

08/00077/EIA
21st January 2008

Construct Elgin flood alleviation scheme between Glen Moray Distillery and Pitgaveny (includes alterations to Listed Buildings at Mary Well Mansion House Hotel and Bishopmill Bridge) at River Lossie Elgin Moray for The Moray Council

Comments:

- MEMBERS WILL HAVE VISITED THE SITE
- Application is major development - Elgin Flood Alleviation Scheme
- The application is made by the planning authority
- Advertised as a departure from the development plan.
- Advertised under the current EIA Regulations
- Advertised under the current Listed Buildings and Conservation Area Regulations
- Advertised under S.34 of the Act
- 30 representations received
- Application includes works to Category B listed buildings

Procedure:

- If minded to approve:
- notification to the Scottish Ministers not required under Circular 3/2009
- pre-determination hearing and reference to Council not required.
- hearing not recommended

Recommendation:

- (i) adoption of Appraisal (by SNH) as the Council's "Appropriate Assessment"
- (ii) the following conditions

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

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) confirmation of the proposed date(s) for commencement of each work location and element comprised in the Elgin FAS together with a finalised detailed programme of works for the phased construction of the development. The programme details

within the ES (Chapter 3, Appendix 3J) are not approved and the phased programme for the Elgin FAS works shall take account of

- i) all environmental constraints, including all breeding and hibernating seasons for all aquatic and terrestrial ecological interests,
- ii) all construction activity associated with the Elgin FAS, including site clearance, advance service diversions, establishment and restoration of site compounds, and periods of construction on each specific element of the scheme, including the proposal to raise ground levels at Barmuckity (application 09/00796/FUL refers), etc,
- iii) all other pre-and post-scheme construction work including further survey and maintenance/inspection regimes as may be identified in the proposed Construction Method Statements or Environmental Action Plan (EAP) (see Conditions 30 and 32.

and

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

4. Upon completion of each phase of the development (as defined/approved in Condition 3), as soon as practicable after doing so, the attached Notification of Completion of Development shall be completed and submitted to the Council, as planning authority to give notice of completion of that phase.
5. Upon completion of the development (i.e. upon completion of the last phase of the Elgin FAS works are undertaken (as defined/approved in Condition 3), as soon as practicable after doing so, the attached Notification of Completion of Development shall be completed and submitted to the Council, as planning authority to give notice of completion of the Elgin FAS development.
6. The Elgin FAS shall not be progressed without the implementation of planning application 09/00796/FUL to raise ground levels opposite Barmuckity Farm, as approved under formal decision notice dated (insert date). The area of ground raising shall be developed in conjunction with the Elgin FAS proposals hereby approved and as an integral part of the Elgin FAS (Addendum refers), the terms and conditions of this permission shall apply also to that proposal, including requirements for a phased programme of construction to include this work, Construction Method Statements and an Environmental Action Plan to identify all construction and mitigation measures to be applied and adopted during construction and operation of the Elgin FAS.
7. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) in consultation with Historic Scotland, a finalised method statement for the dountaking, marking and storage of the existing balustrade stonework and its re-use/re-instatement on top of the raised floodwall at Mansion House Hotel, together with written confirmation from Historic Scotland regarding acceptance of the statement.

- b) in consultation with Historic Scotland, a finalised method statement for the partial dismantling, marking and storage of the existing stonework at Old Bishopmill Bridge and for the re-use of the stone material during the re-building of the abutments at the proposed Lossie Wynd footbridge, together with written confirmation from Historic Scotland regarding acceptance of the statement.

and

- c) thereafter, the development shall be implemented in accordance with the approved details.
8. Sample panels of all new stone and reconstituted stone, including all size, coursing and pointing details shall be prepared on the site for inspection and approval prior to the stonework being erected/re-instated as part of the Elgin FAS works.
9. As part of the requirements of Condition 8:
- a) natural stone to match the existing stone material finishes shall be used for the new floodwall at Marywell and Mansion House Hotel, and the existing abutments at the proposed Lossie Wynd footbridge, and at the stone wall at the turning area at Newmill Road at the turning hammerhead/new footpath leading to Brewery Bridge footpath.
 - b) lime mortar shall be used for coursing and pointing details where natural stonework is used.
 - c) details of the treatment at the junction or connection between natural and man-made/old and new materials shall be provided to protect the natural stone and historic fabric.
 - d) the proposed reconstituted stone for the new, redefined northern edge of the boating pond (Cooper Park) shall match the existing reconstituted stone material used to define the remainder of the edge of the pond.
10. Unless already specified or otherwise agreed, no development shall commence until detailed have been submitted to and approved by the Council, as planning authority regarding samples or specifications of all external finishing materials and colouration, including paintwork and timber staining and/or protective coating to be applied.
11. As part of Condition 10:
- a) for the Lossie Wynd footbridge, the proposed colouration of the parapets shall match the existing colour finish of the existing footbridge parapets.
 - b) details shall be provided for “concrete floodwall with reconstituted stone cap and cladding to match existing” for the new wall on the left hand embankment downstream of Lossie Wynd footbridge (drawing 9R3414/9163 P2 refers)
 - c) details shall be provided for “proposed sheet pile retaining wall clad and capped where exposed” (drawing 9R3414/9173 P3 refers).
12. No development shall commence until details have been submitted to and approved by the Council, as planning authority regarding:

- a) in consultation with the Council's Adviser, Aberdeenshire Archaeological Services, a scheme for the implementation of a programme of archaeological work in accordance with a written scheme of investigation. The required scheme details shall include the arrangements for archaeological watching briefs during groundbreaking works, photo/building surveys, as appropriate and the recording and recovery of archaeological resources within the development site.

and

- b) thereafter, the development shall be implemented in accordance with the approved details.
13. Construction work activity, including vehicular movement associated with the Elgin FAS shall only take place between 07.00 – 20.00 hrs, Monday – Saturday and not at any other time except with the prior written agreement of the Council, as planning authority.
14. Noise levels from night-time pumping operations where required at various locations including those identified in the ES (Chapter 16, 16.65), shall not exceed Noise Rating (NR) Curve 25, as measured within the bedroom or living apartment of the nearest noise sensitive property between 23.00 – 07.00 hrs. (The measurement period shall be a minimum of 10 minutes between 23.00 – 07.00 hrs).
15. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
- a) details of all locations where night-time pumping operations will be required and all proposed measures to be implemented prior to pumping operations commencing to ensure noise levels do not exceed Noise Rating (NR) Curve 25.
 - b) the arrangements to monitor on-site vibration where piling is proposed within 50 m of residential property (Elgin FAS, ES, Chapter 16, 16.76 refers) and to notify the Council's Environmental Health Section in the event of complaints being received of perceptible vibration with proposed measures to mitigate, where possible, this impact and to progress the Elgin FAS works.
 - c) the location, design and external appearance, height and material finishes of all noise barriers including acoustic screens or similar to be erected where minor, moderate or adverse impacts are predicted to occur during construction of the Elgin FAS (ES, Chapter 16, Tables 16.3, 16.4 and Appendix 18A refers) and at the temporary soil treatment centres e.g. at the wastewater treatment plant, Grampian Road. The noise barriers shall be erected prior to any construction works commencing and removed upon completion of construction activity within the locality of the identified noise sensitive premises.

and

- d) thereafter, the development shall be implemented in accordance with the approved details.
16. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:

- a) the location(s), extent or area, and the arrangements for access including from haul routes within the site, to/from all temporary soil treatment centres to be provided during construction of the Elgin FAS. As part of the required details:
 - i) all treatment centres shall be located within the site boundary of the Elgin FAS;
 - ii) all soil treatment operations including stockpiling of material pre- and post-treatment shall be contained within the defined area; and
 - iii) upon completion of soil treatment operations, all activity, plant and machinery and surplus material shall be removed from the site and unless otherwise agreed, the land shall be restored/re-instated in accordance with the details approved for the Elgin FAS including the proposed landscape planting arrangements.

and

- b) thereafter, the development shall be implemented in accordance with the approved details.
17. Between 20.00 - 07.00 hrs battery powered temporary traffic lights shall be used to control traffic during construction works at Pansport Bridge (both ends), Grampian Road, (junction with Pinefield Road) and Bridge Street/North Street (Redwood Cottage).
18. Site compounds shall only be located at the locations identified on drawing 9R3414/9003 P1 and no other compound may be formed without the prior written consent of the Council, as planning authority and in relation to the proposed compounds:
- a) prior to use of each compound first commencing, the compound area shall be clearly defined using temporary fencing or similar.
 - b) all compound activity associated with the construction phase of the Elgin FAS, including the storage and movement of materials and vehicles, and site accommodation and storage containers shall be located entirely within the defined compound area.
 - c) the 'arrowhead' detail used to denote the location of the proposed access to/from each compound from adjoining road network (drawing 9R3414/9003 P1 refers) is not accepted and prior to establishment of any compound, full details shall be submitted to and approved by the Council, as planning authority in consultation with the Transportation Manager regarding the location, design specification of any new access or modification to any existing access including visibility splay requirements for each site compound and the arrangements to stop-up the access once the use of the site as a compound ceases (see also Condition 25).

and

- d) thereafter, upon completion of construction activity at each Elgin FAS works serviced by each compound, the use of the land as a site compound shall cease and the land shall be restored/re-instated to its existing condition in accordance with written details of the arrangements for restoration/re-instatement of the land, to be

submitted for approval by the Council, as planning authority not less than 4 weeks prior to the cessation of the land used as a site compound.

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

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

and

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

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

- a) no development shall commence until details have been submitted to and approved by the Council, as planning authority regarding:
 - i) revised tree survey details to identify all trees/shrubs to be retained/removed where “tree removal through Johnstons will be minimised” (drawing 9R3414/9181 R3 refers);
 - ii) written confirmation that the tree survey details including identification of trees to be retained/removed remain unchanged for all other areas where Elgin FAS works are proposed OR revised tree survey details shall be submitted for approval for location(s) where changes are being or have been made to the design of the Elgin FAS between submission of the application and commencement of works.
 - iii) revised planting specifications to replace non-native species with native plant species (applicant's agent's letter to SEPA dated 11 September 2008 refers).
 - iv) the arrangements for the long-term maintenance and management of all landscaping.

and

b) in relation to the submitted details:

- i) trees/shrubs or other vegetation other than those identified for removal within the approved scheme details shall be removed either during the construction phase or thereafter, without the prior consent, in writing, of the Council, as planning authority

- ii) as part of the required details of the arrangements for protection of any existing trees, shrubs and hedgerows and bankside and channel vegetation during the course of developing the site:
 - a) temporary fencing or similar means of enclosure to demarcate defined working areas for construction activity and/or protect adjacent vegetation and trees from construction activity at all sites within the Elgin FAS, and
 - b) no construction activity, including the storage of material and use of equipment shall take place outside the defined working areas.

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

- 22. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) In consultation with the Council's Transportation Manager, a finalised Traffic Management Plan (TMP) to facilitate construction of the Elgin FAS, including the movement of construction traffic to/from the site. The required TMP shall:
 - i) be prepared upon and take account of all traffic management issues and mitigation measures identified in the ES (Chapter 15, including Table 15.6), including identification, where appropriate, of all temporary traffic and parking restrictions, lane closures, road markings and traffic signals, temporary stopping up of roads to general traffic, local measures to provide continuous access to residential and business during construction, temporary bridges and improvements to passing places, etc.
 - ii) include details of the proposed arrangements, including the location, design and visibility splay requirements for all accesses from the public road to the temporary site compounds (drawing 9R3414/9003 P1 refers), including the location, design and visibility splay requirements (see also Condition 18)
 - iii) include details of all haul routes to be used by construction traffic including an alternative route for a proposed haul route via Jock Inksons Brae which is not approved.

and

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

23. There shall be no direct vehicle access to/from the A96, Trunk Road for construction related traffic between Waulkmill Cottages and Elginshill Road junction.
24. No part of the permission hereby granted relates to the formation and/or alteration of any new or existing access onto any public road, including any temporary construction access onto the public road (for example at Oldmills Road, or onto Calcots Road as part of current investigations for a temporary bridge crossing to Moycroft (ES refers)), without details regarding the location and design specifications for the access having been first submitted to and approved by the Council, as planning authority, in consultation with the Council's Transportation Manager.
25. In accordance with details of their construction, which shall previously have been submitted to and approved by the Council, as planning authority in consultation with the Council's Transportation Manager, a turning hammerhead(s) shall be provided and made available for use:
 - a) at the western end of Grampian Road, as shown on drawing 9R3414/9181 P3, before Elgin FAS construction works commence downstream of Pansport Bridge, including the embankment at Johnstons, river re-alignment and the formation of the new flood channel and embankment along Grampian Road,
 - b) at Newmill Road adjacent to Brewery Bridge/Brewery footbridge, as shown on drawing 9R3414/9162 P3, before Elgin FAS construction works commence in the vicinity of Brewery Bridge, including the new Brewery footbridge and the flood relief channel and works at the Kingsmills play area.

and

- c) all relevant statutory procedures as required for the stopping-up of these roads, in particular at Grampian Road have been completed.
26. No development shall commence until details have been submitted to and approved by the Council as planning authority regarding:
 - a) the location, design and external appearance of the temporary bridge to be provided across the River Lossie and new flood relief channel during the demolition and construction of the existing and new/replacement bridge structures at Pansport Bridge, together with information on the impact of the temporary bridge upon any archaeological interest or Scheduled Ancient Monument in the locality. The temporary bridge shall be located downstream of the new/replacement Pansport Bridge; and
 - b) following investigation, the location and design of any temporary bridge to be provided over the River Lossie at Moycroft (ES, Chapter 15, 15.191 refers);

and

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

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

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

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

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

and

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

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

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

and

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

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

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

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

and

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

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

- a) in consultation with SNH and SEPA and prior to development works first commencing and for each element comprised in the Elgin FAS, a schedule shall be submitted to and approved by the Council, as planning authority, identifying all method statements/plans to be prepared together with their proposed time-scale for submission, an indication of whether the statements/plans are being prepared for planning or other regulatory purposes, and identification of which agencies or organisations will be consulted on the proposed statement.
- b) thereafter, following preparation and consultation, a finalised copy of each statement/plan shall be submitted for approval by the Council, as planning authority together with written confirmation of acceptance of the statement/plan from SEPA and SNH, etc.
- c) the finalised statements/plans shall identify and include proposals and measures to be implemented to reduce the risks to aquatic and terrestrial habitats and species and details of all surveys and monitoring to be undertaken before during and after construction.
- d) the statements/plans shall include provision for pre-construction surveys to identify further impacts on species in areas that afford potential habitat for freshwater pearl mussels, to check that no red squirrel dreys have been constructed subsequent to earlier survey works undertaken to inform the ES and the Elgin FAS, to check for signs of breeding birds, etc immediately prior to felling trees and/or clearance of scrub (where clearance operations are undertaken during the bird breeding season), and to check and record any new badger activity since earlier survey work undertaken to inform the ES and the Elgin FAS.
- e) in relation to tree felling/scrub clearance, etc. the statements/plans shall indicate the timing of such works, with the majority of tree felling to be carried out with the bird breeding season i.e. felling between August and March.
- f) in relation to the safety of any badgers throughout construction, the statements shall include provision for construction site areas, equipment and materials to be made safe from mammals, including otters and badgers.

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

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

and

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

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

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

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

EFA0003 Glen Moray Distillery

EFA0008 Boroughbriggs Refuse Tip

EFA0009 Former Textile Mill, Decora DIY Store

EFA0010 Decora Embankment

EFA0015 Cooper Park Embankment

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

35. At any or all of the locations specified in Condition 34 above where the approved results identify further supplementary investigation(s) to be carried out, no development, except demolition of buildings required to facilitate investigation(s), shall commence until:
- i) full details of the methodology for the supplementary investigation of the site have been submitted to and approved in writing by the Council, as planning authority; and
 - ii) the supplementary investigation has been carried out in accordance with the approved details; and
 - iii) the results of the supplementary investigation have been submitted to and approved, in writing by the Council as Planning Authority. The results shall, where applicable, include recommendations and/or requirements for further supplementary investigation(s) and/or remediation as necessary.
36. At any or all of the locations specified in Condition 34 above where the approved results identify the requirement for remediation to be carried out, no development, apart from that required for remediation, shall commence until:
- i) full details of the remediation methodology have been submitted to and approved in writing by the Council, as planning authority; and
 - ii) the required remediation measures have been fully implemented in accordance with the approved details; and

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

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding area.
3. To ensure an acceptable form of development, including details lacking from the current submission, or where an existing 'draft' programme has been provided, and to provide a detailed phased programme of works to allow the Elgin FAS to progress in an effective and efficient manner.
4. In accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, and to ensure that the Council, as planning authority is aware that a particular phase of the development is complete and is able to follow up any conditions.
5. In accordance with the requirements of the Town and Country Planning (Scotland) Act 1997 as amended, and to ensure that the Council, as planning authority is aware that the development is complete and is able to follow up any conditions.
6. To ensure an acceptable form of development, this additional flood defence at Barmuckity being considered as an integral part of the Elgin FAS (Addendum refers). Despite the details of the works to raise ground levels being omitted from the current application, the land area for that development is included in the application site boundary for this development and account of an embankment at this locality was

included in the modelling exercise used to assess flood risk. Without this element of the Elgin FAS, property would be placed at increased risk downstream of Elgin.

7. To ensure an acceptable form of development in the interests of maintaining the historic character and appearance of these Category B Listed Buildings, in particular to ensure the retention and re-instatement of the balustrade and the abutments supporting the bridge and to mitigate against the any adverse impacts associated with this work.
8. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality.
9. In order to ensure that the development harmonises with the appearance and character of the listed buildings and the surrounding area and to mitigate against any impact associated with the Elgin FAS and in accordance with the applicants agent's submissions.
10. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality.
11. To ensure that the proposed materials are in keeping with the appearance and character of the development including material finishes in the locality, including the use of 'colour' to reflect the association between the new bridge and the current/previous bridges on the site.
12. To ensure an acceptable form of development where details are currently lacking from the submission and to safeguard and record the archaeological potential of the area, both known and unknown archaeological features.
13. To ensure a satisfactory form of development and safeguard the amenity and appearance of the area from construction impacts identified during the construction phase of the Elgin FAS development, including noise disruption and disturbance and in accordance with the applicants agent's letter dated 3 June 2008 (to Environmental Health Manager).
14. To ensure a satisfactory form of development in the interests of the amenity of the development and surrounding property and to reduce or mitigate the impact of noise disturbance likely to be associated with this operation where required as part of the Elgin FAS.
15. To ensure an acceptable form and impact of the development upon the locality including details currently lacking from the submission, in accordance with the applicants agent's letter dated 3 June 2008 (to Environmental Health Manager) and to ensure that arrangements are in place to mitigate and monitor identified noise and vibration disturbance impacts associated with the Elgin FAS.
16. To ensure an acceptable form of development and in the interests of the amenity and appearance of the surrounding area, including details of matters currently lacking from the submission.

17. To ensure an acceptable form of development, in accordance with the applicant's letter dated 3 June 2008 to the Council's Environmental Health Service and to mitigate the impact of noise levels arising from implementing measures to control traffic during construction activity upon nearest residential receptors in the locations identified.
18. To ensure a satisfactory form of development including details currently lacking from the submission, in the interests of the amenities and appearance of the development and the surrounding locality and in terms of road safety.
19. To ensure an acceptable form of development in the interests of the amenities and appearance of the development, including the provision of information currently lacking from the submission.
20. In order that further consideration can be given to the landscaping details for the site, including information currently lacking from the submission, to safeguard new planting from disturbance and construction activity and to ensure an acceptable form of development in the interests of the amenities and appearance of the development and the surrounding locality.
21. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
22. To ensure an acceptable form of development in terms of road safety and to manage and mitigate traffic impacts before during and after construction of the Elgin FAS.
23. To minimise interference with the safe and free flow of traffic on the trunk road.
24. To ensure a satisfactory form of development in road safety terms and in the interests of the amenity and appearance of the locality.
25. To ensure an acceptable form of development in road safety terms and ensure that the required statutory process is observed as part of the proposed implementation of the Elgin FAS.
26. To ensure an acceptable form of development, including details currently lacking from the submission and/or are under investigation, in accordance with the applicant's submission and to safeguard the impact of the works upon any archaeological interest.
27. To ensure an acceptable form of development in health and safety terms and to manage the risk associated with Elgin FAS works and operations in proximity to overhead transmission lines.
28. To ensure an acceptable form of development in groundwater terms including measures to mitigate against the impact of the Elgin FAS upon groundwater resources.
29. To ensure an acceptable form of development and to mitigate and manage the risk of sediment and pollution upon the water environment and aquatic habitats.

30. To ensure an acceptable form of development, including details lacking from the submission and to provide method statements/plans for all aspects of site work that might impact upon the environment, contain further preventative action and mitigation to limit impacts on the water environment and on aquatic and terrestrial habitats and populations, including otters, bats, water vole, red squirrel, birds, freshwater pearl mussel, salmon and salmonids and badgers, and ensure the long-term retention and value of these species/habitats.
31. To ensure an acceptable form of development, including details lacking from the submission and to provide method statements/plans for all aspects of site work that might impact upon the environment, contain further preventative action and mitigation to limit impacts on the water environment and on aquatic and terrestrial habitats and populations, including otters, bats, water vole, red squirrel, birds, freshwater pearl mussel, salmon and salmonids and badgers, and ensure the long-term retention and value of these species/habitats.
32. To ensure an acceptable form of development, including details lacking from the submission and to ensure appropriate mitigation is implemented to further minimise impacts on aquatic and terrestrial habitats and populations including otters, bats, water vole, freshwater pearl mussel, salmon and salmonids, and ensure the long-term retention and value of these species/habitats.
33. To ensure an acceptable form of development, including details lacking from the submission and to ensure appropriate mitigation is implemented to further minimise impacts on aquatic and terrestrial habitats and populations including otters, bats, water vole, freshwater pearl mussel, salmon and salmonids, and ensure the long-term retention and value of these species/habitats.
34. In order to safeguard the health and safety of any construction workers, future site users, building structures and the local environment from the impacts and effects of harmful ground contamination.
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List of Informatives:

THE DEVELOPMENT CONTROL MANAGER, DEVELOPMENT SERVICES, has commented that: -

Details of consultation responses have already been forwarded to the Council's agent.

An appraisal (by SNH) on the impacts of Elgin FAS upon Loch Spynie SPA has been adopted by the Council as its "Appropriate Assessment".

The applicant/developer/contractor's attention is drawn to the obligations to submit Notices of Initiation of Development and Completion of Development, the latter upon completion of each phase of the development and to display notices on site(s) during construction, in accordance with the Town & Country Planning (Scotland) 1997, as amended.

From the ES (Chapter 7, 7.133) the agreement is noted that the River Lossie footpath from Morrision playing fields to Elgin Cathedral will be extended from its current downstream point at Pansport Bridge to the new confluence of the River Lossie with the Tyock/Linkwood Burns using the maintenance tracks along the proposed embankments. Although not part of the current scheme, the Elgin FAS works presents opportunities and potential to utilise the maintenance tracks along embankments as footpaths e.g. as part of any Core Path initiative and/or as a cycle path for public access (Chapter 7, Appendix 7D, 7.84). Whilst this may not be within the scope of the Elgin FAS works as proposed further consideration should be given to use the defence embankments to create and enhance the provision of footpaths, including core paths and cycle paths, the latter to incorporate some or all of the embankments into the NNR1 cyclepath or to extend the A96 trunk road cycle path.

As previously indicated, the statutory procedures for stopping up roads e.g. Grampian Road will be progressed under the Town & Country Planning (Scotland) 1997, as amended.

THE BUILDING STANDARDS MANAGER has commented that: -

A Building Warrant will not be required.

SCOTTISH WATER has commented that: -

See letter dated 27 June 2008 regarding list of precautions for the developer to take to ensure that the proposal does not affect Scottish Water assets including risk of contamination or damage.

The TRANSPORTATION MANAGER has commented that: -

Drawings showing all new footpaths, cycleways, road structures and road to be offered for adoption require to be provided by MFA and tabled for technical approval.

Drawings of all bridges and road structures will require technical approval and should be provided by MFA and tabled for technical approval.

The applicant must take due care to protect any existing roads' storm water outfalls and shall make good as necessary. This includes the flood warning station at the Community Centre, Trinity Road and any new works will require technical approval.

Detailed construction drawings shall be provided by MFA for technical approval to show all works required to raise the level of the road at the Leisure Centre leading to the bailey bridge, and the proposed turning hammerheads at Grampian Road and at Brewery Bridge.

Prior to commencement of works on the section of the Elgin FAS at Grampian Road the statutory procedure for stopping-up Grampian Road under Section 207 of the 1997 Planning Act (drawing 9181 refers) must be completed to the satisfaction of the Council, as planning authority. The applicant is reminded that if the Order is prepared under planning legislation, they should allow 6 months after permissions awarded, assuming no objections, which would add to the time period required.

In accordance with the approved Traffic Management Plan, all traffic regulation orders, temporary or permanent, required as part of the Elgin FAS shall be prepared in advance of the commencement of works and road opening permits must be obtained from Moray Council Direct Services prior to carrying out any works on the public road.

The Traffic Management Plan shall be submitted to the Transportation Manager for approval prior to commencement of the works for the Elgin FAS. The Plan shall be prepared on the findings of Chapter 15 of the ES and take into consideration all issues raised in Table 15.6.

Full details of the proposed access arrangements from the public road to the temporary site compounds including provision of appropriate visibility splays and any minor works to accommodate vehicle manoeuvres shall be provided as part of the Traffic Management Plan

Route inspections with video records must be carried out by the applicants prior to any work commencing and after the completion of the works. Damage attributable to the works traffic will have to be made good by MFA

Provision will be made for the cleaning of vehicles used for the haulage of materials to the satisfaction of the Roads Authority such that mud, dirt and debris is not carried onto the public road

As part of the Traffic Management Plan, in the event of hauled materials being deposited onto the public road, the applicant will respond to remove the material in accordance with the agreed procedure in line with Section 95 of the Roads (Scotland) Act 1984

The haul route as shown on Drawing MFA558/15.3 via Jock Inksons Brae shall be re-routed via Bow Bridge subject to a satisfactory structural assessment of the bridge.

Haul routes and road changes as a result of the construction which require temporary stopping-up or temporary road closure orders must be discussed in sufficient time to be

set up. Discussion should take place at an early date with the Moray Council Traffic Section.

Contact details have been provided to MFA identifying personnel involved in specific traffic aspects associated with the development.

TRANSPORT SCOTLAND - TRUNK ROADS NETWORK MANAGEMENT has commented that -

Details of proposed routing, access to site, timings of deliveries and anticipated delivery rates for construction traffic to undertake the works shall be submitted in advance of the start date to the operating company, BEAR Scotland.

SCOTTISH NATURAL HERITAGE has commented that: -

See consultation response (including appendices) date 17 June 2008. This includes an appraisal prepared by SNH regarding the impacts of the Elgin FAS upon Loch Spynie SPA, which concludes that whereas the potential effects on Loch Spynie SPA could constitute a likely significant effect, the conservation objectives for each of the qualifying interests are likely to be met and there would be no adverse impact on the integrity of the site

In addition the response includes information and advice, including legislative requirements for protected species, both European Protected Species and national and local interests, and indicates that licences for otter and possibly, bat will be required from Scottish Government before any works can commence.

Appendix 4 includes requirements for conditions to overcome SNH's objection to the Elgin FAS. The Applicant's attention is drawn to the various advice provided, including the information and details that should be considered/provided in the submission of Construction Method Statements, the EAP, etc for otter, bats, and water vole, salmon and sea trout (salmonids) and the aquatic environment, birds, and badger interests. This includes specific measure to minimise impacts on local populations of these species

In relation to freshwater pearl mussels, SNH draw the Council's and the applicant's attention to the strict protection afforded to this species and the developer's duty to ensure that the Elgin FAS work does not disturb or harm freshwater pearl mussels. In advising of the protection afforded, SNH expect the developer/MFA to be aware of this protection afforded to the species and of the need to carry out pre-construction surveys in areas that could afford potential habitat for mussels and incorporating precautions to protect salmonids and salmonid habitats (to be addressed in the required statements/plans) should afford protection for this species.

SEPA has commented that: -

See consultation response dated 19 August 2009 where requirements for further information and outstanding issues on potential groundwater impacts, hydrogeology and water course engineering are to be addressed during separate authorisation procedures i.e. CARs and for reference to further details on regulatory requirements and

good practice advice which can be found on SEPA's website, and for further formation, to contact the local SEPA office

SCOTTISH & SOUTHERN ENERGY has commented that -

See consultation response dated 28 January 2008 requiring all works to be carried out in accordance with health and safety guidance and for positive steps to manage the risk works in proximity to the transmission line.

SPORTSCOTLAND has commented that: -

The works will result in the overall level of flood waters in Cooper Park being lowered. In order to ensure the playing fields can be used as much as possible it would be beneficial for increased maintenance to be arranged following flood events. As there will inevitably be some disruption caused to local sports groups and the community during the construction period, specific efforts are made to minimise disruption to sports pitches during the construction period in order to allow competitive games to continue