

# **Refusal of Planning Permission Appeal Statement June 2021**

**Planning Ref: 20/00474/APP**

**Demolish existing service station and garage erect retail unit light industrial unit and 2no blocks of residential flats at Hopeman Service Station Forsyth Street Hopeman Elgin**

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## 1.1 INTRODUCTION

- 1.2 This Appeal Statement is submitted by Springfield Real Estate Management Ltd in support of our appeal against the decision of Moray Council to refuse planning permission for **the demolition of an existing service station and garage and the erection of a retail unit, light industrial unit and 2no blocks of residential flats at Hopeman Service Station, Forsyth Street Hopeman, Elgin.**
- 1.3 This appeal has been submitted under Section 43A of The Town and Country Planning (Scotland) Act 1997 (as amended). We can confirm that this appeal has been lodged within the prescribed three month period from the date of refusal of the application (ref: 20/00474/APP) dated 30<sup>th</sup> March 2021.
- 1.4 This statement provides a description of the subject site and proposals, it is important to note that the application was validated prior to the adoption of the Moray Council Local Development Plan 2020. **Therefore, the proposal and the principles behind it were based on the Moray Council LDP 2015 (adopted 31<sup>st</sup> July 2015) and the information available in relation to this LDP – considered current.** Although this statement of appeal outlines the relevant development planning policies of the LDP 2020 as noted in the refusal notice, (PP1, PP3, DP1, DP5, DP7, EP3, EP12) it should be considered that these policies had not yet been adopted, with many of the documents referred to not available to the public via the Moray Council website. No copies of any related policy information were communicated via email.
- 1.5 This statement outlines material planning considerations and sets out the associated grounds for appeal. A notice of review was submitted in line with the method of appeal as noted in the letter of refusal.
- 1.6 All necessary reports requested during the planning period were prepared and submitted in support of this application and are available. Reports include:
- Retail Statement
  - Transport statement
  - Noise Impact Assessment
  - Road Safety Audit Stage 1 & 2
  - Drainage Impact Assessment
  - Flood Risk Assessment
  - Bat Survey

Within these reports, and subsequent revisions to respond to points raised from Moray Council, the points raised within the refusal have been answered in significant detail and will be further evidenced within this statement.

## **2.0 REASONS FOR REFUSAL & CONTESTING INFORMATION**

### **2.1 Moray Council Point 1:**

The proposal would introduce non-compliant uses (flats and retail) onto the Hopeman I1 site which is protected for business uses. There is no need for additional housing land in Hopeman as there are two housing sites identified in the Local Development Plan and no shortfall in the effective housing land supply. The proposed uses would lead to a loss of employment land within the village resulting in the loss of effective employment land from Hopeman and jeopardising the future development of the rest of the Hopeman I1 designation contrary to policy DP5 and Hopeman I1.

#### **2.1.1 Supporting Information to Contest Point 1**

##### ***DP5 Business & Industry (f) Areas of Mixed Use***

*'will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided.'* Moray Council LDP 2020

The proposals set out in this report are intended to offer a mixed use development that we feel has been carefully considered, one that we feel has the best chance of success given that precedent shows this area is unlikely to thrive if developed solely for business use. Also of particular significance to the consideration of this application is the fact that the adopted LDP does not identify a town centre or other retail policy designation in Hopeman or the other settlements that fall within the catchment of the proposed store (i.e. Cummingstown and Duffus). On that basis, as there is no town or other centre within either Hopeman or elsewhere in the catchment, which are afforded protection by planning policy, Policies R1 and R2 of the adopted LDP are not applicable to the consideration of this application.

The site is immediately next to residential. The proposed residential element is not significant with only 8 dwellings, however would bring a renewed sense of community and place to the area. Something which is particularly dominant within the Scottish Government National Planning Framework and within Moray Council's own Local Development Plan. The retail element is a small footprint and should not be viewed as a large scale commercial entity, rather, a far smaller retail outlet, which will offer residents an accessible option by foot or cycle preventing unnecessary travel to the larger surrounding towns offering a far greener solution. In refusing this application, it removes substantial employment opportunities and quality affordable housing.

The Town and Country Planning (Scotland) Act 1997 (as amended) requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise. Material considerations are not defined statutorily. Examples of possible material considerations are set out in an Annex to Scottish Government National Planning Framework 3 and include Scottish Planning Policy, the benefits of the environmental impact of a proposal and its design and its relationship to its surroundings.

### **Scottish Planning Policy**

Scottish National Planning Framework 3 (NPF 3) sets out the spatial expression of the Government Economic Strategy, and plans for infrastructure investment. It is about ambition to create great places that support sustainable economic growth across the

country. It contains a presumption in favour of development that contributes to sustainable development attributing due weight to net economic benefit, the delivery of housing and the efficient use of land and infrastructure. It continues to promote sustainable economic growth and places a renewed focus on enabling high-quality development to create vibrant, prosperous and sustainable communities. The delivery of new homes is given significant prominence with the provision of adaptable, well-designed and good quality housing seen as essential to contributing to successful place making.

NPF 3 suggests that innovative and flexible approaches will be required to deliver affordable houses in suitable numbers. It reiterates, that 'All of our people are entitled to a good quality living environment.' The population of Scotland is expected to rise from 5.31 million in 2012 to 5.78 million in 2037. The population is ageing, particularly in rural areas and household sizes are getting smaller: 2010-based projections indicate that we will have 2.89 million households by 2035, an increase of 23%, it is also of extreme importance to recognise the impact of the last 18 months and the impact of the Covid-19 pandemic and a significant jump in individuals relocating to more rural settings.

NPF 3 is focused on Scotland making best use of their assets providing a sustainable future, again with uncertainty over jobs and employment and the long term effects of the last 18 months uncertain, we must review different approaches, in particular the flexibility of a mixed use development which offers an alternative to a singular designation of land.

NPF 3 calls for the creation of walkable places with well-designed streets that link our open spaces and wider active travel networks, thus improving health and well-being. It is evident that the proposals improve and promote both walking and cycle routes and introduce landscaping and biodiversity to a current brownfield site.

### **Employment Opportunities**

In reference to the Scottish Government national planning Framework 4 (Planning for Scotland in 2050), it notes:

*“LDPs should allocate a range of sites for business, taking account of current market demand; location, size, quality and infrastructure requirements; whether sites are serviced or serviceable within five years; the potential for a mix of uses; their accessibility to transport networks by walking, cycling and public transport and their integration with and access to existing transport networks.”*

The proposed store will support approximately 5 full time & 16 part time employees. In addition to this, it is intended the proposed industrial unit could employ an additional number of staff from 2-5. The site is 0.67 acres, this arguably creates significant employment numbers which would be unlikely to be achieved with an industrial building(s) only.

### **The Impact of Covid-19**

Given the current situation and the the impact of Covid -19, employment opportunities now are more critical than ever. On 3<sup>rd</sup> September 2020 The Scottish Government published an independent report: Internal migration in Scotland and The UK. This article notes the no of people migrating to the UK far exceeds those departing. It also notes the no of people relocating from cities to more rural locations is growing considerably. These factors should be taken into account and the housing figures re-

evaluated.

### **Previous Use**

Planning application reference 16/01799/APP was for development on part of the current application site, and the Report of Handling associated with that earlier application states that in January 2017 parts of the application site were used for storage and car sales by third party. Taken together, this confirms that the application site has an established use profile that includes petrol and car sales, both of which are roadside uses which attract vehicular traffic, thereby meaning that the site is affected by activities which result in the site having a commercial character. These established uses will have had and do have impacts by way of vehicle movements and associated noise etc, and this contributes to the established character of the site and it's surroundings.

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## **2.2 Moray Council Point 2:**

The application has failed to demonstrate that the proposed retail unit will not adversely impact on the distinctive character or vitality and viability of Hopeman contrary to policy DP7

### **2.2.1 Supporting Information to Contest Point 2**

#### **No Town Centre**

The adopted LDP does not identify a town centre or other retail policy designation in Hopeman or the other settlements that fall within the catchment of the proposed store (i.e. Cummington and Duffus). On that basis, as there is no town or other centre within either Hopeman or elsewhere in the catchment, which are afforded protection by planning policy, Policies R1 and R2 of the adopted LDP are not applicable to the consideration of this application.

#### **Greener Methods of Travel**

Within DP7 Under Section b) Outwith Town centres the LDP states that proposals must demonstrate that Brownfield or OPP sites can be made easily accessible by pedestrians and public transport, this has been evidenced on the proposed site plan and within the transport statement. The proposals enhance both pedestrian and cycle routes, creating a safe crossing on Forsyth street and a safe route to navigate through the site. A bust stop directly adjacent ensures the site is easily accessible for any individual using public transport. In addition bicycle storage has been included and would encourage greener methods of travel.

We have provided evidence within the retail statement that the proposals provide a sustainable approach providing amenities not currently available within Hopeman reducing the need for residents to travel to Elgin or Lossiemouth. This will undoubtedly reduce the number of cars having to leave and enter Hopeman to travel for certain produce.

#### **Materials**

Undersection 8.0 – Site Photographs evidence is provided that many of the buildings adjacent and neighbouring the site have material palettes which are distinctly contrasting to the context identified within policy DP7

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### **2.3 Moray Council Point 3:**

The design of the proposed retail unit and in particular the lack of a strong road frontage is not considered to be of sufficiently high design standard to fit with the distinctive character of Hopeman or create a strong sense of place. The proposal would be detrimental to the Burghead to Lossiemouth Special Landscape Area and contrary to policies DP1 (i)(a), PP1 (i) and EP3.

#### **2.3.1 Supporting Information to Contest Point 3**

All of the elements, residential, retail and industrial have been designed to maximise solar gain with the frontal elevations North facing, with residential gardens to the south and the glazed frontage of the retail element designed to prevent overheating. All roofs are pitched to ensure renewables can easily be incorporated. Materials particularly for the retail unit with the most dominating road frontage have been selected to reflect many of the buildings within Hopeman and adjacent to the site. Evidence of this is further demonstrated within Section 8.0 of this statement.

The site is currently a brownfield site, in a serious state of dilapidation and disrepair. There have been no other applications for this site. Currently there are no landscaped areas within the site, and our proposals seek to introduce elements of landscaping within the development acting as screening for the residential element with incorporated amenity space to the rear promoting health and well-being. This site is not covered by a CAT policy or an ENV policy.

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### **2.4 Moray Council Point 4:**

The application has failed to demonstrate satisfactory arrangements in relation to access for vehicles or pedestrians, access visibility, access to public transport, suitable crossing to the site or adequate servicing arrangements for any part of the development giving rise to conditions that would be detrimental to road safety contrary to policies PP3 (a) (iii) and DP1(ii) (a & c).

#### **2.4.1 Supporting Information to Contest Point 4**

##### ***Access for Vehicles***

A formal junction has been created into the site where currently one does not exist, cars enter the site and leave without clearly identifiable access and egress points.

##### ***Access for Pedestrians***

Site Layout Drawing No. L-003 clearly identifies a pedestrian route with pedestrian crossing points on Forsyth Street easily identified and crossing points within the site also clearly annotated.

##### ***Access Visibility***

Site Layout Drawing No. L-003 was prepared and submitted in support of the application. This drawing clearly shows visibility splays and provides evidence that they meet the requirements of design criteria outlined in Designing for Streets/Moray Council guidelines.

##### ***Access to Public Transport***

Several bus services serve the community of Hopeman, a bus stop directly adjacent to

the site has been clearly noted on drawings. As the site is located directly on Forsyth Street, the site is quite clearly easily accessible by public transport.

### ***Pedestrian Crossing***

A stage 1 and stage 2 road safety audit has been prepared and submitted with the planning application on the 18<sup>th</sup> January 2021. A road safety audit brief was provided by SREM in the form of an instructional email to Drummond Black Consulting containing design drawings, street engineering review and a Transport Statement. It is not general practice of TMC to approve the audit brief and audit team prior to an audit, however the audit was considered acceptable, as qualification criteria and process of national standard had been followed. The Audit Team accepted the brief. Several points were raised and resolutions were noted. On receipt of the audit, all points were addressed and changes implemented, ensuring road safety was acceptable.

A proposed crossing on Forsyth Street has been clearly shown on all drawings. This is enhanced by the implementation of safe crossing points throughout the site. The site currently has no formal pedestrian route along Forsyth Street and there is currently no formal junction into the site.

The nature and size of this development meant it does not require any specific traffic calming. The parking access road will naturally provide traffic calming.

### ***Servicing Arrangements***

Vehicle Swept Path Layout Drawing NO. 110045/401 and 15424-1002. This drawing was prepared and submitted in support of the application. The swept path analysis was checked for Refuse Vehicle and Fire Appliance vehicle types providing evidence that both vehicles can enter the site.

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## **2.5 Moray Council Point 5:**

The application has failed to demonstrate that drainage from the proposed retail service bay can be dealt with in an acceptable manner contrary to policies DP1 and EP12

### **2.5.1 Supporting Information to Contest Point 5**

Policy EP12 suggests that any new development will not be supported if it were to be at significant risk of flooding or to materially increase the risk of flooding elsewhere. A Level 1 Flood Risk Statement provided by Envirocentre and submitted on 25<sup>th</sup> June 2020 provides significant evidence that the site is not at risk of flooding or to increase flood risk elsewhere.

Surface water from the service bay appears to be of particular concern, it is to be collected within the proposed channel drain. It then discharges into the porous paving providing the two levels of treatment required. By discharging into the new developments drainage it is being attenuated prior to discharge.

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## **2.6 Moray Council Point 6:**

The application has failed to provide parking bays of sufficient size or number to comply with Moray Council parking standards contrary to policy DP1 (ii) (e).



## 2.6.1 Supporting Information to Contest Point 6

Noted within the Building Standards regulations (non domestic) 2020 - 2.4x4.8m is accepted as a standard bay size. This is also the size note within the parking standards UK guidance and is the common size used throughout Scotland on various new developments. The latest 2020 standards state 2.5x5m min, this information was not published at the time of submission.

### **RETAIL:**

The parking standards used at the time stated a max. of 6 parking bays per 100sqm for the retail unit, however, no minimum is given. Our proposals achieved 16 standard, 2 disabled, 2 EV and 2 motorcycle. The latest guidelines state we require a min. of 6 bays per 100sqm, however The floor area of the retail unit is less than 400sqm therfor 72 should not equate to 6 full bays. The standards state the min. requirement is either 5.75 (larger settlement) or 6.0 bays (other settlement) per 100sqm. It does not state 'or part thereof' as is normally the case.

This means that parking should be reduced from 23 (Moray Council requests) to 17 spaces (based on 5.75).

Please refer to the Transport Statement (Section 2.16) which notes:

*“However, given that some of the residential parking will be vacant during key retail demand periods, it is not considered necessary to apply the full food retail parking requirement to the site given the potential for shared use.*

*Co-op who are the likely tenant of the proposed unit, are comfortable that the proposed provision is sufficient to accommodate demand based on knowledge of operations at similar sized stores in areas with compatible characteristics. Given the remote location of the store, the proposed unit includes a larger storage area than would be standard, as such applying the full parking ratio to this area is onerous.*

We should also emphasise that under Scottish Government legislation, we are providing cycle bays and improved pedestrian routes encouraging greener travel and this should be recognised.

### **RESIDENTIAL:**

The original standards state 2 spaces per 2 bed flat, plus 1 visitor per 4 flats – giving a total of 18 bays. Our layout achieved 17 standard and 1 disabled. The latest guidelines state we need 1.5 spaces per flat – with 12 provided, we have over achieved the desired number.

### **INDUSTRIAL**

No comment on number of spaces provided/ required.

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## 2.7 Moray Council Point 7:

The application has failed to provide adequate provision of Electric Vehicle Charging contrary to policy PP3 (a) (iv).

### 2.7.1 Supporting Information to Contest Point 7

We feel it is completely unrealistic to ask the client to provide full detailed design of EV charge points and cable locations at planning stage. The expense incurred in appointing a specialist to do this is not viable nor is this ever requested by any other council. Additional

supporting information could easily be conditioned. The drawings provided show the proposed locations of the charge points. A specification for the charge points was also submitted via email to Moray council on 31/08/2020.

PP3 (a) (iv) states that car charging points must be provided to all commercial and residential facilities.

**RETAIL:**

The standards require we provide 1 EV point per 10 spaces.

Our layout provides 2 EV charge points and there are 20 non-EV bays in total (16 standard, 2 disabled, 2 motorcycle).

**RESIDENTIAL:**

The standards require one future connection per flat.

Our layout provided 8 future connections – one per flat.

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### **3.0 SITE DESCRIPTION**

3.1 The Site extending to 0.67ha, is currently a brownfield site located South of Forsyth Street (B9040) The Northern edge of the boundary is bound by this road which is the main route through the town from Lossiemouth in the East towards Burghhead. On the site is a portakabin and a small single storey garage, both are in a serious state of disrepair.

3.2 Adjacent to the site, on the opposite side of Forsyth street, it is lined with residential property, this is mixed with single storey terraced sandstone cottage dwellings which have undergone refurbishment and now bore painted white render fronts, with upgraded slate roofing alongside detached bungalows with a more modern palette and a large detached sandstone dwelling, which consists of slate roofing and timber windows and doors

3.3 Part of the Eastern boundary from Forsyth Street to within 1/3 of the site is bound by a block work wall (bearing no historical significance), which leads to the edge of an existing industrial unit, changing to kerbing which leads towards the rear of the site.

3.4 Beyond the eastern boundary line, is a business premises, currently occupied by Tulloch of Cummings, this building looks almost residential in appearance, and is more modern than the sandstone residential properties on the opposite side of Forsyth Street.

3.5 The Western Edge is bound by a sandstone wall leading to an existing traditional stone front house, this runs approximately  $\frac{3}{4}$  of the way towards the back of the site, with hedge planting along the remainder of the boundary. It is proposed that both shall remain untouched.

3.5 Bounding the South edge of the site is a telephone exchange, which is in poor condition with spalling render, decaying metal doors and dilapidated roof.

### **4.0 PROPOSAL**

4.1 Planning permission is sought to erect 2 blocks of flats, a retail unit and a light industrial unit. The proposed flats are towards the southern boundary, concealed in behind the proposed retail and industrial units to ensure the single storey elements are less intrusive along Forsyth Street. A landscape strip is proposed in

front of the flats to further screen from the retail/ industrial units and Forsyth Street beyond.

- 4.2 The proposed housing would be finished with a materials palette of white dry dash roughcast with sections of Caithness stone, larch cladding and grey roof tiles. The same material palette is intended for the retail and industrial units. Designated Parking is proposed for the flats, however it is intended that the parking for the retail element would serve as overspill parking as it is without doubt the no of spaces provided will never be at 100% capacity. (Refer to retail statement for evidence).
- 4.3 Amendments were sought by Moray Council and agreed by Springfield to amend materials, provide bin stores, cycle bays, all of those requestes were met and incorporated within the design. One week prior to the refusal notice being issued, a request for bird boxes was made. Pre application discussions were undertaken throughout the planning period and
- 4.4 The scheme allows for improved pedestrian routes, improved cyclepaths, improved green space, and improved crossing and traffic management on Forsyth Street
- 4.5 The proposals were prepared with pre-application discussions undertaken with officers over a period of time. Ammendments were requested and incorporated this was right up until the point of refusal.

## 5.0 DEVELOPMENT PLAN POLICY

### Other material considerations

The Moray HNDA found that 424 units of affordable housing will be required each year, for the next 10 years to meet housing need. The HNDA sets out that the Elgin HMA (Housing Market Areas) itself needs 192 houses every year but currently has a limited supply therefore there is a clear and recognised shortfall. With overall low annual completions it is very unlikely that the total number of affordable homes required will be delivered unless more dedicated 100% affordable sites similar to this one come forward. Further in reference to the NPF 3 suggests that innovative and flexible approaches will be required to deliver affordable houses in suitable numbers. It reiterates, that 'All of our people are entitled to a good quality living environment.' The population of Scotland is expected to rise from 5.31 million in 2012 to 5.78 million in 2037. The population is ageing, particularly in rural areas. This needs to be addressed now, and areas such as Hopeman are crucial to develop supply for demand.

- 5.0 The LHS points to a '*significant shortfall in availability of affordable housing.*' It goes on to state that '*the resources available to the Council and its partners will be the key determinant of the number of affordable houses that can be delivered in Moray during the lifetime of the LHS*' and that '*the resources for new affordable housing supply in Moray have declined significantly since 2011 and are likely to be subject to ongoing constraints.*' Local authorities and Registered Social Landlords clearly require to look towards partnership approaches with housebuilders and landowner 'enablers' to offset the gap in the supply demand of affordable housing. Small, sensitive 'infill' sites such as this could go some way to assist in the delivery of increased numbers of affordable housing in Moray.
- 5.1 We note that Scottish Government is committed '*to increase and accelerate the supply of new affordable homes across all tenures and support local authorities to deliver their housing priorities with quality homes in mixed communities that fit local needs.*' This commitment sets a target of at least 50,000 affordable homes during the lifetime of the current Parliament backed up with investment of over £3 billion in affordable housing. In order to achieve this and to '*accelerate the supply of new affordable homes, Scottish Government wishes to work across the public and private sectors to stretch available public resources and harness increased levels of private finance in innovative ways wherever possible.*' Our proposals, which incorporate affordable housing would make a positive and meaningful contribution to local needs and help towards achieving national targets.
- 5.2 Designing Streets (2010) sets out the Scottish Government's aspirations for design and the role of the planning system in delivering it. This statement sits alongside the policy Designing Places on architecture and is a material consideration in determining planning applications. It places an emphasis on high standards of street and place design and stresses that this can promote a better quality of living for everyone. Fundamentally, putting people before vehicles. It places good street design before movement and calls for balanced decision-making. Our proposals are formulated with these good design principles from the onset to ensure good quality developments.

## **Moray Local Development Plan 2015 (on which the application should have been assessed)**

- 5.3 The Moray LDP 2015 sets out a vision that places an emphasis on supporting Scottish Government's aims of promoting sustainable economic growth, the delivery of a generous housing land supply, along with a shift towards a low carbon economy and greater emphasis on design and place making. They also consider access arrangements to the site to be acceptable.

### **PP1 - Sustainable Economic Growth**

- 5.4 The subject site is not specifically allocated for housing or retail development however currently a Brownfield Site, All principals within PP1 of the LDP have been applied, the layout provides good levels of natural surveillance, well-lit routes, it promotes walking and cycling. The design of the retail and light industrial units provide spaces for flexibility and can easily change to suit economic trends. Landscaping has been incorporated onto the site, an area where there is currently none. Residential has been orientated to maximise North light and to create South facing communal gardens to the rear. The orientation of the roof pitch allows for maximum solar gain and renewables easily incorporated. The site layout plan clearly shows public frontage with private backs. Further the transport statement and the Road safety audit both emphasise the benefits of creating a formal junction and the traffic calming measures this will naturally create. It is our opinion that we have created a design which satisfies the requirements of PP1 within the LDP.
- 5.5 Policy PP1 supports development which helps deliver the Moray Economic Strategy and contributes towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy. Proposals will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met. The site is for affordable housing, contributing toward the identified supply requirements across Moray by virtue of being a 'brownfield' site, utilising a dilapidated and derelict site, it is considered that the proposed development would have a positive contribution to the aims of the Strategy, helping to support the long term growth of Elgin by providing much needed affordable housing.

### **PP3 - Placemaking**

- 5.6 PP3 requires all developments to incorporate the key principles of Designing Streets, Creating Places and the council's own Supplementary Guidance (SG) on Urban Design. This SG sets out various criteria which requires to be fulfilled via a checklist. Our proposals provide for a development with a high quality design and layout which has been influenced by the site's context and existing connections. We have embraced best practice in good design standards with the six key qualities – distinctiveness, safe and pleasant, easy to move around, welcoming, adaptable and welcoming all at the forefront of the design process. Our proposals fulfil the criteria of policy PP3 principles through appropriate design/siting, provision of a positive street frontage, massing of the residential pushed towards the Southern boundary, private backs and good connectivity with surrounding housing and Forsyth Street.

## **Moray Local Development Plan 2020 (on which the deemed refusal references)**

### **DP1 – Development Principles**

Requires scale density and character to be appropriate to the surrounding area and create a sense of place supporting the principles of a walkable neighbourhood. The proposal carefully considers the surroundings and is sympathetic to ensure the massing is appropriate with the residential elements nestled discreetly to the Southern edge of the site. The retail element is positioned towards the front with significant improvements made to the current pedestrian and cycle routes ensuring accessibility for all.

Currently a brownfield site with no existing trees, the proposals incorporate a landscape strategy which provides screening within the site to the residential element, amenity space is created to the rear of the residential units offering privacy promoting greener more useable space. The bordering stone wall along the Western edge would remain untouched.

All of the elements, residential, retail and industrial have been designed to maximise solar gain with the frontal elevations North facing, with residential gardens to the south and the glazed frontage of the retail element designed to prevent overheating. All roofs are pitched to ensure renewables can easily be incorporated.

Car parking has been positioned to the rear and it has been clearly demonstrated emergency and refuse vehicles can safely enter and exit the site. A communal refuse collection point has been included to ensure ease of kerbside collection. A significant number of cycle hoops have been included and can be increased further ensuring it exceeds the minimum requirement. 2 EV charge points have been included with duct positions and future point locations identified on Drawing L-003.

A conclusive drainage strategy has been provided in support of this application demonstrating surface water from the service bay is to be collected within the proposed channel drain. It then discharges into the porous paving providing the two levels of treatment required. By discharging into the new developments drainage it is being attenuated prior to discharge. It is unclear why this was deemed unacceptable by Moray Council and no further information was given.

### **DP5 – Business & Industry**

This policy notes, proposals for mixed use developments will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. Referring back to our opening statement, the employment opportunities for this site are significant if a mixed use development is permitted. Again given the events of the last year and the uncertainty of the employment sector, we would question a designation of industrial use solely upon the site. A mixed use development not only contributes a small number of affordable houses, it introduces an element of retail where employment rates are significantly higher, supporting the local economy. The construction of a singular industrial unit(s) and viability is very uncertain.

This policy clearly states **'the use of previously used land that is now vacant or derelict is encouraged.'**

### **DP7 – Retail & Town Centres**

As set out in the Retail Planning Statement prepared by North Planning and Development consultants and letter of 18th September 2020, one of the most important considerations in this matter is the lack of any town centre within Hopeman or any of the other towns in the catchment area of the proposed new retail store, as that establishes a position where there is no planning policy that affords primacy to existing stores and/or that requires other sites within the catchment to be considered in the manner of a sequential assessment.

Notwithstanding that, the suggestion made by Bidwells, that evidence should be provided of other sites having been considered, indicates that the principle of retail development in Hopeman is considered acceptable, otherwise why ask for other sites to be considered. That the Forsyth Street site is not in their opinion the “optimum” is not material to the consideration of this application.

### **EP3 – Special Landscape Areas & Landscape Character**

Policy EP3 Development proposals within SLA’s will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1. Within the Moray Local Landscape Designation Review, July 2018 it notes:

*‘The settlement of Hopeman was founded as a fishing port in 1805 with the harbour later expanded for export of stone from nearby quarries. Although this settlement has been considerably expanded on its periphery with modern housing development, it retains its distinct association with the coastal edge and has an intact historic core’*

The proposed site is on the periphery, it is not located along the coastal edge, and as noted within the review above, it is comparative to the more modern housing development previously approved by Moray Council.

Our proposal looks to introduce elements of landscaping where currently none exist thus improving the area significantly.

### **EP12 – Management & Enhancement of the Water Environment**

Suggests that any new development will not be supported if it were to be at significant risk of flooding or to materially increase the risk of flooding elsewhere. A Level 1 Flood Risk Statement provided by Envirocentre and submitted on 25<sup>th</sup> June 2020 provides significant evidence that the site is not at risk of flooding or to increase flood risk elsewhere.

The flood risk statement is supported by SEPA flood maps and GIS analysis. An overland flow analysis and review of the SEPA flood maps highlighted that there was a risk of pluvial flow from Gallow Hill accumulating south of the site within an existing ditch but **not within the site**. In 2018, a swale and attenuation basin was constructed to collect surface water from potential developments around the south of Hopeman including the proposed site at Hopeman Service Station. The swale is designed to intercept flows from the hill and will improve drainage around the site reducing the pluvial flood risk. This existing drainage infrastructure is designed to protect the site against a 1 in 200 year RP overland flow from Gallow Hill. The assessment of flooding from all sources concluded there was no risk of flooding from fluvial, coastal or groundwater sources.

## **6.0 SUMMARY GROUNDS FOR APPEAL**

- 6.1 The grounds for appeal respond to the reasons for the refusal of planning permission and demonstrate support for the proposal in relation to Development Plan policies and relevant material planning considerations as required by Section 25 of The Town and Country Planning (Scotland) Act 1997 (as amended).
- 6.2 Having reviewed the policy background and material considerations it is clear that sensitive proposals for the development of the site would accord with MLDP policies providing they show clear wide-ranging benefits that outweigh the value of the existing dilapidated brownfield site which is a significant detraction in its current state to the character of Hopeman.
- 6.3 It is now necessary to consider the main issues that arise from the proposal in relation to this appeal more specifically. The issues are considered to be the use of land not allocated for housing development and the implementation of retail. We have provided clear evidence that the provision of housing would allow for a mixed use development both assisting in the growing demand for housing but also to utilise a current brownfield site creating a successful 'place' as described in Moray Councils LDP section PP1.
- 6.4 The refusal report raises concerns with the parking and access arrangements, In terms of issues arising from concerns about parking and access the provided retail statement provides evidence based on a detailed analysis of other neighbouring retail units that the no of parking bays set out in the Moray Council standards is over zealous and not required The no of parking bays provided for the residential and industrial are achieved. The road safety stage 1& 2 audit provides evidence that the formation of a formal access will provide natural traffic calming and in addition to this, minor suggestions were made such as dropped kerbs and tactile paving at crossing points and disabled bays, new road layout signage to be applied. All of the items raised in the audit were implemented and revised drawings submitted to Moray Council. No evidence was provided to suggest the proposed layout could not be created safely. The provision of vehicle swept path drawings also submitted to Moray Council clearly evidence safe and adequate turning for both refuse and emergency vehicles.



## **7.0 CONCLUSION**

- 7.1 The Town and Country Planning (Scotland) Act 1997, as amended, requires all planning applications to be determined in accordance with the development plan unless there are material considerations to justify doing otherwise.
- 7.2 Planning permission for the Erection of Affordable Housing, alongside retail and business elements providing significant employment opportunities should be welcomed particularly following the event of the last year and the impacts suffered by the COVID-19 pandemic. A brownfield site, derelict and dilapidated with far more negative impact on the character of Hopeman, on the grounds of a very small number of flats and unfounded concerns about road safety impacts due to insufficient visibility splays for vehicle movements.
- 7.3 As highlighted previously this site has lain disused for many years, a previous garage which would have had a significant no of vehicles entering and leaving the site, and with no formal junctions in or out or any formal parking arrangements, there is no accident data to suggest there was ever a concern. Our proposals could only ever improve this with the formation of a formal junction, a safe pedestrian crossing and a safe route to navigate within the site for both pedestrians and bicycles, further promoting green travel.
- 7.4 We demonstrate and conclude that the proposals allow for much-needed affordable housing, our proposals provide landscaping and greenspace where there is currently none. Our proposal creates a sense of place, an area for the community and significant employment opportunities.
- 7.5 It is considered that the proposal is consistent with both national and local planning policies and as such Springfield Real Estate Management respectfully ask that that a positive recommendation is taken to allow this appeal.

## 8.0 Site Photographs – Hopeman



*View along Forsyth Street looking South West*



*Neighbouring Property (Eastern Boundary)*



***Bowling Club – Forsyth Street***



***Adjacent Residential Property – White Render***



***Timber building (off of Harbour Street)***



***Blue Timber cladding/ White Render (Duff Street)***













