which it passes. He noted that there will be a loss of mature trees and other greenery at the northern junction of Wittet Drive and demolition of elegant dwellings dating from the 1930s. He advised that the Planning Support Statement confirms that there will be localised moderate adverse noise and vibration mitigations and stated that its contention that there will be “beneficial impact on local air quality” cannot be taken seriously. He expressed his opinion that these environmental impacts are contrary to Moray Local Plan Policies IMP2 and T2, Moray Structure Plan Key Objectives and Scottish Government PAN 1/2011.

Mr Looseley advised that the increased traffic through residential areas must have an adverse effect on road safety. He stated that the various crossings introduced to mitigate this problem will result in increased noise, pollution and driver stress as traffic is held at the various points. He noted that the increased traffic and noise around Greenwards Primary School is of particular concern. Advising that in an attempt to “calm” traffic flow, the width of Wittet Drive is to be reduced with restricted parking opportunities, Mr Looseley stated that this will create a major congestion problem for the whole area as traffic generated by Dr Gray’s Hospital, that currently uses Wittet Drive, will have to look for somewhere else to park.

Referring to the Pre Application Consultation Report, Mr Loosely noted that the document refers extensively to consultations and the actions taken as a result, giving the impression of a Council listening to the options of its electorate. He advised that, in his opinion, it has major inaccuracies. He noted that the report only refers to consultations held since January 2012 and advised that there have been a number of exhibitions and consultations dating back to 2004. He stated that despite minor changes having been made to pay lip service to policies such as Designing Streets, fundamentally the proposals have not changed since it originated. Noting that the report fails to mention that essentially these proposals were rejected by the Council in 2004 and specifically excluded from future consideration, he also stated that it fails to mention that the result of every consultation where the public has been asked to comment on the principle of these proposals has been an overwhelming rejection.

Mr Loosely advised that the proposed scheme was designed in principle around 2004, long before the commitment of the Scottish Government to dual the length of the A96. He advised that none of the traffic models used to justify the application take a dualled A96, bypassing Elgin, into account. Stating that the contention that this will have no effect on traffic within Elgin defies common sense, he advised that it is based on an often quoted and dubious statistic that only 25% of traffic passes through Elgin with the remainder beginning or ending its journey within the town. He advised that it was likely that a similar figure is true for most towns in the developed world and stated that a more useful statistic would be what percentage of traffic on the congested A96 and A941 routes pass through Elgin. He expressed his opinion that this would show a significant reduction following the

bypassing of Elgin and would significantly change all of the traffic models upon which the planning application is based.

In concluding, Mr Loosely stated that the "Place" referred to in the DSP is, in this case, a succession of well-established residential areas through which a vastly increased volume of traffic will pass. He advised that despite the hundreds of pages produced by the Applicant in an attempt to prove the opposite, the scheme can have no possible effect other than to increase noise, pollution, vibration and danger for residents. He stated that the proposal will fundamentally alter the nature of those places for no other reason than the improved movement of motor vehicles and that it is in direct contravention of Scottish Government and local planning policies and as such should be refused.

The Legal Adviser read out a statement on behalf of **Mr Iain Macfarquhar**.

Stating that the DSP emphasises that "well designed streets can be a vital resource in social, economic and cultural terms...Attractive and well connected street networks encourage more people to walk and cycle to local destinations, improving their health while reducing motor traffic, energy use and pollution. Reference should no longer be made to road hierarchies based on terminology such as local distributor/local access roads etc" Mr Macfarquhar advised that the policy is for returning streets to pedestrians first, cyclists second and traffic last.

Mr Macfarquhar noted that the Moray Structure Plan 2007 states a key objective is "safeguarding and enhancing the natural built environment." He expressed his opinion that demolishing houses at one end of Wittet Drive and raising the road at the southern end so that the present houses will have the new road above their living rooms does not in any way enhance the environment.

Stating that The Moray Council is trying to make the centre of Elgin more attractive and amenable to shoppers, Mr Macfarquhar advised that by building the WLR motorists are being attracted away from the centre of the town to the shopping centres in Edgar Road.

In concluding, Mr Macfarquhar advised that planning applications that are subject to significant pollutants such as noise and noxious exhaust gases must show how this can be mitigated but this has not been done in this case. He stated his belief that the scheme is going to ruin what is a pleasant residential street and turn it into a rat run for heavy traffic and as such should be strongly opposed.

The Clerk read out a statement on behalf of **Mr Paul Quick**, advising that he had requested that his original objection be read out.

Advising that he was a resident in the area, Mr Quick expressed his disagreement with the Applicant's screening opinion and noted that he has sought a 'screening direction' from the Scottish Government as it states there are several environmental sensitive water bodies within the area and only a 'voluntary' Environmental Impact Assessment (EIA) was required.

Mr Quick advised that the DSP stated that street design must consider place before movement, which he believed the WLR does not. He expressed his view that that the plan is based on movement before place as the Applicant states in their objectives for the scheme is "...to provide a quicker, safer & more reliable transport system in and around Elgin", which is contrary to government policy.

Referring to the proposed construction of a toucan pedestrian crossing over WLR outside the driveway of 1 Longwood Walk, Mr Quick stated that this would cause access problems and noise pollution to the residents there. He advised that the junction of Glen Lossie Drive & Edgar Road, with the huge volume of increased traffic, will cause major traffic congestion and danger to pedestrians with no signalled pedestrian crossing.

Mr Quick stated that the parking and traffic congestion outside 1 Longwood Walk next to the access to Greenwards Primary School, during peak school times, was not facilitated for alleviating danger to adults and children with the volume of traffic proposed. He also objected to the noise pollution levels and vibration impact on Edgar Road and 1 Longwood Walk due to traffic volumes.

Stating that the environmental impact on the statutory designated site at Quarry Wood Site of Special Scientific Interest, the Wards Wildlife Site - designated by The Moray Council as a non-statutory wildlife site - and the River Lossie - designated under the Surface Waters Amendment Regulations 2007 - has not been fully studied to take in pollution from waste, Mr Quick advised that the majority of the study area comprises of residential areas and that impact on the deer population seen on the Wards Wildlife Site has not been assessed.

In concluding, Mr Quick noted initial design work was progressed on detailed route options and preferred routes for bypasses on the A96 dual carriageway due in just over 12 months' time and advised that this would potentially make the WLR redundant and a waste of £10 million expenditure.

The Legal Adviser read out a statement on behalf of **Mrs Eileen Robertson**.

Noting that Forres and Fochabers have a road system which bypasses their town centres and suburban outlying areas, Mrs Robertson noted that The Moray Council have chosen to disregard the very people who have elected them by proposing a road which cuts through built-up residential areas.

Mrs Robertson advised that it has been stated that the scheme is essential for the economic growth of Elgin but stated that she did not know of any other council that would collectively agree to build what is for all intents and purposes a bypass through the heart of a community. She expressed her opinion that any case study regarding safety is a whitewash and the significant increase of traffic, estimated at 10,000 vehicles per day, will without doubt gravely endanger the children. She stated that "safety is paramount" was not a priority to the Applicant.

In concluding, Mrs Robertson stated that the proposal was a shortcut with calamitous consequences and implored the Committee to reconsider the recommendation for the community they are elected to represent.

The Clerk read out a statement on behalf of **Dr Christopher Smith**, who advised that since his objection was originally submitted his eldest son has started at West End Primary School.

Dr Smith advised that he has walked the route that his son takes to school and seen the potential adverse effects on safety that routing 10,000 vehicles daily down Wittet Drive will have. He stated that this makes him even more fearful for his and his friends' safety going to and from school, particularly in the winter and bad weather

Stating that most people will have experienced how fast cars and lorries travel on the current A96 route through Elgin, despite the 30mph speed limit, Dr Smith noted that all these vehicles will be routed down Wittet Drive and through residential areas. He advised that when struck by a vehicle at 40mph, a child has a 90% chance of dying while at 20mph a child has a 90% chance of survival. Expressing his hope that the Applicant has taken out insurance to cover themselves for any injuries/deaths caused by this new road, Dr Smith advised that if the Applicant is held responsible then the public, as council tax payers, will have to pay.

Dr Smith questioned why the Applicant will not listen to the people who are virtually all, bar a few representations of support, telling them that this road is unwarranted. He stated that with plans laid out now for the Inverness-Nairn section of the A96 dualling, it is wasteful profligacy to proceed with a project that in a few years will be superseded by the Elgin dual-carriageway bypass.

In concluding, Dr Smith stated that the proposal is unnecessary, a waste of scarce resources, unsafe, a blight on the environment and likely to lead to increased traffic levels rather than better flow and encouraged the Committee to refuse planning permission.

The Legal Adviser read out a statement on behalf of **Mr Stafford Turnidge**.

Mr Turnidge advised that his family and property are affected by the new road which will see part of a very large bridge literally in their garden. He advised that not only do they lose valuable outdoor space, but they will also have to live with the aftermath. He noted that there will be significant overlook of the house with a bridge wall in what is currently his garden that rises to a height of 1.5m. He stated that this has a major impact on his family's privacy who will also have to deal with the noise of cars and large vehicles passing close to the house at a raised level. He also noted that pedestrians using the bridge will overlook the whole of the garden, which he believes is an unacceptable impact on amenity and privacy.

Referring to the road beyond the bottom of his garden which is currently the connecting section of Wards Road onto Fleurs Road, Mr Turnidge stated that with no clear plan for this road it will become a dead end that is largely invisible to the wider community but which could attract anti-social behaviour such as drinking or inappropriate overnight parking by lorries, campervans and caravans. He noted that this area is literally over the wall at the end of his garden.

Mr Turnidge stated that the volume of traffic projected for the road and the raised nature of the road adjacent to his home will increase noise and pollution levels. He noted that logic would suggest that traffic related pollution would settle in the man-made hollow that would be created next to the bridge wall and which is his garden. He advised that this would undoubtedly be bad for the health of his family, especially his two young children, but also for the birds, including pigeons, chickens, golden pheasants and ducks, which he keeps.

In concluding, Mr Turnidge expressed concern that with the end of Wards Road being blocked by the proposed bridge, the traffic will increase significantly on the section of Mayne Road directly in front of his property therefore increasing risk to pedestrians and to householders accessing the road from driveways and rear access track to Wittet Drive, where there are parking areas and lockup garages.

## **SUMMARIES OF SUBMISSIONS**

On the invitation of the Chairman, **Mr Muir**, in summary, took the opportunity to address some comments that had been made.

Mr Muir advised that some of the information provided in the earlier presentations as fact was incorrect, for example the baseline traffic data is correct. He noted there were concerns that it was incorrect and that the Applicant had manipulated the data but advised that the Saturday counts from November 2013 were actually redone in February 2014. He advised that the projections were revised to reflect the effects of the recession and the business case was made for more recent lower figures, as the Applicant was required to do.

Referring to specific issues that were raised in submissions regarding compliance with policy, Mr Muir stated that the scheme as a whole, with the mitigation proposed, is compliant with the adopted and emerging Local Development Plans and all relevant national guidance and policies.

Mr Muir, referring to concerns regarding noise, stated that it has been acknowledged by the Applicant that before mitigation there will be an increase in noise due to the implementation of the scheme. He stated however, at Greenwards Primary School, the proposed timber fencing alone will reduce the anticipated internal classroom noise levels, even with the windows open for ventilation, to an acceptable level. He noted that other proposals such as low road noise surfacing and planting is over and above what is required for noise mitigation at the school. He advised that the proposed noise monitoring is standard best practice and is not used to eliminate uncertainty.

Referring to the A96 dualling and bypassing, Mr Muir advised that the WLR still has a positive business case, even if the dual bypass is built. He noted that Transport Scotland have not defined any specific routes for the A96 links so the Applicant cannot rely on this in the design of the WLR. He advised that the design of the junction of the A96 road and Wittet Drive has been approved by Transport Scotland, contrary to what was stated earlier. Stating that the dualling of the A96 provides a completely different function to what the WLR is seeking to provide, Mr Muir advised that a bypass – dualled or not - for instance would serve non-Elgin traffic travelling east to west or vice versa whereas the WLR is to serve local Elgin traffic travelling north to south, or vice versa.

Addressing comments on safety, Mr Muir stated that the WLR will promote greater safety both within the south west of Elgin and the town as a whole as it will reduce volumes of traffic on other roads and introduce mitigation measures such as signalised junctions and shared footpaths and cycle ways. He advised that the current roundabout arrangement does not give priority to vulnerable road users which signalised crossings proposed with the scheme will do. Referring to shared footpaths and cycle ways, he noted that these are already used successfully in Elgin and would not be a concern for either pedestrians or cyclists.

Mr Muir advised that the DSP specifically differentiates between roads and streets. Noting that roads are described as thoroughfares whose main function is to facilitate the movement of traffic, he advised that Wittet Drive by definition is a road. He advised that streets have an important public realm function beyond those related to motor traffic and stated that therefore the WLR has to balance the 2 interests of movement and place in this context. He expressed his belief that the Applicant has incorporated the principles of the DSP comprehensively into the scheme. He stated that to say the proposal is not compliant with the DSP is incorrect as the Applicant has included signalised crossings, a

shared footway and cycle way which has been used successfully elsewhere within Elgin, reduced the carriageway width to 6.6 metres, regularly placed junctions to control speed, traffic calming measures, public transport provisions and sympathetic landscaping and SUDs proposals.

Noting criticism about the public consultation that has taken place, Mr Muir advised that there was not a requirement for consultation on the proposal as it was not considered a major application. He stated that the Applicant choose to enter into considerable consultation and that amendments were made to the proposal prior to the submission of the planning application. He advised that a route assessment and development consultation was held pre 2011, a public exhibition in January 2011, the initial stakeholders workshop in January 2012, the pre-design workshop for key stakeholders in June 2012, a public exhibition in October 2012 and a pre-application consultation exhibition in September 2013.

Mr Muir, referring to concerns regarding air quality, advised that there are no significant impacts predicted in terms of air quality and pollution for Elgin as a whole. He noted that beneficial impacts will be experienced at properties along a number of roads currently used as an alternative route to cross the city, specifically the A96 West Road and Wards Road and, with the proposed scheme, air quality in Elgin will remain good and fall well below national limit values.

In summary, Mr Muir acknowledged that the new road, identified in the Local Plan, without mitigation will have localised impacts on local residents along its proposed route, however, these impacts will be addressed through the mitigation measures and will have significant benefits to the local residents, such as the safety of movement through the mitigation measures and the comprehensive planning conditions. He stated that those objecting to the scheme are defending a status quo - a do nothing option – but they needed to realise that Wittet Drive is not safe to cross for pedestrians and will not be safe in the future. He advised that Wittet Drives does not currently comply with the DSP however the proposal will allow it to. He reminded the Committee of the benefits of the scheme in that it will promote economic development not just for the whole of Elgin but for Moray, that it will increase the resilience of the local road network and reduce traffic congestion in the south west as well as for the whole of Elgin and that it will improve facilities for pedestrians and cyclists.

In summary, **Mrs Milne** reiterated that traffic movements and figures provided are not robust as far as she was concerned and that will lead on to obvious financial and environmental costs. She stated that the proposal does not adhere to national policy and there were no clear economic development benefits that have been identified.

In concluding, Mrs Milne stated that the proposal is unsympathetic and impacts on the area's most vulnerable children, old people and young people with additional support needs. She stated that over 1,000 people have signed a petition against this proposal and encouraged the Committee to listen to the people of Moray and refuse planning permission.

In summary, **Mr Wiseman** stated that the proposed scheme does not fit well with the various standards and the application confirms this that it does not comply fully with the DSP. He advised that, in his opinion, the proposal was an opportunist approach and it affects people's human rights and their opportunity to care for their future in terms of health, work and wellbeing.



Referring to the business case, Mr Wiseman advised that it was not clear for the application which in turn impacts on its right to be a departure from the Local Plan and to have a junction of the A96. He stated that safety is not ensured along the route and that this has come out in a number of points raised earlier in the meeting. Accepting that there have been consultation events, he expressed his opinion that there does not appear to be any significant change to the scheme in the direction that any of those who were consulted want. He advised that it appeared to be a very shaped and directed consultation and was not much use to people who were materially affected by the works.

Mr Wiseman expressed his opinion that he believed that there was bias against Wittet Drive, and even less mention of Edgar Road, throughout the consultation period and thanked the Committee for the opportunity to highlight that Edgar Road is very badly affected by its proximity to the scheme. He advised that heavy vehicles in particular, brought in by this road which is a viable alternative to the A96 and the A941, would have an impact and may well attract greater traffic numbers than are predicted.

In concluding, Mr Wiseman stated his opinion that the noise impact and heavy vehicles are going to be a direct impact within the curtilage of his property and that this was a material objection on planning grounds.

In summary, **Mr Simpson** advised that the proposal did not comply with the DSP and expressed his opinion that, after considering the planning application, the Applicant had admitted that they were not fully applying the principles of the DSP. He noted his surprise that the scheme was being classed as a road and not a street and stated that this would be news to the residents of Wittet Drive and Edgar Road.

Referring to safety, Mr Simpson advised that the road safety audit, which was not submitted with the application, was carried out by 2 road safety engineers from Jacobs and included a number of serious road safety issues. He expressed his surprise that the Applicant had not addressed these issues in any way and advised he felt road safety has been pushed to one side and ignored.

In concluding, Mr Simpson noted a comment that while there are plenty of objections flying about, there are no alternative solutions being offered. He stated that is not the public's responsibility to come up with alternative solutions but the Roads Department and their consultants. Noting that Mr Muir had stated that the objectors are defending a do nothing solution, he stated that he did not think this was the case as he believed that there are better solutions to the one that is being considered.

In summary, **Ms Webster** expressed her disappointment with the Applicant's summary as a consultant from Jacobs was involved in the drafting up of England's Manual of Streets and as such they should know that a street is actually defined as having properties on either side, whether it is the A96 or a small residential street in a city.

In concluding, Ms Webster stated that for the Applicant to say they are within the principles of the DSP because they have designed a very fast road that is not fit for purpose and then thrown a series of mitigations for noise, pollution and such like does not make a successful design. She advised that the design of a street should mean that there is no requirement to put those mitigation measures in.

In summary, **Mrs Strachan** stated her shock that there had been no safety audit and there had been no response to Mr Simpson's Freedom of Information request.

Mrs Strachan noted that many objectors have voiced concern about the impact on Greenwards Primary School, which she was sure the Committee would share, but stated that the proposal has a much wider impact than just for those directly identified in the proposals. She advised that there are going to be rat runs, which there are already have in Elgin, on the roads that run onto Wittet Drive. Noting that there is going to be displaced car parking, with cars currently parked on both sides in both directions, she questioned where these cars go and whether it was just displacing one problem into already congested streets nearby.

Stating that many of the objectors do not understand the implications of the Local Plan, Mrs Strachan advised that it is only when the implications of the detailed planning applications are identified that objectors are able to begin to understand the full enormity of what is being discussed. She noted that this was frightening because there is so much conflicting and confusing information that is often contradictory, such as traffic movements, the number of properties to be affected, the economic development and the business case.

In concluding, Mrs Strachan noted that there has been a lot of speculation and that objector's comments are dismissed as speculative, but stated that in her opinion the benefits are speculation. She advised that there are many unanswered questions which she expects the Committee will rigorously examine during their debate and hopes will lead to their decision to reject the planning application. She stated that she was neither an engineer nor a planner but was a concerned citizen who was no more concerned than many others who did not have the confidence to stand up and speak before the Committee. Noting that The Moray Council is trying to encourage pride in communities and encouraging the engagement of local groups taking responsibility for community facilities, Mrs Strachan appealed to the Committee to give due regard to the very significant local opposition that exists to the proposal.

In summary, **Mr Mackessack-Leitch** advised that he considered, in light of the uncertainty of the noise impact in the mitigation measures at Greenwards Primary School, the 2.5 metre barrier - putting the noise range at the upper limit - and that there will have to be monitoring for years to come, meant that the noise pollution is not being appropriately mitigated in terms of the Local Plan Policy EP8. Referring to the visual impacts, Mr Mackessack-Leitch also maintained that the embankment topped by the 2.5 to 3 metre barrier overlooking the Fairfields area was still in breach of Local Plan Policies IMP1 (a), (b) and (i) as he outlined earlier in the meeting.

Mr Mackessack-Leitch, referring to the economic rationale as highlighted in the application and the Appointed Officer's report, stated his belief that the figures presented are questionable and therefore so is the economic rationale and cost benefit ratio deriving from that. He advised that there is a failure to recognise the impact of the de-facto bypass provided by a dualled A96 and that even if the traffic figures from when 25% of the traffic journeys are straight through Elgin, there will still be an impact on traffic movements within the town centre. Expressing his opinion that this has not been addressed properly in the figures and in the modelling, Mr Mackessack-Leitch noted that the modelling runs on for 60 years by which there will be a dualled A96. He advised that the MES is recognised as a material consideration in the Appointed Officer's report but noted that there is no mention of the WLR at the document. He noted conversely that the MES prioritises a High Street first programme for Elgin, promoting it as the prime civic retail cultural and events space in Moray, and stated that diverting traffic to potential commercial developments in the south west of Elgin is clearly in opposition to the overriding aim for the MES in its capacity for promoting the High Street first.

In concluding, Mr Mackessack-Leitch advised that objecting to this particular application is by no means an endorsement of a do nothing scenario and noted that in previous correspondence it had been intimated that there are other incremental improvement options. He stated that Option C, presented along with various other options to this Committee a few years ago, was quite favourable however this was not taken forward. He echoed his objection to the proposal but stated that this was not an objection to any work at all.

In summary, **Mrs Smart** stated that the devil is in the detail and that the proposal lacks relevant detail leaving too many ambiguities and unanswered questions.

In summary, **Mr Szylak** advised that the objectors have demonstrated that the application documentation identifies that there will be many residual significant environmental impacts both of a temporary and permanent nature. He stated, however, that there is no doubt that there will be residual significant impacts that cannot be mitigated.

Referring to the fundamental baseline traffic data, Mr Szylak noted that it has been proven to be untypical and inappropriate and that this flawed data has been used to inform, calibrate and validate the traffic model. He advised that this was proven by the fact that most of the Saturday journey time data was collected on 26 November 2011 which was the day that Elgin's Christmas lights were switched on and all day events took place throughout Elgin. He noted that recognised Government guidance states that journey time data is an essential part of assignment model validation for most urban traffic appraisals since the majority of scheme benefits tend to be related to journey time savings. He also noted that the DMRB identifies certain situations where the collection of journey time data would be considered untypical or inappropriate namely local events such as market days and sports events. Given this, he stated that the outcomes, conclusions and ultimately the decisions made based on the traffic model are to be heavily questioned and reconsidered. He requested that the Committee consider if they are comfortable in permitting a scheme where they know the fundamental platform, namely the traffic model, is flawed.

Mr Szylak expressed his belief that certain mitigation measures are inappropriate and of limited benefit, advising that the noise barriers are a significant element in the landscape but have not been properly consulted on. He noted that they assist in removing only 27 properties from the significant impact category. He stated that implementation of the proposed voluntary noise insulation scheme cannot be seen as an appropriate mitigation measure to remove the remaining 55 properties from the significant noise impact category. Noting that there is no guarantee that these measure will be implemented, he advised that it is argued that such a measure cannot be controlled through the planning system and is therefore not a material consideration, thus leaving the 55 properties experiencing significant noise impact. Referring to visual impact, he advised that the landscape planting will take up to 15 years to reduce the significant impacts at 33 properties whilst 19 properties will still remain with significant impact. He noted that the Appointed Officer's report does state that there are locations where significant visual impact cannot be mitigated which he stated was contradicted in other responses within his report.

Addressing the EIA, Mr Szylak advised that there is deficient in a number of areas and that it fails to clearly report and conclude on a number of issues. He stated that it has not undertaken an appropriate or compliant cumulative impact assessment as such an assessment will likely identify a great deal more locations where residual significant impacts would occur over and above those already reported. Advising that the EIA has

made no assessment or conclusion in relation to construction noise, he noted that the Appointed Officer's report suggests that all construction impacts "can be mitigated to a tolerable level through planning conditions". He stated however that there is no evidence presented to demonstrate this will be achievable, viable or successful and therefore this statement must be dismissed. Noting that no assessment has been made on the impact of deer using the Ward's wildlife site, he advised that the objectors doubt that SNH has confirmed no assessment is required.

Mr Szylak advised that the proposal contravenes a number of key Council and Government policies, advice and guidance. He noted that this is particularly the case given that it has been established there will be residual significant environmental impacts that cannot be adequately mitigated. Referring to Local Plan Policy T2, he advised that "access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be rejected". He expressed his opinion that this policy is clearly contravened given that there will be significant impacts that cannot be mitigated, that the economic benefit can in no way be considered as nationally significant and that the A96 junction does not comply with designing standards.

In concluding, Mr Szylak stated that, on the same basis whereby there are residual significant impacts that cannot be mitigated, the scheme does not comply with the central pillar of the Moray Structure Plan in safeguarding and enhancing the natural built environment nor with Local Plan Policies IMP1, IMP2 and EP6.

At this stage of proceedings, the Chairman queried if all parties were satisfied with the conduct of the proceedings of the Hearing. In response, Mr Muir and all those present who submitted representations on the application intimated that they were satisfied with the conduct of the proceedings.

### **ADJOURNMENT OF MEETING**

In terms of Standing Order 25, the Committee agreed to adjourn at 4:48pm and reconvene at 9.30am on Thursday 13 November 2014.

### **RESUMPTION OF MEETING**

The Meeting reconvened at 9:30am on Thursday 13 November 2014.

#### **Present**

Councillors D. Ross (Chair), C. Tuke (Deputy Chair), G. Alexander, J. Allan, J. Cowe, G. Cowie, J. Divers, M. Howe, M. McConachie, G. McDonald, A. McLean, P. Paul and A. Wright.

#### **In Attendance**

The Head of Development Services, the Head of Direct Services, the Manager (Development Management), the Consultancy Manager, Mr N. MacPherson, Principal Planning Officer (Development Management), Mr R. Gerring, Senior Engineer (Transportation), Mr R. Anderson and Mr D. Caldwell, Environmental Health Officers, Mrs E. Penny, Engineer (Traffic), Mrs A. Scott, Legal Services Manager (Property & Contracts)

as Legal Adviser to the Meeting and Mr D. Westmacott, Committee Services Officer as Clerk to the Meeting.

### **COMMITTEE CONSIDERTION OF THE APPLICATION**

Mr MacPherson, Principal Planning Officer (Development Management) noted that several representatives had stated that construction noise was not addressed in the Applicant's Environmental Statement. He referred to Chapter 15 of the Environmental Statement and its related appendix and advised that it does provide specific details and analysis of construction noise which have been taken into consideration and will feature within the Construction Environmental Management Plan. He noted that this will include before and after building condition surveys to address concerns over vibration.

Referring to comments regarding significant noise occurring and not being mitigated out with reasonable working hours, Mr MacPherson stated that if construction were to occur at unsociable hours, such as for the spanning off the bridge over the railway line, then this would be a very occasional event. He advised that this would not therefore be sufficient to constitute a departure from Policy EP8 in relation to noise. Noting concerns regarding the use of noise barriers upon the route as a means of noise mitigation, he advised that it was entirely appropriate for the Applicant to use these types of measures on a roads infrastructure project. He stated that proposed Conditions 1, 2, 4, 5 and 6 relating to noise and vibration ensures compliance with Policy EP8.

Mr MacPherson, in response to comments regarding a Road Safety Audit, stated that a Stage 1 Road Safety Audit was carried out and is referred to - and informs - the documents submitted with the planning application. He advised that a Road Safety Audit is an ongoing process and if the development were to proceed then Stages 2-4 would follow on.

Referring to comments stating that the road traffic data is flawed with a resultant impact that the street design and economic case are incorrect, Mr MacPherson noted that in summing up, the Applicant confirm that the journey time surveys had been updated beyond 2011 and were subsequently used in the traffic modelling that has now been accepted by both Transport Scotland and the Transportation Section.

Mr MacPherson advised that the DSP states that "good street design demands that issues of place and movement are considered together" before going on to state that "whilst some streets are more important than others in terms of traffic flow, some are also more important than others in terms of their place function and deserve to be treated differently. This approach allows designers to break away from previous approaches to hierarchy, whereby street designs were only based on traffic considerations. Once the relative significance of the movement and place functions has been established, it is possible to set objectives for particular parts of a network. This will allow the local authority to select appropriate design criteria for creating new links or for changing existing ones." He noted that fundamentally this demonstrates that the design criteria specific to people and place should not be blindly applied throughout an infrastructure project where, as is the case with the application before Committee, there is a role to fulfil with movement of traffic in order to achieve the aims of the WLR and south side road improvement within the Local Plan.

Noting a statement made on behalf of several representatives that Scottish Planning Policy 2014 Paragraph 278, regarding the justification of new junctions onto the trunk road,

was not applicable to this project as it should relate only to national level projects due to being a national document, Mr MacPherson stated Officer's disagreement with interpretation and noted that the interpretation is borne out by the acceptance of the scheme by Transport Scotland who would always scrutinise the need for any new junction onto the trunk road.

Mr MacPherson, referring to comments by Mr Simpson regarding an FOI, confirmed that the second request had been responded to on 18 June 2015. He noted that in response, Mr Simpson had been referred specifically to 3 documents, all of which are available online.

Addressing statements made by representatives that the WLR was rejected in 2004 and should not have been resurrected, Mr MacPherson advised that the link road has been an identified transport improvement in the Moray Local Plan 2000 and remained an objective in the subsequent Moray Local Plan 2008 as one of the many proposed infrastructure improvements within Elgin. He noted that it remains within the current Local Plan as a fundamental element to the easing of traffic flow and releasing further development land within Elgin. Referring to Page 24 of the Appointed Officer's report, Mr MacPherson stated that the MES does make reference to improving traffic flow between north and south Elgin, as well as links to developments, including the Edgar Road area.

Mr MacPherson, in response to a number of comments regarding roe deer, advised that that whilst roe deer were not included in the original Habitat Assessment, it does not invalidate the remainder of the assessment nor the mitigation works proposed. He noted that whilst the development would deter roe deer from entering the wildlife site, this would not be sufficient to refuse the proposed route or invalidate the other local housing and community facility designations to the west of the wildlife site. He advised that the Applicant has highlighted that no deer proof fencing is being used and noted that from various site visits it is clear that roe deer accessing the site already cross fields close to the west of the wildlife site. Mr MacPherson stated that the loss of a relatively small area of habitat would not constitute a departure from Policy E2 'Local Nature Conservation Sites and Biodiversity'.

In concluding, Mr MacPherson noted reference made to significant environmental impacts on the River Lossie from works adjacent to it and advised that the conditions recommended, particularly the Construction Environmental Management Plan (CEMP), will ensure that the Planning Authority, the Moray Flood Risk Management Team and SEPA are given confidence in relation to preventing any significant impact on the River Lossie. He advised that CEMPs are widely used as a mechanism for SEPA and the Local Authority to safeguard watercourses within Moray and have been used for various projects next to the River Spey and River Fiddich.

The Chair, acknowledging that the application was for the Council by the Council, noted that the points address by Mr MacPherson were all relating to comments made by representatives and queried if there was nothing he wish to address from the Applicant's presentation. In response, Mr MacPherson advised that he was merely providing clarification on points raised by representatives and had been made aware of some issues that would be raised by members of the Committee in respect of the Applicant's presentation and would address those at the appropriate juncture.

The Legal Adviser advised the Committee that regardless of whom the application was submitted by, it was the responsibility of the Planning Officers to judge each application on

its own merits and against relevant planning policies and present these to the Committee as an independent assessor.

Referring to a statement made by the Applicant regarding the definition from the DSP of a road and street, Councillor Tuke noted that a further statement in the Policy advises that “all thoroughfares in urban settings should normally be treated as streets” and sought clarification. In response, Mr MacPherson advised the Policy allows for a matrix of movement and people and place. He further advised that there should be a default emphasis upon place but stated that there are occasions for design-led decisions with a priority of movement over place. He stated that a higher emphasis of movement within the application was deemed reasonable after analysis. Mr Gerring, Senior Engineer (Transportation) advised that the Applicant had submitted a Designing Streets Quality Audit which recognises the process of place over moment but acknowledges that due to the type of vehicles that use the current route, priority had to be given to movement in this circumstance.

Councillor Tuke queried how the parking issues raised were assessed. Mr MacPherson advised that it was not the purpose of the application to rectify wider parking issues. He noted that, whilst less parking is required in the northern section of the scheme due to the number of private driveways, the application does provide for additional parking in the southern section of the scheme but stated that parking was not deemed an issue. In response, Mr Gerring confirmed that as the proposed scheme was not creating new trips, no additional parking was required and that acceptable mitigation was proposed to ensure that the situation is not made worse.

Noting that it appeared that current parking allocation had been removed, Councillor Tuke queried whether advice had been sought from Scottish Government Planning Officers on the Council’s interpretation of the DSP. In response, Mr Gerring advised that the Applicant had observed parking trends and an attempt had been made, on balance, not to remove parking. He noted that alternative parking was being offered off-street. He stated that parked vehicles current cause visibility issues, particularly at junctions, which raised road safety concerns. Mr MacPherson further advised that whilst advice regarding the interpretation of the DSP had been sought on a separate project, no advice had been sought in respect of the WLR.

Councillor Divers, referring to parking allocations on Edgar Road, stated that similar concerns regarding sightlines were expressed during construction on Thornhill Road in the east of Elgin and the implementation of parking bays on the side of the road containing houses – pushing the pavements and road further out – works well and improves road safety and queried why this was not considered for Edgar Road. In response, Mr Gerring advised that each location is considered on its merits and consideration has to be given to users or any side roads and junctions. He advised that, in respect of Edgar Road, SEPA had identified issues regarding drainage that would arise by moving the road further into the wetlands.

Referring to Page 17 of the Appointed Officer’s report and the forecasted 7,000 vehicle movements on Wittet Drive per day, the Chair sought background on how the forecast was calculated and whether Officers were content with the statement that this figure was below the current levels experienced on The Wards and Maisondieu Road. Mr MacPherson advised that the information on current and forecasted vehicle movements was provided by the Applicant and the recommendations based on such. He stated that, as a comparator to Wittet Drive, Maisondieu Road currently experiences over 7,000 vehicle movements per day. The Chair further queried whether Officers accepted the Applicant’s

forecasted 7,000 vehicle movements on Wittet Drive per day as accurate despite the Council previously stating expected movements of 9,600. In response, Mr MacPherson advised that the Appointed Officer would have queried the figures with the Applicant had they both been submitted but could only comment on the 7,000 figure as the only figure submitted with the application.

The Chair queried whether the Appointed Officer believes that, with the WLR, there would be no increase in traffic on Maisondieu Road or that it would go up to 11,000 vehicle movements as stated by the Council previously. Mr MacPherson advised that the Applicant does acknowledge that there would be an increase in traffic throughout Elgin and noted that Maisondieu Road was used as a comparator as it was the closest in terms of vehicle movements currently to what is expected on Wittet Drive. The Chair expressed his opinion that traffic will increase on Maisondieu Road and still be the busier of the two roads but that this had not been reflected clearly in the report.

Referring to Councillor Divers' comments regarding similar road infrastructure at Edgar Road as at Thornhill Road, Councillor McDonald queried whether the option was not progressed due to costs as opposed to being impossible to implement. He further queried that if the Appointed Officer felt that data was inaccurate, such as the forecasted vehicle movements, then should this not be taken into consideration. In response, Mr MacPherson advised that it was not for the Appointed Officer to speculate the evolution of the design of the scheme and could only assess what was submitted by the Applicant. He noted that a large amount of baseline data was submitted with the application that required to be taken at face value and advised that any information published out-with the application was not relevant to the Appointed Officer's consideration.

In response, the Chair queried whether this meant that the fact sheet issued by the Council providing forecasted vehicle movement figures was based on inaccurate data. Mr MacPherson reiterated that any information published out-with the application was not relevant to the Appointed Officer's consideration. He advised that whilst representations received to the application highlighted concerns, none mentioned specific figures published.

The Head of Development Services advised the Committee that it was the responsibility of the Appointed Officer and the Committee to determine the application based on the data submitted within the application. He stated that the application was subject to a consultation process and neither Transport Scotland nor the Council's Transportation department had objected to the proposal.

The Chair queried whether Mr Gerring was involved in the publication by the Council, in 2012, of forecasted vehicle movements and if so whether he raised any concerns when the Applicant submitted lower forecast figures than expected. In response, Mr Gerring advised that he was not directly involved in the modelling exercise that produced the forecasted figures as this was conducted by external consultants on behalf of the Council. He noted that the modelling has been refreshed on an ongoing basis and as such could not explain the difference in forecasted figures. He stated that the forecasted figures, both the Council's and the Applicant's, were within the bounds of the volume and types of traffic for the type of road being proposed and deemed acceptable.

In response to a query from the Chair, the Legal Adviser clarified that the Council submitted information regarding forecasted figures in respect of its role as the Applicant and promoter of the scheme and that the figures may have been refined by ongoing refreshing of the modelling.



Councillor Howe and the Chair expressed their concern at the discrepancy between forecasted figures and stated that the Committee were being asked to base a decision on a variable figure. In response, Mr MacPherson advised that the application before the Committee was the first time one had been submitted in respect of the WLR and as such the Appointed Officer's recommendation was based solely on the submitted information with the planning application which was a defined figure.

Referring to noise mitigation, the Chair noted a statement from Mr Davies that there was no noise mitigating benefits expected from the proposed planting as it required to be much denser to have an effect and that no weight was placed on such in the Applicant's Environmental Statement yet the Appointed Officer's report had. In response, Mr MacPherson advised that he had incorrectly referred to the Environmental Statement in relation to the matter and noted that that reference was made elsewhere in the Applicant's documents to the opinion that the residual effects of the scheme would benefit from wider planting. He stated that the comment had not been relied upon in terms of the assessment and suitability of the proposal. He further advised that the assessment of noise mitigation was based solely on noise barriers and low noise road surfacing and that no consideration was given to landscaping.

The Chair noted that there was still a divided opinion on the benefits of low noise road surfacing at lower speeds and queried what would be done if the surfacing was unsuccessful in achieving its objectives. Mr MacPherson advised that the low noise surfacing had a proven track record and on assessment felt that it would meet its objectives. He noted that monitoring would take place in the vicinity of Greenwards Primary School.

Mr Caldwell, Environmental Health Officer, further advised that the Applicant had submitted a supplementary noise report which stated that at 20mph, with extended noise barriers and low noise road surfacing, there would be a mitigating benefit of 3 decibels (dB). He noted that there was a 40dB requirement for acceptable classroom noise levels for existing schools and a 35dB requirement for new builds and that the Applicant had chosen to comply with the requirements of new builds. He stated that, at the point of construction with noise barriers and low noise road surfacing, the volume expected would be 34.7dB and it was not untypical to have noise monitoring where a sound was near the limit of its requirement.

In response, the Chair stated that deterioration of the road will see the 35dB noise limit exceeded, breaching World Health Organisation (WHO)'s and the Council's own targets. Mr Caldwell advised that a number of mitigation measures were proposed to address the issue.

Councillor Howe, referring to a statement on page 20 of the Appointed Officer's report in respect of new developments being sensitively sited, stated her opinion that the proposal was not sensitively sited. She noted that the barriers were a substantial size, that the low noise road surfacing was an unknown quantity and that the proposal only benefited 27 properties. In response, Mr Caldwell advised that the provision of noise barriers was a common feature for a road scheme. He noted that some properties were already experiencing high noise levels and could be subject to further. He advised that there was a statutory scheme under the Noise Insulation Regulations which can be applied when noise levels get too high - 68dB and higher - which obliges the Roads Authority to reassess the model and determine which properties are eligible for noise insulation under the terms of this statutory scheme. Mr MacPherson further advised that the noise barriers

were likely to be timber fencing, varying in height from 1.5 metres to 2.5m, and conditions relating to landscaping had been proposed to soften the appearance of them.

Noting that mitigation measures proposed to address increased noise levels include more glazing, Councillor Howe queried whether this would prevent the opening of windows. Mr Caldwell advised that, where there was a high level of noise currently, it had been deemed that it was not possible to achieve acceptable noise levels with windows open.

Councillor McLean queried what mitigation measures had been proposed for the 17 properties on Edgar Road. In response, Mr Caldwell advised that extra insulation was proposed by the Applicant for the identified properties on Edgar Road. He noted that the noise measures proposed, acoustic glazing and ventilation, would achieve internal noise levels of 35dB, based on windows being closed and background ventilation.

In response, the Chair noted that a suggestion for windows to remain closed at Greenwards Primary School was refused by the Council as Planning Authority but it now appeared that it was acceptable for residential properties on Edgar Road. Mr Caldwell reiterated that there was a statutory scheme, which sat out with the planning process, which the Applicant had made a preliminary indication of approximately 30 properties as being eligible for noise insulation for high noise levels, and advised that the internal 35dB noise level was only achievable at Greenwards Primary School with enhanced mitigation.

Referring to a comments made by Councillor Howe, Councillor Wright noted that Officers had stated that a reduction of 3dB at 20mph was expected from the low noise road surfacing. He queried whether it was reasonable to expect that the degree of deterioration would be considerably lower at speeds of 20mph. In response, Mr Caldwell advised that Officers cannot be assured on the effect of slow speeds, other than noise, on low noise road surfacing. Mr Gerring further advised that, by applying the laws of physics, lower speeds should mean less maintenance and noted that a condition had been proposed to monitor the situation.

Councillor Allan, advising that he has worked at Greenwards Primary School, expressed his concern that it would only take 0.3dB to exceed the limit and stated that Greenwards Primary School was an open plan building with a special needs department which requires a degree of quiet. In response, Councillor Tuke and Mr Caldwell advised that 0.3dB was approximately a 20% noise pressure increase and that the decibel scale tries to take very small and very large sound pressure into a scale of 0 to 140. Mr Caldwell noted that many properties in the vicinity were currently at or over the 35dB.

Referring to the proposed conditions, Councillor Divers noted that the Parent Council at Greenwards Primary School had stated that they did not wish for any landscaping mitigation for noise barriers to be within the school boundary so that they did not bear the maintenance of such but there was nothing proposed within the conditions. Mr MacPherson advised that Condition 14 proposed landscaping mitigation on the south (school) side of Barrier 5, which was located beside Greenwards Primary School, and that this would mitigate the aesthetic impact of the barrier. In response, the Chair stated that the Parent Council did not wish for the landscaping to be placed within the school's boundary and advised that Councillor Divers could pursue the matter during discussions regarding conditions should the application be approved.

Councillor Alexander queried what the equivalent of 35db was and whether a comparison had been made against other schools in the area. In response, Mr Caldwell advised that an empty class room would be approximately 35dB and that an occupied class room

would be approximately 60dB. He further advised that the Applicant's appendix to their Environmental Statement contained information on other schools such as Elgin High School, which had external noise levels of 41.9dB and Bishopmill Primary School which was experiencing levels of 68.1dB.

The Chair reminded the Committee that they were determining the application against a noise level limit of 35dB, instead of 40dB, which had been decided by the Applicant. In response, the Head of Development Services advised that the Council had chosen to set a target which was for new schools, and had achieved that through a number of mitigating features. He noted that there was a contingency within the scheme which allows the Applicant to still achieve 35dB with some leeway.

Referring to the Road Safety Audit and accepting that the Freedom of Information request from Mr Simpson had been answered, the Chair sought a background update to the first audit and what had been done to address any issues raised. Mrs Penny, Engineer (Traffic), advised that whilst she had seen the Road Safety Audit, she had not been involved in the design process. She informed the Committee that there were 4 stages of a Road Safety Audit, which helps form the design of a road. Noting that only Stage 1 had been completed, she advised that the initial stage is carried out by an independent Safety Auditor and any issues raised are addressed through design. She noted that moving the proposed cycle-track completely off road at Pluscarden Road junction was one such issue addressed. She advised that Stage 2 would be requested at the technical approval state and any issues would again be requested to be addressed through design.

In response, the Chair queried whether there were any specific aspects that Officers anticipated arising during Stage 2. Mr Gerring advised that as the assessment is carried out by an independent auditor it was difficult to anticipate any aspects that may arise but noted that there was nothing specific that gave Officers concern for the design to move forward.

Councillor McLean, noting a comment made by an objector earlier in the meeting, stated that there was a potential for speeding on the rural part of the road, between Edgar Road and Wittet Drive, and queried whether anything had been put in to address the concerns. In response, Mr Gerring stated that no engineer would design an unsafe road and that efforts had been made by the designer to introduce a speed management regime. He noted that the road was expected to have a 30mph speed limit and a Road Safety Audit would assess any potential risks. Mrs Penny further advised that curves in the road had been introduced to reduce speeds and that the road in the northern section of the scheme had been narrowed following the removal of the on-street cycleway.

Referring to comments that the proposal would be processed through another Road Safety Audit, the Chair noted that it would then be up to the Roads Authority to implement other measure if they deemed appropriate and queried whether Officers were alluding to further changes, such as traffic lights. In response, Mr Gerring advised that Officers were alluding to the power of the Roads Authority to implement measures such as Road Traffic Orders and speed limits as opposed to material changes. He noted that changes to junctions and road crossings were not anticipated.

Councillor Tuke queried whether consideration had been given to speed activated warning signs in the north end of Wittet Drive. In response, Mrs Penny advised that it would be a possibility to implement speed activated warning signs if it was deemed necessary based on the information available at that time.

Referring to safety, Councillor Cowe queried whether Officers were satisfied that current safety concerns on Wittet Drive had been mitigated and that the proposed road would be safer than it is currently. Mrs Penny advised that she was confident that the proposed measures address all the concerns raised. She advised that the measures have been introduced elsewhere successfully and has proven to be a safe method.

The Chair enquired what the accident history was on the proposed route, particularly on Wittet Drive. In response, Mrs Penny advised that the accident history was very low on the proposed route and that there were a quarter less accidents within the last 5 years than there was 20 years previously.

In response, the Chair queried whether it was reasonable to assume that low accident histories was a reason for the Roads Authority not to take further action on roads deemed publically as unsafe. Mrs Penny advised that generally this was the case however consideration also had to be given to the level of service to vulnerable road users. She expressed her opinion that the proposed junction control would significantly increase safety for pedestrians crossing the A96.

Councillor Howe, referring to a comment made earlier in the meeting, sought clarification that Wittet Drive had been narrowed for road safety purposes but yet the double yellow lines were being removed which would then increase the width of the road. In response, the Chair clarified that the statement was that double yellow lines were being put down and this was preventing cars from parking on the road.

Councillor Wright sought clarification as to who was defined as a vulnerable road user. In response, Mrs Penny advised that a vulnerable road user was defined as non-motorised road users, such as pedestrians, cyclists, motorcyclists and persons with disabilities or reduced mobility and orientation.

Referring to the proposed mammal tunnel, Councillor Tuke sought confirmation of the tunnel's dimensions. In response, Mr MacPherson advised that it would fit any size of badger. He noted that the tunnel was integrated into the design of the scheme to facilitate, and not depreciate, the diversity in the wildlife site.

Councillor McLean, noting a comment by the Applicant that the traffic data surveys were redone, sought confirmation on when these surveys took place. In response, Councillor Divers reiterated that the Applicant had confirmed this was done on 14 February 2015.

The Chair moved that planning permission be refused on the grounds that the application was contrary to Policies EP8, IMP1 (a), (b), (c) & (i) and T2. He stated that a number of questions remained unanswered for him following presentations by the Applicant and representatives. He advised that whilst the scheme has been in the Moray Local Plan for approximately a decade, a number of policy changes have been introduced since it was first included. He noted that some of these, such as the DSP, have been included within the emerging Local Plan. Stating that he was not satisfied with the responses in respect of traffic numbers, which he considered a material consideration in determining the application, he advised that for there to be dubiety over something as vital as that data creates reservations. He expressed his dissatisfaction with mitigation measures proposed, such as the low noise road surfacing.

Councillor McDonald, in seconding the Chair's motion, stated that the Committee had to take into account the impact the proposal would have on residents. He noted that whilst economic development was crucial, it should not be at the cost of anything else. He advised that, whilst he agreed that there was a need for a link road in the south-west of Elgin, the proposal before the Committee was not the solution.

In response to a request from the Legal Adviser to provide more detail on the grounds of his Motion, the Chair advised that, in terms of Policy EP8, he did not believe that the mitigation measures for noise and the potential increase in traffic were satisfactory. He expressed his opinion that, in terms of Policy IMP1 (a), he did not believe that the scale, density and character was appropriate to the surrounding area. Referring to Policy IMP1 (b), he stated that he did not believe that the development would integrate into the surrounding landscape, one of which is very close to the wetlands area which has a special scientific interest. In terms of Policy IMP1 (c), the Chair advised that, in his opinion, the level of adequate roads, public transport and cycling and footpath provision was not appropriate to the development in terms of pedestrian safety. He stated his belief that, in terms of Policy IMP1 (i), the conservation of natural and built environment resources had not been demonstrated and that, in terms of Policy T2, mitigation measures for the impact of development traffic and pedestrian safety were not appropriate and that the DSP had not been adequately adhered to in that matter. He reiterated his opinion that whilst the scheme has been in the Moray Local Plan for approximately a decade, a number of policy changes, such as the DSP, have been introduced since it was first included and that these should be taken into consideration despite not being in the current Local Plan.

The Head of Development Services, providing clarification, advised the Committee that WLR had been identified in recent Local Plans for the purposes of providing a distribution of traffic to support developments in the south of Elgin. He stated that the road does not generate traffic in itself but traffic movement increases as it distributes from other areas of Elgin, alleviating pressure which would build up elsewhere otherwise. Accepting that the DSP was not in the 2008 Local Plan, he advised that the policy was taken into consideration when assessing the merits of the planning application.

Councillor Cowe stated that the population of Elgin was over 26,000 and that there were 797 responses to the application, of which 358 were from people in Elgin. He advised that the population of Moray was rising at 5 times the national average and house values were rising faster than those in Aberdeen. He further advised that Keith Brown MSP, Minister for Transport, had stated 18 months prior in a letter to Councillors that the dualling of the A96 was unrelated to the need for an effective road network in Elgin. He also noted that Richard Lochhead MSP and John Swinney MSP had advised their Scottish National Party (SNP) colleagues in The Moray Council that, before the A96 dualling commenced and Elgin got a bypass, the internal road infrastructure had to be addressed. Stating that the proposed scheme will unlock Site R5 for 75 affordable houses and allow Site R1 to be completed with a further 20 properties, Councillor Cowe advised that the scheme would also allow access to the new Elgin High School and sites in the south of Elgin as well as providing more economic development opportunities for Elgin and Moray. He stated that the road will be safer as a result of the proposal and congestion will be reduced and accessibility improved. Referring to pages 96 to 98 of the Appointed Officer's report, he noted that a vast majority of consultees had submitted no objection. Thereafter, as an Amendment, Councillor Cowe moved that the planning permission be granted as per the recommendations.

In seconding Councillor Cowe's amendment, Councillor Wright advised that the provision of almost 100 affordable houses that the proposal will release was welcomed, noting that the Council will be subject to financial penalty should the site not be released. He stated that the proposed crossings would increase pedestrian safety and that the WLR was in the current and emerging Local Plan.

In response, the Legal Adviser advised the Committee to disregard comments regarding any financial implications of not releasing Site R5 as this was not a planning consideration.

In summary, Councillor Cowe commended the application to Committee and stated that it recognised the vision for the future of Elgin, the people of Elgin and for the economy of Moray.

The Chair, in summing up, acknowledged that the application was a difficult one for all involved but, after listening to the responses from the Applicant and from representatives, he stated that he was not satisfied that the proposal before Committee was the solution required. He advised that he did not believe the criteria of the policies he put forward in his motion regarding noise, pollution, pedestrian safety and traffic movement have been met.

In summary, Councillor McDonald accepts that there is an issue with the internal road network of Elgin that needs to be addressed but the proposal before the Committee was not the solution.

On a division, there voted:-

For the Motion (7):           Councillors Ross, McDonald, Allan, Howe, McConachie,  
McLean and Paul.

For the Amendment (6):   Councillors Cowe, Wright, Alexander, Cowie, Divers and Tuke.

Accordingly, the Motion became the finding of the meeting and the Committee agreed to refuse planning permission on the grounds that the application was contrary to Policy EP8 in that mitigation measures for noise and the potential increase in traffic were not satisfactory; Policy IMP1 (a) in that the scale, density and character was not appropriate to the surrounding area; Policy IMP1 (b) in that the development would not integrate into the surrounding landscape, one of which is very close to the wetlands area which has a special scientific interest; Policy IMP1 (c) in that the level of adequate roads, public transport and cycling and footpath provision was not appropriate to the development in terms of pedestrian safety; Policy IMP1 (i) in that the conservation of natural and built environment resources had not been demonstrated and Policy T2 in that mitigation measures for the impact of development traffic and pedestrian safety were not appropriate and that the Designing Streets Policy (DSP) had not been adequately adhered to in that matter.