

## APPENDIX 5

### PLANNING CONSULTATIONS

**Building Standards Manager, Development Services** – Proposals largely exempt as works of ‘civil engineering construction’. However, Building Warrant required for pavilion and public conveniences and Demolition Order required for demolition of existing buildings including the pavilion, Burgh Chambers, and the residential property.

**Environmental Protection Manager** - No objections having been assured that a standard football pitch can still be accommodated and that the play area will be professionally removed and re-instated. The Service has been consulted during the design process to ensure facilities are considered.

**Environmental Health (Contaminated Land)** – At the time of writing this report, various reports are being considered and there have been omissions in the actual intrusive investigation procedure. From a contaminated land perspective, the application should only be granted once the Council’s Contaminated Land Section has been supplied with sufficient information to determine the nature, extent and potential impacts of any contamination and should contamination be identified, the Section has approved the details of appropriate remediation measures.

**Environmental Health Manager, Development Services** – Approval recommended subject to conditions and informative, the latter to ensure that sources of vibration and dust associated with the construction period are monitored and mitigated to prevent statutory nuisance. Conditions are recommended regarding:

- construction work and vehicle movements only to be permitted between 08.00 – 18.00 hrs, Monday – Saturday and where exceptional circumstance, outwith these normal working hours subject to prior permission
- Noise emissions from plant and machinery during night-time period construction activity not to exceed NR Curve 25 between 23.00 – 07.00
- Noise sensitive property subject to “major adverse” impact to receive mitigation by additional noise screens
- Noise screens to be provided at compound (Station Mews/Station Street)
- Separate acoustic assessment to be made for demountable pumping equipment.

*(Note: the applicants consultant’s has submitted information on the locations and type of acoustic barriers for consideration. If changes in construction methods or type of plant require changes in location or type of barrier, the consultants will notify and agree changes)*

**Scottish Water** – There are water and wastewater assets in the area affected by the proposed development and it is essential that they are protected from the risk of contamination (see list of general precautions provided: these are required to ensure assets are protected from contamination and damage, include submission of detailed method statement and risk assessment to be provided, etc.) Discussion has taken place regarding the impact of the scheme and there is physical conflict with the existing water and sewer network that may occur due to scheme construction. Where flood structures are to be constructed over Scottish Water infrastructure there will be a requirement for protection or diversion and discussion on the detail of this is on

going. However, the impact on hydraulic performance of existing Scottish Water surface water discharges has not been addressed in the EIA report. Further discussion is required on the effect of changing the top water levels of the water courses as this could impact on performance of the existing surface water sewage system that discharges to these water courses e.g. if existing outfalls are covered and sewer does not have enough head to open any non-return device what happens to surface water being collected in the Scottish Water system?

**Transportation Manager, Direct Services**– No objections subject to suggested conditions:

- Prior to commencement of work to remove existing Station Street bridge, a Stopping-Up Order be promoted and effected, with all costs met by the applicant;
- Prior to commencement of work to remove existing Station Street bridge, a turning facility be provided at the end of Station Street to the south of the burn to an agreed design and specification;
- Up-grading/overlay of public road serving Caperdonich Cottages (Caperdonich Road) shall be to an agreed written specification;
- All footbridges and approaches shall comply with appropriate disability discrimination legislation;
- The Traffic Management Plan shall be revised as appropriate, in consultation with Transportation, the police and the general public, with written approval of individual sections of the Traffic Management Plan obtained prior to implementation of each individual section of works.

*(Note: the applicant's consultant submitted a draft copy of the Traffic Management Plan to the Transportation Section on 13 August 2007 and is to submit details of the required turning area and a request for stopping up order)*

**Scottish Executive Trunk Road Network Management Division (TRMND)** – No comment. The proposed development represents intensification in the use of the site and may increase associated traffic on the local road network. However, the percentage increase in traffic is such that the proposal is likely to cause minimal environmental impact on the trunk road network. (Note: response issued by JMP Consulting as term consultants on behalf by TRMND)

**Scottish Executive** – In relation to the Scottish Ministers' responsibilities for water supply, water protection, sewerage, flood protection, coastal protection, waste disposal, soils, air quality and noise: it is noted that the most significant impacts during construction are disturbance to local community and business, disruption to traffic in Rothes and noise and vibration associated with the construction process. In addition, the proposed development is within the catchment of the River Spey, designated as a salmonid water under the fresh water Directive and requires certain, mainly chemical standards to be met for the quality of water. *(Note: Although the correspondence indicates separate responses from countryside and natural heritage may be expected, no further responses received).*

**Historic Scotland** – No comments to offer on planning application in terms of the principle of the development. In relation to the ES, the new drainage ditch planned to west of Rothes Castle will not have adverse effect on the setting of this scheduled ancient monument (SAM) provided it is no closer than 20 m from the western edge of the scheduled area. It is not clear what proposed landscaping and use of the area between the drainage ditch and the monument will be following construction. If the area was to be incorporated into the public park as open space and the post and wire fence currently running along the western boundary was removed this would represent a positive improvement to the setting of the monument and the Council is encouraged to consider this. In connection with the execution of the works, it is recommended that the

eastern limit of the site boundary be drawn back from the boundary of the scheduled area and that the monument is cordoned off from the area of works prior to commencement, to avoid any accidental damage to the monument. The site compound should be relocated, as its juxtaposition to the scheduled area will increase the risk of accidental damage to the monument.

*(Note: the applicant's consultant has advised that the new channel is over 20m from the SAM boundary. The current landowner is understood to wish the Council to purchase the land between the channel and the SAM. If this occurs then the area could be used to extend the park but if ownership remains as at present, the area will continue as farmland and the fence lines would remain. A (temporary) fenceline will delineate the construction compound located at least 2m off the existing fence. The compound location is the only suitable area available within the application site boundary).*

**Regional Archaeologist** – It has already been agreed that a continuing programme of archaeological work be carried out in agreement with the Archaeology Service, based upon the previous watching-briefs that have been undertaken so far. To safeguard and record the archaeological potential of the area, a condition is recommended that no works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted/approved. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the local authority.

**Scottish Natural Heritage – OBJECT** to the proposed development unless it can be made subject to conditions to overcome SNH concerns. The proposal is likely to have a significant effect on the qualifying interests of the River Spey SAC/SSSI designation. However, if the proposal is undertaken strictly in accordance with the following conditions, then it will not adversely affect the integrity of the site:

- The submission of an Environmental Action Plan (EAP) and the Sediment Management Plan (SMP) to be provided and agreed in writing, in consultation with SNH and thereafter the agreed plans are fully implemented.
- The submission of details to remove or make passable the obstacles to fish passage that have been identified within the ES, to be agreed in writing with the Moray Council in consultation with SNH.
- A licence is obtained to destroy the inactive and possible resting sites on the back burn.
- The EAP contains measures for making work sites safe for mammals at the end of each day. This method statement will form part of the EAP.
- A licence should be obtained to destroy the public toilet roost. The applicant will carry out further survey work to check whether the roost is in use prior to demolition. However, because the bat species was found there during July, it could be assumed that there would be less likelihood of the bat being present during the winter months (when bats will be hibernating) and demolition under licence could be done between end of October and April/May without risk of bats being present. If the roost is checked during the summer months and no bat is found it could also be demolished during the summer months.
- Although no roosts were identified in any trees to be felled, it is still difficult to thoroughly check all trees that have potential for roosts. Felling is likely to be scheduled for between August and March to avoid the breeding bird season. Bats however hibernate from end of October to April/May, are very vulnerable to disturbance during hibernation and can use trees to hibernate. Any felling of trees with good potential for roosting bats should be outwith the period when bats could be hibernating. These trees are to be soft felled under supervision of a licenced bat worker. If bats are found when they are active, they would be

able to fly away or be placed somewhere safe with a higher chance of survival than if they have been disturbed from hibernation. The best time of year to fell high risk trees would be May/June when there is little risk of any heavily pregnant females or young being present. During the breeding bird season, the trees need to be thoroughly checked for signs of nesting birds. All other trees should be felled autumn/winter time to avoid breeding bird issues.

- If bats or signs of bats are found at any time during the whole project in areas where they were previously unknown (survey work had not picked them up), all work in that area should cease immediately and SNH should be contacted for advice.
- The majority of tree felling can be carried out outwith the breeding bird season (i.e. felling should be carried out during August – March).
- Any areas of work commencing during the breeding season that could affect breeding birds should be checked thoroughly for signs of any birds prior to work commencing and if signs are found work should not start and SNH should be contacted for advice.

The consultation response also notes that the Moray Council is required to undertake an appropriate assessment of the implications of the proposal for the site upon the River Spey SAC's conservation objectives for its qualifying interests. This assessment may be based on the appraisal by SNH (as included with the consultation response) but the Council may wish to carry out further appraisal before completing the appropriate assessment.

The direct impacts on the watercourses bring with the scheme many risks of impacting upon natural heritage interests. The proposal is the best possible option to alleviate flooding in Rothes from these burns and affects many very important natural heritage interests including the River Spey SAC, otter and bats as European Protected Species. There will also be many impacts on local interests such as bird life and aquatic invertebrates. As regards mitigation measures that can be implemented, SNH and SEPA will be given a role in discussing and agreeing these in detail through the development of the EAP and SMP. SNH welcomes this to further address any possible concerns. The local population dynamics of otters and bat species would not be adversely affected nor would there be a significant impact on breeding birds. The felling of trees will have a short-term impact but there are significant amounts of suitable woodland habitat in the area to absorb any displaced species. The planting of native species of local provenance would be a benefit in the long-term by providing habitat for foraging and breeding.

**Scottish Environmental Protection Agency – (Response, 7 August 2007) – OBJECTION** maintained but provided the two reports on are satisfactory, SEPA will be in a position to withdraw all remaining objections. The reports relate to possible flood risk impacts on downstream areas and an explanation of the design in terms of geomorphological processes i.e. how each element of the design improves the sediment continuity and the impact of this improvement on the Burns, including the downstream reaches and especially the confluence with the River Spey. (*Note: Information will be forwarded to SEPA for further consideration*).

SEPA withdraws its objection to the scheme in relation to non-water body dependent ecology and biodiversity. Subject to a condition requiring that no development commence until a construction phased waste management plan is provided to the satisfaction of the Council in consultation with SEPA and requiring that works on site are undertaken in accordance with the plan, SEPA removes its objection on waste management issues.

(*Response, 11 May 2007*) - The ES is of good quality and addresses many issues of concern which have been raised in pre-application discussion and correspondence. In accepting the need for a scheme SEPA is broadly satisfied that the high level options appraisal has been undertaken

satisfactorily and the chosen strategy of combine setback and constrained flood defences is the most appropriate in this case. However, SEPA OBJECTS until the following issues are resolved to SEPA's satisfaction:

**Geomorphology** - objection based on concerns about the impact of the scheme on sediment transport and burn stability, in particular SEPA requests the applicant clarify why each element of the design is required; why the particular structure and materials were chosen; alternatives considered; what is the anticipated impact on the local sediment regime and wider scale morphology; and that SEPA be provided with a copy of the results of the sediment modelling prior to determination. (*Note: information was provided to SEPA on these matters but as noted above SEPA have requested for further information*)

**Flood Risk** – objection based on requirement for further information to be provided prior to determination together with the results of modelling regarding the potential increased sediment load to the River Spey which could affect the hydromorphology and conveyance of the major river; the effect of this scheme once the storm waters have been contained through Rothes, in particular information on whether there is any increased flood risk to properties downstream of Rothes; and confirmation that the increased peak flows does not increase flood risk to those properties along the lower Spey valley, north of Rothes. SEPA also advise that if the planning authority proposed to grant permission contrary to the advice on flood risk the application must be notified to the Scottish Ministers.

**Ecology** - objection based on the conclusions in the ES of residual impact on species and habitats which are overly optimistic and require further justification, in particular evidence for the reduction in fine sediment input in relation to the number of long-term minor or moderate beneficial impacts identified as arising from the scheme; the stated minor beneficial effect arising from the removal of vegetation as it is not clear how the removal of approx. 1000 mature trees will be directly mitigated by the planting of young trees in terms of biodiversity benefit from a mature habitat; and the minor beneficial operational impact on bats and birds after tree planting when the number of trees will remain the same and will not mature for a number of years.

**Waste Management** – objection based on requirement for further information to be provided, prior to determination, about how construction practices will minimise use of raw materials and maximise the use of renewable materials; and how any waste material generated by the scheme will be dealt with

SEPA also OBJECTS unless a planning condition is imposed requiring detailed method statements be produced for all aspects of site work that might impact on the environment, containing further preventative action and mitigation to limit these impacts to be agreed prior to commencement works on site (not just those regulated under CARs). (*Note: SEPA were advised that a condition regarding the submission of a final EAP would be included, allowing them an opportunity to consider the statements prior to approval*)

**Health & Safety Executive** – No comment. EIAs are concerned with projects likely to have significant environmental effects whilst HSE's principal concerns are the health and safety of people affected by work activities.

**SSE Power Distribution** – No objections provided works carried out in accordance with relevant legislation as several overhead lines pass over the working sites and all works in

proximity must be carried out in accordance with relevant health and safety guidance note GS 6. Excavations required for the scheme are also in the vicinity of underground cable network and all works in proximity must be carried out in accordance with relevant health and safety guidance note GS 47. Prior to works commencing discussion and agreement on method statements required

**sportscotland** – No objections to proposed development. The football pitch in Rothes Park will be affected temporarily by the construction works and re-instated using Type 1 sports turf. The pavilion to be demolished to accommodate the works will be replaced by a new pavilion adjacent to the re-instated pitch.

**Spey Fisheries Board** – Given River Spey SAC and SSSI status, and to avoid any adverse impact on salmon during their spawning period, no in-river works should be carried out in the River Spey or its tributaries between beginning October – end May each year and all in-river works must be carried out in accordance with SEPA guidelines on working in or around watercourses. Whilst appreciating consideration and consultation undertaken in preparing scheme, implications on the work to be carried out must be pointed out.

**Developer Contributions** – following assessment, no contributions identified.

**British Gas** – *At time of writing report no response to consultation received.*

**Local Bio-diversity Co-ordinator** – *At time of writing report no response to consultation received.*

**Rothes Community Council** – *At time of writing report no response to consultation received.*