

MORAY COUNCIL

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

25 JUNE 2019

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Bremner (Chair), Taylor (Depute), Alexander, Cowie, Coy, Divers, Feaver, Laing and A McLean

APOLOGIES

Apologies for absence were intimated on behalf of Councillors Cowe, Edwards, Macrae and R McLean.

ALSO PRESENT

Councillor Ross

IN ATTENDANCE

Head of Development Services; Development Management and Building Standards Manager; Mr MacPherson, Principal Planning Officer; Mr Smith, Principal Planning Officer; Mr Templeton, Principal Planning Officer; Mrs Anderson, Senior Engineer (Transport Development); Mr Burnish, Senior Engineer (Flood Risk Management); Mrs Emma Gordon, Planning Officer; Acting Housing Strategy and Development Manager; Legal Services Manager and Mrs Lissa Rowan, Committee Services Officer as Clerk to the Meeting.

1. Welcome

The Committee joined the Chair in welcoming Callum Blake from Buckie High School who was gaining insight into the Council as an organisation and the role of an Elected Member.

2. Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Divers declared a personal interest in item 3 on the agenda "Planning Application 18/01497/APP - Revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC" as his son is employed by the Developer.

There were no other declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

3. Planning Application 18/01497/APP

Councillor Divers left the meeting at this juncture.

WARD 2: Keith and Cullen

18/01497/APP Revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission is granted in respect of an application for a revised residential development and associated infrastructure at R6 Banff Road, North Banff Road, Keith, Moray for Springfield Properties PLC.

The Committee noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major development as defined under the Hierarchy Regulations 2009 for a housing development with more than 50 houses, and the site area exceeds 2ha. The report also advised that Members of the Committee visited the site of the application on Thursday 20 June 2019.

During his introduction, Mr Smith, Principal Planning Officer advised that a further condition (Condition 15 below) had been added to address missing information on the landscape plan, levels layout plan and the submission of further details in relation to retaining wall structures should these change. This was noted.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 18/01497/APP as recommended subject to:

- (i) the completion of a new legal agreement to incorporate developer obligations relating to healthcare provision: and
- (ii) the following conditions and reasons including the additional condition (15) to address missing information on the landscape plan, levels layout plan and the submission of further details in relation to retaining wall structures should these change:
 - 1. Prior to any works commencing on site, evidence shall be submitted and approved by the Council, as Planning Authority which confirms that a Construction Traffic Management Plan (CTMP) has been submitted and agreed with the Moray Council Transportation Section. Thereafter, construction works shall be completed in accordance with the approved Construction Traffic Management Plan unless otherwise approved in writing by the Planning Authority in consultation with the Transportation Section.

Reason - To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
 - 2. Prior to any works commencing on site, details (plan at minimum scale 1:500) shall be submitted to and approved by the Council as Planning Authority, in consultation with Transportation Section showing a continuous 3m wide

cyclepath along the site frontage onto the A95 and extending west of the site boundary to a point approximately 23m west of the Glenisla Home access onto the A95. These details shall also include dropped kerb crossings with tactile paving at the Glenisla home access. Thereafter, construction of the frontage path shall be completed in accordance with the approved details prior to commencement of the 5th unit of housing unless otherwise agreed in writing with the Planning Authority in consultation with the Transportation Section.

Reason - To ensure an acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

3. Notwithstanding the details shown on submitted Drawing No. KE03-ENG-700, a visibility splay of 4.5m x 208m to the left (east) and 4.5m by 90m to the right (west) shall be provided and maintained at the site access onto the A95 for the lifetime of the development unless otherwise agreed in writing by the Planning Authority in consultation with the Transportation Section.

Reason - To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Transportation Section.

Reason - To enable drivers of vehicles leaving driveways to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

5. New boundary walls/fences shall be set back from the edge of the public carriageway at a distance of 2.0m.

Reason - To ensure acceptable development in the interest of road safety.

6. Parking provision shall be provided in accordance with the approved site layout plan. No house or flat shall be occupied until parking has been provided and made available for use by that house or flat and the parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved unless otherwise agreed in writing by the Planning Authority in consultation with the Transportation Section.

Reason - To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interest of an acceptable development and road safety.

7. Prior to the commencement of development details of the affordable housing specification shall be submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property regarding the detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, which shall include evidence to confirm the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site in

perpetuity. Thereafter the development shall be implemented in accordance with the approved details.

Reason - To ensure all of the residential units approved on site are affordable and managed accordingly.

8. That the landscape arrangements and equipped play area for the site shall be carried out in accordance with the approved Landscaping Layout drawing number KE03_SL_PL_003 Rev D, Landscape Management Plan and Phasing Plan drawing number KE03_SL_PL_004 Rev D. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason - To ensure that the approved landscaping works and equipped play area are timeously carried out and properly maintained for the lifetime of the development, in a manner which will not adversely affect the development or amenity and character of the area.

9. That the surface water drainage arrangements for the site shall be in accordance with the approved Drainage Assessment dated November 2018, Drainage Statement dated 2 April 2019, prepared by Mike Gemmell Design Ltd, Ditch Drainage Assessment titled 1/190400 prepared by Cameron and Ross, and associated drainage drawings submitted in support of this application. No dwelling shall be occupied until it is connected to the SUDS scheme as detailed within the approved Drainage Assessment, Statement and drawings.

Notwithstanding the above details, the SUDs detention basin 1 located within the southern part of the site shall be lined to ensure that it is impermeable in design (in accordance with details previously agreed by the Council, as Planning Authority, in consultation with Moray Flood Risk Management), unless otherwise agreed in writing by the Council, as Planning Authority.

Reason - To ensure an acceptable form of development is provided in accordance with the submitted drainage information and drawings, and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development and to ensure no increase in groundwater levels in the locality of the site.

10. Prior to the SUDS arrangements being connected to the discharge outlets the following works shall be completed to ensure that the ground condition/levels within the adjacent drainage ditches/watercourses to the north and south of the site is as indicated in the document entitled, Existing Ditch Capacity Check (I/190400) dated April 2019, prepared by Cameron & Ross.

The works to the north ditch shall include:

- Clearance of debris/vegetation within the north ditch to ensure provision of the cross section is as indicated in the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross, for a length of 20 metres upstream (west) of the discharge headwall and downstream (east) of the discharge headwall to the cemetery access footpath culvert.
- Jetting of the cemetery access footpath culvert to ensure full capacity is

available.

The works to the south ditch shall include:

- Clearance of debris/vegetation to ensure a cross section as indicated in the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross document for a length of 25 metres upstream (West) and downstream (East) of the discharge headwall to the culvert access.

Written agreement that the above works have been undertaken to the satisfaction of the Council following an accompanied on-site inspection by the Moray Flood Risk Management (MFRM), (to be arranged between the applicant and MFRM with prior 48 hours notice given of the date/time of the inspection) shall be provided by the developer prior to the SUDS arrangements being connected.

Thereafter, in terms of long term maintenance arrangements, the ditches shall be cleaned and maintained in accordance within the measures and inspection regime outlined within Section 9 'Mitigation' of the Existing Ditch Capacity Check (I/190400) document, prepared by Cameron & Ross for the lifetime of the development.

Reason - To ensure an acceptable form of development is provided in accordance with the submitted Drainage Assessment(s), and to provide for adequate protection of the water environment from surface water run-off during the lifetime of the development.

11. No development shall commence until the Scotland Gas Networks (SGN) medium pressure gas main which currently runs through the development site (the location of which is shown on the SGN apparatus plan accompanying this decision notice) has been diverted in agreement/consultation with SGN, and evidence to this effect has been submitted to and approved by the Council, as Planning Authority in consultation with SGN.

Reason – To ensure that the Scotland Gas Networks infrastructure currently on the site is safely diverted prior to commencement of development.

12. No development shall commence until scaled drawings of the proposed pumping station have been submitted to and approved in writing by the Council, as planning authority. The development shall be implemented in accordance with the approved details.

Reason – To ensure a satisfactory form of development and as these details are currently lacking from the application.

13. No development shall commence until the results of a pre-construction badger survey undertaken by a suitably qualified person (as recommended in the accompanying Badger Survey by Rachel Finan Ecology), have been submitted to and approved by the Council, as Planning Authority, in consultation with Scottish Natural Heritage. In the event that badgers are discovered on or near the site, no works shall take place in that area until appropriate mitigation measures have been agreed in consultation with Scottish Natural Heritage. Thereafter all works shall be carried out in accordance with these details.

Reason - To ensure the adequate protection of the protected species.

14. Prior to the commencement of any works, a full site Construction Environmental Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority; and thereafter all work shall be carried out in accordance with the approved plan.

Reason - In order to minimise the impacts of construction works on the environment.

15. Prior to the commencement of development the following revised/additional plans shall be submitted to and approved in writing by the Council, as Planning Authority.

Thereafter the development shall be implemented in accordance with these approved details.

- a) Landscaping Layout drawing number KE03_SL_PL003 Rev D updated to include
 - i) a reference 'QR' English Oak within the Planting Schedule to correspond with the 'QR' annotations on the layout plan,
 - ii) the stand-off buffer for the existing overhead electricity line re-aligned to run parallel with the overhead line, to include appropriate low shrub planting and
 - iii) the annotations stating 'infiltration basin' altered to 'detention basin' in line with the approved drainage design.
- b) Levels Layout drawing number SKPL-LL-01, SKPL-SL-01 and SKPL-SL-02 d updated to show the equipped play area in lieu of the previous kick-about pitch and plots 76 and 77 which no longer form part of the proposal.
- c) Detailed drawings of all proposed retaining walls, retaining structures and associated earthworks, including elevational treatment of the walls/retaining structures.

Reason: In order to remove any ambiguity regarding the terms of the landscape scheme and levels layout drawings, and to ensure a satisfactory form of development which integrates sensitively with the landscape.

Councillor Divers re-joined the meeting at this juncture.

4. Section 36 Consent

- 19/00156/S36 Erect 29 wind turbines consisting of 18 turbines of an overall height from base to tip not exceeding 225m, 8 turbines of an overall height from base to tip not exceeding 200m and 3 turbines of an overall height from base not exceeding 149.9m. Associated infrastructure includes external transformer housing, crane pads, turbine foundations, access tracks, 2 substations, underground electricity cables and anemometry mast at Rothies III Windfarm, Moray.**

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) asking the Committee to consider the consultation received from the Energy Consents Unit of the Scottish Government in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm. This Section of the Electricity Act relates to consenting onshore electricity generation.

Following consideration, the Committee agreed

- i) to note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning merits of the development which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of existing neighbouring windfarms;
- ii) to respond to the consultation request from the Scottish Government, lodging an objection to the proposed development on the basis of the recommendations set out in Appendix 1, in particular in terms of the considered unacceptable significant landscape and visual impacts that would arise from the position and height of proposed turbines on the site (including cumulative impact), transportation issues and the impact on tourism and recreational interests; and
- iii) that in the event of approval and prior to determination, the Council request it be consulted on proposed conditions to be attached to any consent.

5. Representations to the Proposed Moray Local Development Plan

Under reference to paragraph 5 of the Minute of the Special Meeting of this Committee dated 18 December 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) summarised the representations received in response to the publication of the Moray Local Development Plan (MLDP) 2020 – Proposed Plan and set out the Council's proposed responses. The report recommended that the Council proceed to submit the Plan and the unresolved representations to the Scottish Government and request an Examination.

Mr Templeton, Principal Planning Officer outlined the Council's current position in terms of the process to agree the proposed MLDP 2020 and the required next steps. He also drew the Committee's attention to 2 typos on page 207 of the Schedule 4 document found at Appendix 1 of the report in relation to the Moray Forestry and Woodland Strategy where the word "commercial" should be removed and, in relation to the Tree Retention and Survey, the word "mature" should be removed when referring to trees. This was noted.

Mr Templeton acknowledged the input from a number of Services within the Council to produce the proposed MLDP 2020 and took the opportunity to thank the various Services involved.

Mrs Gordon, Planning Officer explained the contents of the Report of Conformity which demonstrated how the Council has conformed to its current Participation Statement by means of community engagement at the various stages of the plan.

During discussion surrounding Issue 11 "Buckie Housing Market Area", ENV6 Mill of Buckie, Councillor Cowie noted the representation objecting to the proposal to change the designation of the land at Mill of Buckie to ENV and the suggestion that

part of the site should be developed for low density housing and to allow the remainder of the site to be used for a community woodland. Councillor Cowie raised concern that Council was not opposing this proposal as, in his opinion, the land was not suitable for development.

In response, Mr Templeton, Principal Planning Officer advised that the site at Mill of Buckie was an overgrown site with surface water flooding issues which was “white land” in the current MLDP 2015 and that it had been considered for development in the past however there had been difficulty in contacting the land owner. He further advised that during the neighbour notification process the landowner had been contacted and a subsequent planning application had been received which was currently live. As a result it is proposed that part of the land remain as white land to be determined against current MLDP policies and the remainder designated as ENV which would create a higher quality, multibenefit green space. This would support the Council’s policy on healthy living, biodiversity and climate change whilst meeting the Council’s climate change obligations by additional tree planting.

Having considered Mr Templeton’s response, Councillor Cowie remained of the view that the land was not suitable for development and moved that the Council retain the proposed ENV designation on the whole site at Mill of Buckie with no modifications. This was seconded by Councillor Feaver.

The Legal Adviser advised that, as the Planning Officers had provided reasons as to why they proposed the site at Mill of Buckie be changed from ENV to part white land and part ENV, Councillor Cowie should demonstrate why he is of the view that the site should remain entirely ENV.

In response, Councillor Cowie stated that, in his opinion, access to the site was insufficient as the road was narrow with no suitable area for a turning point and that developing this site would be detrimental to the wildlife already present. He also stated that, in his opinion, there was no need for further housing development as there were already designated sites for 500 houses nearby.

Councillor Feaver, in support of Councillor Cowie’s motion, raised concern that Planning Officers, having originally designated the site as completely ENV were now minded to change the designation to part white land, part ENV as, in her opinion and in accordance with the Council’s Open Space Strategy, the land should stay as a complete ENV designation. Councillor Cowie agreed to include Councillor Feaver’s reasons as support for his motion.

In response, Mr Templeton, Principal Planning Officer advised that since the Open Space Strategy had been approved in 2016, the site had not been managed and was currently not accessible however what Officers had proposed was a much better offer that would benefit the residents of Buckie.

In terms of the current live planning application that was ongoing, clarification was sought as to whether it would be considered against the current MLDP 2015 which had the site currently shown as white land or whether consideration would be given to the new MLDP 2020.

In response, the Head of Development Services advised that all planning applications were considered in accordance with the MLDP 2015 however if this report was agreed today, sites where there had been no objections would be given more weight in terms of the new MLDP 2020. However, as the site in question was

the subject of an objection, there would be very little weight given to the new MLDP 2020 until the Reporter had made a decision.

Having heard the advice given by the Head of Development Services, Councillor Cowie agreed to withdraw his motion and agree with the recommendation of the Planning Officers. Councillor Feaver agreed with Councillor Cowie's decision to withdraw his motion.

Thereafter, the Committee agreed to:

- (i) note the representations received to the Moray Local Development Plan 2020-Proposed Plan;
- (ii) approve the responses to the representations received as set out in the series of Schedule 4 documents contained in Appendix 1 subject to the following corrections:
 - Moray Forestry and Woodland Strategy – removal of the word “commercial”;
 - Tree Retention And Survey – removal of the word “mature” when referring to trees.
- (iii) approve the minor “non-notifiable” changes set out in Appendix 2 of the report;
- (iv) approve the Report of Conformity in Appendix 3 of the report;
- (v) approve the responses to representations on the Strategic Environmental Assessment as set out in Appendix 4 of the report;
- (vi) approve the responses to the Delivery Programme as set out in Appendix 5 of the report;
- (vii) delegate authority to the Head of Development Services to make any changes to the Schedule 4's arising from any decisions of the Committee;
- (viii) delegate authority to the Head of Development Services to make any minor correction or formatting changes to the Schedule 4's;
- (ix) approve the submission of the Plan, Schedule 4's and associated core and background documents together with the unresolved representations to the Scottish Ministers for examination; and
- (x) give greater weight to sites within the Proposed Plan which are not subject to the Examination process for development management purposes as of 1 August 2019.