

# MORAY COUNCIL

## MINUTE OF MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE

3 AUGUST 2021

### VARIOUS LOCATIONS VIA VIDEO-CONFERENCE

#### PRESENT

Councillors A McLean (Depute Chair), Brown, Cowe, Cowie, Edwards, Feaver, Macrae, R McLean, Nicol, Powell, Ross, Taylor and Warren.

#### APOLOGIES

Apologies for absence were intimated on behalf of Councillor Bremner.

#### IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Mrs D Anderson, Senior Engineer (Transportation), Mr W Burnish, Senior Engineer (Flood Risk Management), Ms Webster, Principal Planning Officer (Strategic Planning and Development), Developer Obligations Officer, Ms R MacDougall, Planning Officer, Mr D Westmacott, Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

### 1. CONDOLENCES

The Committee joined the Chair in expressing their condolences to Councillor Bremner and his family following the passing of his mother-in-law.

### 2. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Ross advised that he had attended a meeting of the Speyside Community Council where Item 11 "21/00740/PAN" had been discussed. He stated that he had noted the points raised at the meeting of the Community Council so that he could put them forward at today's meeting. He further confirmed that he had not taken part in any discussion on the item at the meeting of the Community Council and would remain in the meeting and take part in the debate.

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 Member's interests in respect of any item on the agenda.

### 3. EXEMPT INFORMATION

Councillor Brown noted that Item 23 "Tree Preservation Order – Rothes" was a confidential report as it contained information relating to instructions to counsel, any

opinion of counsel and any advice received, information obtained or action to be taken in connection with any legal proceedings and queried if this was necessary given the fact that the ground where the tree is situated is owned by the Council.

In response, the Legal Services Manager stated that she was content that the reason for confidentiality was reasonable and appropriate as, although the land may be owned by the Council, someone else could defeat the order to protect the tree before it was made.

Thereafter, the meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
25	6 and 9
26	14
27	13

#### **4. MINUTE OF THE COMMITTEE DATED 18 MAY 2021**

The minute of the meeting of the Planning and Regulatory Services Committee dated 18 May 2021 was submitted and approved.

#### **5. WRITTEN QUESTIONS**

The Committee noted that no written questions had been submitted.

#### **6. PLANNING APPLICATION 21/00420/APP**

##### **Ward 1 – Speyside Glenlivet**

##### **Proposed bonded warehouses at Glenfarclas Distillery Ballindalloch Moray AB37 9BD for Glenfarclas Distillery**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for proposed bonded warehouses at Glenfarclas Distillery, Ballindalloch, Moray AB37 9BD for Glenfarclas Distillery.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application relates to 2 buildings that exceed 2000 sqm.

Councillor Warren welcomed the planning application stating that it is important to support tourism in Moray and that Glenfarclas proposals are always sympathetic to the area and moved that the Committee grant planning permission in respect of Planning Application 21/00420/APP. This was seconded by Councillor Cowe.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 21/00420/APP subject to the following conditions and reasons:

1. Unless otherwise approved in writing by the Council, as Planning Authority in consultation with the Roads Authority all development construction works shall be undertaken in accordance with the submitted Construction Traffic Management Plan (dated 6 May 2021).

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

2. Upon completion of construction works a joint inspection/ ('after') condition survey of the public carriageway and verge shall be undertaken of the section of U126H Glenfarclas - Peterfair Road between the site access and the junction with the A95(T) Granish – Keith Trunk Road, including photographic evidence. Any damage to public verge/ carriageway identified through the comparison of this joint inspection/ ('after') condition survey with the previously submitted photographic evidence dated 11 May 2021 ('before' condition survey) shall be reinstated and repaired, in consultation with the Roads Authority within a period of 6 weeks from the date of the joint inspection.

**Reason:** To ensure that the condition of the road does not deteriorate as a result of traffic associated with the development, in the interests of road safety.

3. The surface water drainage arrangements for the development shall be provided and maintained in accordance with the approved Drainage Impact Assessment 15640 – Development at Glenfarclas Distillery, Ballindalloch, AB37 9BD (15640-DIA-001) (REV B 09/04/21), Site Plan and Section (drawing no. 1020/06-24 B), Conceptual Drainage Layout (drawing no. 2001 C) and Conceptual Site Levels (1500 C) unless otherwise agreed by the Council, as Planning Authority. These shall be installed and operational prior to the first use of the warehouses hereby approved.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SUDs in order to protect the water environment.

4. Prior to the commencement of any works, a construction environment management plan incorporating a site specific pollution prevention 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 prevent potential pollution of the environment and minimise impacts from construction works on the environment.

5. No development shall commence until revised landscape plans have been submitted to, and approved in writing by, the Council, as Planning Authority. These shall be closely based upon the submitted plan entitled Biodiversity Enhancements and supporting document entitled Biodiversity Statement, and show the following information:

- (a) All soft landscaping and planting works, including plans and schedules showing the location, species, number/density and size of trees within each tree group and shrub planting;
- (b) Details of the arrangements for the protection and long-term maintenance

- of all landscaped areas; and  
(c) Details and location of bird and bat boxes.

Thereafter the landscaping and bird/bat boxes shall be implemented in accordance with these approved plans and timescales. 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:** In order to ensure an acceptable level of planting in the interests of the amenity and appearance of the surrounding countryside and to enhance biodiversity in the area.

## **7. PLANNING APPLICATION 21/00484/APP**

### **Ward 2 – Keith and Cullen**

#### **Vary condition 1 attached to planning permission 16/01657/APP to increase the operational life period of Aultmore Wind Farm from 27 to 30 years at Aultmore Forest, Drybridge, Buckie, Moray for Vattenfall Wind Power Limited**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted to vary condition 1 attached to planning permission 16/01657/APP to increase the operational life period of Aultmore Wind Farm from 27 to 30 years at Aultmore Forest, Drybridge, Buckie, Moray for Vattenfall Wind Power Limited.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as it is a major application. It was further noted that, as this is an application under section 42 of the planning act to vary the terms of an existing consent, the pre-application requirements for major applications were not required.

During his introduction, Mr MacPherson, Principal Planning Officer advised of an error in the original report where condition 29 was a duplicate of condition 28 and asked the Committee to note that, should the planning application be approved, this duplication would be removed. This was agreed.

During discussion, clarification was sought as to why Buckie Community Council had not been included in the consultation process.

In response, the Development Management and Building Standards Manager advised that Buckie Community Council were consulted on the original planning application in 2016 however appeared to have been inadvertently missed during consultation on this planning application and suggested that, should the Committee be minded to approve the planning application, the approval would be subject to Buckie Community Council being consulted and having no comment. This was agreed.

Following consideration, the Committee agreed to note that Buckie Community Council had been inadvertently missed during consultation on the planning application and that it would now be consulted and, should there be no comment, the

Committee agreed to grant planning permission in respect of Planning Application 21/00120/APP subject to:

i) the removal of condition 29 which was a duplicate of condition 28 and had been included in error;

ii) the following conditions and reasons:

1. This permission shall endure for a period of 30 years from the date on which the first turbine becomes operational. The applicant shall confirm when this occurs and in the absence of any such confirmation within 12 months of development commencing, permission will expire within 30 years from the date of this decision. Within 12 months of the expiry of this period the wind turbines and ancillary equipment shall be dismantled to ground level and removed from the site and the land shall be restored in accordance with a method statement to be approved in writing in advance by the Council, as Planning Authority.

**Reason:** To ensure that the turbines are removed at the end of their use and to ensure the satisfactory restoration of the site.

2. In the event that the equipment hereby permitted for installation is no longer required or is not in operation for a continuous period in excess of 6 months, it shall be removed and the site reinstated. Details of the proposed reinstatement shall be submitted for approval in writing to the Council, as Planning Authority within 2 months of either the equipment ceasing to be required or from the end of the 6 months period when it is not in operation, and the reinstatement work shall be completed within 3 months of the planning authority's approval of that proposed reinstatement scheme, or such other period agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure that the reinstatement work is appropriate and to a satisfactory standard.

3. Prior to commencement of deliveries to site a Route Access Report must be submitted to and approved in writing to the Council, as Planning Authority (in consultation with Transport Scotland). It must include details of swept path analysis undertaken to ensure that exceptional loads can be transported through the Trunk Road network safely. The complete report shall also include details of any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management and demonstrate that the transportation of abnormal loads will not have any detrimental effect on structures within the route path. The deliveries to the site must be carried out in accordance with the approved Route Access Report.

**Reason:** To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

4. During the delivery period of the wind turbine and of other construction materials any additional signage or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be submitted to and approved by the Council, as Planning Authority (in consultation with Transport Scotland) before delivery commences.

**Reason:** To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

5. Prior to the commencement of development, a detailed survey of the chosen route for delivery of abnormal loads shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and abnormal load. Prior to commencement of abnormal deliveries this survey must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with the Transportation Section of Moray Council).

**Reason:** To consider the impact on infrastructure on the route to the development access and in the interests of road safety.

6. Prior to the commencement of development, a Traffic Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority showing the methods of dealing with the large delivery vehicles. This plan shall include vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network.

**Reason:** To minimise interference with the safety and free flow of traffic on the public road network.

7. Unless otherwise agreed in writing with the Council, as Planning Authority, an abnormal load trial run must be undertaken prior to the commencement of construction and deliveries to identify any restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas. Representatives from Aberdeenshire/Highland Council and Moray Council Transportation (Traffic), the Trunk Road Authority and Police Scotland must be invited to the trial run in writing at least 14 days in advance of the event.

**Reason:** To ensure acceptable infrastructure on the route to the development access in the interests of road safety.

8. Prior to the commencement of development (inclusive of timber extraction or delivery of materials to site):
  - i) the U72L shall be widened to at least 5m with 2m wide verges on each side of the road to the Moray Council standards and specification, including any necessary road drainage;
  - ii) the U72L shall be realigned to form a new junction onto the B9016, meeting at a right angle;  
the new junction onto the B9016 shall have visibility splays of 4.5m by 215m in both directions, clear of any obstruction above 0.26m (measured from the level of the carriageway);  
the new junction onto the B9016 shall have a minimum radius of 15m and shall be kerbed using 254mm x 127mm p.c.c. kerbs;
  - iii) the new junction shall be surfaced using Hot Rolled asphalt for a minimum distance of 15m or the longest length of vehicle, whichever is greater;
  - iv) a 50m length of hot rolled asphalt shall be provided on the B9016, (25m on either side of the centre line of the new junction) and the B9016 widened to at least 6m over the length of the hot rolled asphalt, such that the delivery/construction vehicles do not have to mount the verges when negotiating the junction.

- v) suitable signage shall be in place at the above junction in consultation with The Moray Council Traffic Section.

**Reason:** To ensure acceptable infrastructure on the route to the development access in the interests of road safety.

9. Unless otherwise agreed in writing with the Council, as planning authority no heavy construction traffic shall access the site from the B9018 at the east end of the site.

**Reason:** To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

10. Unless otherwise agreed in writing with the Council, as planning authority, the applicant must run 'before and after' condition video surveys of the proposed delivery and construction traffic routes, namely the U72L Oxhill Road. A copy of the video surveys must be provided to Moray Council Transportation (Traffic). The applicant shall make good any damage which may be caused to the road network, including the verge, as a result of the construction traffic and passing vehicles.

**Reason:** To ensure that the construction and delivery vehicles associated with the development will not have any detrimental effect on the U72L Oxhill Road which would provide access to the development.

11. At least 2 months prior to the commencement of any works, a site specific Environmental Management Plan (EMP) must be submitted for the written approval of the Council, as Planning Authority in consultation with SEPA [and other agencies such as Nature Scot as appropriate] and all work shall be carried out in accordance with the approved plan. It should cover all aspects of the development; include construction method statements, preparation works such as forest clearing and on site works such as the formation of borrow pits and works relating to the cement batching plant. Unless otherwise agreed in writing with the Council, as Planning Authority, the EMP must also include a drainage impact assessment which shows that the post-development surface water discharge rate will not exceed the pre-development discharge rate. Thereafter the development must be developed in accordance with the approved EMP.

**Reason:** To control pollution of air, land and water.

12. Prior to the commencement of development, detailed plans and method statements for the reinstatement of any temporary access tracks, borrow pits, disturbed peat/other over burden, construction compound areas and other construction areas at the end of the construction period, shall be submitted to, and approved in writing by the Council, as Planning Authority (in consultation with SEPA). The approved reinstatement method statements shall then be followed, and the approved plans shall be implemented to the satisfaction of the Council, as Planning Authority within 6 months of becoming operational or as otherwise approved in writing by the Council, as Planning Authority.

**Reason:** In order to minimise the level of visual intrusion, and to ensure the satisfactory reinstatement of the site.

13. Prior to development commencing a Habitat Management Plan must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA and Nature Scot). The development must then be developed and operated in accordance with the approved Habitat Management Plan unless otherwise approved by the Council, as Planning Authority (in consultation with the SEPA and Nature Scot).

**Reason:** In order to ensure that wildlife habitat is not unnecessarily removed and to enhance habitat provision where possible.

14. Prior to development commencing a Capercaillie Management Plan must be submitted to and approved in writing with the Council, as Planning Authority (in consultation with Nature Scot). The development must then be developed and operated in accordance with the approved Capercaillie Management Plan unless otherwise approved by the Council, as Planning Authority (in consultation with Nature Scot).

**Reason:** In order to ensure adequate protection is provided for Capercaillie.

15. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service (on behalf of the Moray Council, as Planning Authority) during any ground breaking and development work for the turbine bases. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service.

The name of the archaeological organisation retained by the developer shall be given to the Council, as Planning Authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.

**Reason:** In order to record items of archaeological interest and finds.

16. Ministry of Defence approved omni-directional 25 candela red aviation lighting or infrared warning lighting shall be placed upon the perimeter turbines (this relates to all turbines on the approved layout plan, except turbines 9 and 13). The turbines will be erected with the lighting installed and functional and the lighting will remain operational throughout the duration of this consent.

**Reason:** In the interests of air traffic safety.

17. No development shall commence until a Radar Mitigation Scheme for this site has been submitted to and obtained written approval from the Council, as Planning Authority (in consultation with the Ministry of Defence). The Radar Mitigation Scheme shall address how, and by what measures, the impact of the development upon the operation of the Primary Surveillance Radar, Precision Approach Radar and Ministry of Defence air traffic control operations using these radar at RAF Lossiemouth will be mitigated. The development must then be developed and operated in accordance with the approved Radar Mitigation Scheme unless otherwise approved by the Council, as Planning Authority (in consultation with the Ministry of Defence).

**Reason:** In the interests of air traffic safety.



18. No turbines shall become operational until all mitigation measures required within the approved Radar Mitigation Scheme have been implemented to the satisfaction of the Council, as Planning Authority (in consultation with the Ministry of Defence).

**Reason:** In the interests of air traffic safety.

19. No development (apart from that required for remediation) shall commence until all necessary works to remediate the site have been carried out in accordance with the details of the required remediation measures which have previously been submitted to and approved by the Council, as Planning Authority in consultation with the Council's Environmental Health (Contaminated Land) Section, where the required remediation measures shall be fully implemented as detailed and described in the applicant's Remediation Strategy for Unexploded Ordnance dated 15 April 2005.

**Reason:** In order to ensure safety of construction workers and future users of the site.

20. At least two months prior to commencement of development, the developer shall provide to the Council, as Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration costs on the expiry of the consent/permission period. No development shall start on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Council, as Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent/permission.

**Reason:** To ensure that there are sufficient funds available for the full costs of site restoration.

21. The adequacy of the approved bond or other financial provision shall be subject to a review at ten yearly intervals from commencement of development, to be paid for by the developer and conducted by a competent independent professional who has relevant experience within the wind energy sector. The findings of such reviews shall be provided to the developer and the Council, as Planning Authority.

**Reason:** To ensure that there are sufficient funds available for the full costs of site restoration.

22. In the event that the wind farm is found to cause interference to television reception and following a complaint made within two years of the windfarm operating, the developer shall take whatever action is deemed necessary by the Council, as Planning Authority to alleviate the problems.

**Reason:** To protect the amenity of local residents.

23. The development must be developed and operated in accordance with the approved Peat Management Plan submitted by the developer to the Council, as Planning Authority and SEPA on 3 February 2014.

**Reason:** In order to ensure that disturbance to peat upon the site is minimised or disturbance is managed in an environmentally responsible manner.

24. The rating level of noise emissions from the combined effects of the wind turbines associated exclusively with Aultmore Wind Farm (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes to this condition in the informatives section of the planning consent notice, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
  - b) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
  - c) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits.
  - d) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the

complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

- e) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise emissions.
- f) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Local Planning Authority.

**Table 1: Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Drodland	35	35	35	37.1	39.6	42.4	45.6	49.2	53.1
Hill Head Farm	35	35.2	37.2	39.2	41.3	43.2	45.2	47.1	49.0
Myreside	35	35	35	36.9	39.2	41.7	44.5	47.5	50.8
School Hill Farm	35	35	36.1	38.9	42.0	45.5	49.2	53.4	57.8
Aultmore Lodge	35	36.7	39.4	42.5	46.2	50.3	55.0	60.2	65.8

**Table 2: Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.**

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Drodland	40	40	40	40	40	40	41.8	45.3	49.2
Hill Head Farm	40	40	40	40	42.7	46.2	49.8	53.5	57.5
Myreside	40	40	40	40	40	40	43	46.7	50.9
School Hill Farm	40	40	40	40	40.7	43.8	47.3	51.1	55.3
Aultmore Lodge	40	40	40	40	41.2	43.6	46.3	49.2	52.3

**Table 3: Coordinate locations of the properties listed in Tables 1 and 2.**

Property	Easting	Northing
Drodland	345297	857565
Hill Head Farm	344475	860074
Myreside	348538	857433
School Hill Farm	346311	861306
Aultmore Lodge	349117	859524

**Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.**

**Reason:** To protect nearby residents from undue noise and disturbance and to provide the factual basis for ensuring that the noise limits are not exceeded.

25. Construction activities associated with the development, including vehicle movements at the site, shall be permitted between 07:00 to 19:00 hours Monday - Friday and 07:00 to 16:00 hours on Saturdays. Any required works outwith those times shall not be permitted unless prior written details are provided to and approved by the Council, as Planning Authority.

**Reason:** To protect nearby residents from undue noise and disturbance.

26. Blasting times associated with the formation of borrow pits shall be restricted as follows:

- a) No blasting shall be carried out on the site except between the following times (10:00 and 12:00 hours) and (14:00 and 16:00 hours) on Mondays to Fridays and (10:00 and 12:00 hours) on Saturdays.
- b) There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.
- c) The above condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Council, as planning authority shall be notified in writing immediately of the nature and circumstances of any such event.

**Reason:** To protect nearby residents from undue noise and disturbance.

27. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 10mms<sup>-1</sup> in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms<sup>-1</sup> as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

**Reason:** To protect nearby residents from undue noise and disturbance.

28. At the reasonable request of the Council, as planning authority, following a complaint relating to vibration from blasting operations to form borrow pits, the developer shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the Council, as planning authority.

**Reason:** To protect nearby residents from undue disturbance and loss of amenity.

29. At the reasonable request of the Council, as planning authority following a complaint the Wind Turbine Operator shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

**Reason:** To protect nearby residents from undue disturbance and loss of amenity.

## **8. PLANNING APPLICATION 21/00120/APP**

### **Ward 4 – Fochabers Lhanbryde**

#### **Proposed residential development comprising 10 dwellings and associated roads and landscaping at R1 Land off Meft Road, Urquhart, Moray for Mr Edward Rattray**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for a proposed residential development comprising 10 dwellings and associated roads and landscaping at R1 Land off Meft Road, Urquhart, Moray for Mr Edward Rattray.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the site is allocated in the Moray Local Development Plan (MLDP) 2020 for less than 50 houses therefore the proposal is a departure from the development plan.

During discussion, it was noted that the new footpath within the development would be lit and assurance was sought that the lighting on the footpath would not be detrimental to nearby residents.

In response, the Development Management and Building Standards Manager advised that, should the Committee be minded to approve the planning application, an informative could be added to state that the lighting to the off-site path shall be sited and designed to minimise light spillage onto neighbouring properties. This was noted.

Councillor Macrae was of the view that the proposal is well designed and a suitable departure from the MLDP 2020 and moved that the Committee agree to grant planning permission in respect of Planning Application 21/00120/APP with the addition of an informative to state that the lighting to the off-site path shall be sited and designed to minimise light spillage onto neighbouring properties.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 21/00120/APP subject to:

- (i) the addition of an informative to state that the lighting to the off-site path shall be sited and designed to minimise light spillage onto neighbouring properties;
- (ii) the conclusion of a Section 75 Legal Agreement to cover developer obligations relating to health care and affordable housing; and

(iii) the following conditions and reasons:

1. No development shall commence until full details (scaled drawing 1:100 and equipment specification schedule) of the equipped play area as identified on the approved Site Plan (Drawing Number 838 (20) 001 H) inclusive of maintenance arrangements have been submitted to and approved in writing by the Council, as Planning Authority. The equipped play area shall include provision for all-abilities access including in relation to the surface finish, play equipment and seating. The equipped play area shall be provided in accordance with the approved details and be available for use prior to the occupation of the 5th unit hereby approved. Thereafter the play area shall be maintained in accordance with the approved maintenance arrangements.

**Reason:** To ensure the adequate provision of an equipped play area and its future maintenance.

2. The development shall be carried out in accordance with the Tree Survey and tree protection measures set out on the Existing Tree Protection Plan (Drawing Number 838 (90) 002) to ensure that trees T1 and T2 are protected through the development works.

**Reason:** To protect neighbouring trees in the interests of tree preservation in line with the requirements of Policy EP7.

3. All works shall be carried out in accordance with the agreed Landscape and Biodiversity Diversity Plan (drawing number 838 (90) 001 C). Unless otherwise agreed as part of the approved details all planting, seeding or turfing shall be carried out in the first planting season following the first occupation of any of the units hereby approved. 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 otherwise approved by the Council, as Planning Authority.

**Reason:** To ensure that the approved landscaping and biodiversity features are carried out in accordance with the approved details and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

4. The boundary treatments for the development shall be carried out in accordance with the approved plan Boundary Fence (drawing number 838 (90) 0004). Thereafter the boundary treatments as specified on the approved details shall be retained in perpetuity throughout the lifetime of the development, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure the timely implementation and retention of the approved 'hedgehog highway' in the interest of biodiversity.

5. The accessible housing on plot 5 shall be implemented in accordance with the approved Wheelchair Accessible Housing Statement of Compliance and the approved drawing Wheelchair Accessible Housing (drawing reference 838 (20) 010), unless otherwise agreed with the Council, as Planning Authority. Thereafter, the accommodation as identified shall, at all times, remain as

accessible housing and remain capable for adaptation for accessible housing needs unless otherwise agreed with the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development in terms of the required provision and delivery of accessible housing on the site, as required and defined in terms of current planning policy and associated supplementary planning guidance.

6. The two plots (6 and 7) identified as affordable housing on the approved Site Plan (Drawing Number 838 (20) 001 H, plots ) shall only be occupied as affordable housing in accordance with the agreement(s) concluded between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; And no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details, unless otherwise agreed with the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

7. All surface water drainage proposals shall be in accordance with the submitted report 'Drainage Assessment R1 Meft Road, Urquhart'. All measures for the management of surface water shall be implemented in full prior to the first occupation of any residential unit hereby approved.

**Reason:** To ensure that surface water drainage is provided timeously and complies with the principles of SUDs; in order to protect the water environment.

8. Notwithstanding the details shown on Drawing 900 Rev C (Roads Layout) for the fencing and gating of the SUDs area associated with the Road Safety Audit mitigation works which are not accepted. No development shall commence until design details for the SUDs area (Plan 1:500) have been agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority. For the avoidance of doubt these details shall either omit the fencing and gates entirely or provide revised proposals to address maintenance access and road safety issues. Thereafter the agreed details shall be implemented in full prior to the first occupation of any house hereby approved.

**Reason:** The submission of additional roads design information in the interests of road safety.

9. Unless otherwise agreed in writing by the Council as Planning Authority in consultation with Transportation, no other works shall commence on site until the works to widen Meft Road and the improvements to the Meft Road Main Street junction have been completed in accordance with the approved details as indicated on (Drawing 904b).

**Reason:** In the interests of road safety for the proposed development traffic, construction traffic and other road users.

10. No works shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with Transportation. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme;
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians; No articulated HGV delivery vehicles to the site shall be permitted via the Meft Road/Main Street junction unless otherwise agreed in writing by Transportation;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading and turning areas for construction traffic.
- Condition surveys of Meft Road (from Main Street to the C19E Scotstonhill – Fernyfield Road) and Main Street (from the C18E Station Road to Meft Road) to be undertaken and submitted to [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk).

Thereafter, the development shall be implemented in accordance with the approved details and additional condition surveys as set out in the CTMP and shall be undertaken on completion of the final house within the development.

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

11. Prior to the completion of any house within the development the remote footpath link from Meft Road to Main Street shall be completed in accordance with the approved details.

**Reason:** To ensure adequate provision for non-vehicular road users is provided in the interests of road safety.

12. Unless otherwise agreed in writing by the Council, as Planning Authority in consultation with Transportation, car parking for each house shall be provided at a rate of 2 spaces per 3 bed house and 4 spaces per 4 bed house and maintained available for that use at all times.

**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.

13. No works shall commence until the following details for Electric Vehicle charging provision has been submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:

- Statement/specifications to confirm that the EV charging supply and cabling provisions for each plot will be suitable for the connection of a 7Kw 'Fast' type charging unit as a minimum.
- Design/specifications for the proposed mounting/installations to be



provided for any future EV charging points which would not be mounted on a wall.

Thereafter the development shall be completed in accordance with the approved details before occupation of the unit to which the charging provision relates.

**Reason:** In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking from the submission.

14. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0 metre in height and fronting onto the public road shall be within 2.4 metres 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 Roads Authority.

**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.

15. Accesses and Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To ensure acceptable infrastructure is provided at accesses and driveways.

16. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure the residential units hereby approved are served by appropriate high speed internet connections, in accordance with policy PP3 Infrastructure and Services of the Moray Local Development Plan 2020.

17. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1600 hours on Saturdays only, and at no other times outwith these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

**Reason:** To ensure acceptable working practice in the interests of residential amenity.

## 9. PLANNING APPLICATION 21/00809/APP

Councillor Feaver left the meeting at this juncture.

### Ward 5 – Heldon and Laich

#### **Erection of new footbridge over River Lossie between Esplanade and East Beach to replace existing footbridge between Seatown and East Beach on Site Opposite 17C Clifton Road, Lossiemouth, Moray for Moray Council**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for the erection of a new footbridge over River Lossie between Esplanade and East Beach to replace the existing footbridge between Seatown and East Beach on the site opposite 17C Clifton Road, Lossiemouth, Moray for Moray Council.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the Appointed Officer considers that the application raises matters of wider community interest and/or planning significance.

During his introduction, Mr MacPherson, Principal Planning Officer advised that the design description of the bridge states that the steel works would be finished with a dark grey fluoropolymer coating however, should the Committee be minded to approve the planning application, he asked that consideration be given to adding a further condition to reflect that the final finish and colour of the steel work on the bridge decking and legs is subject to approval by the Council. This was noted.

Councillor Edwards welcomed the planning application and thanked the Lossiemouth Community Development Trust, Lossiemouth Community Council and Mr Forbes for their efforts in pursuing a replacement bridge and moved that the Committee agreed to grant planning permission in respect of Planning Application 21/00809/APP as detailed within the report with the additional condition to reflect that the final finish and colour of the steel work on the bridge decking and legs is subject to approval by the Council. This was seconded by Councillor Cowe.

During further discussion surrounding refuse collection around the bridge, assurance was sought that adequate seagull proof bins would be provided to protect the environment from pollution.

In response, Mr MacPherson, Principal Planning Officer advised that he would liaise with Environmental Services to ensure adequate seagull proof litter bins are situated around the bridge and regularly emptied to protect the environment from pollution.

There being no-one otherwise minded, the Committee agreed:

- (i) that Mr MacPherson, Principal Planning Officer will liaise with Environmental Services to ensure adequate seagull proof litter bins are situated around the bridge and regularly emptied to protect the environment from pollution; and
- (ii) to grant planning permission in respect of Planning Application 21/00809/APP subject to the following conditions and reasons including an additional condition to reflect that the final finish and colour of the steel work on the bridge decking and legs is subject to approval by the Council:

1. No works in connection with the development hereby approved shall commence unless an archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Council, as Planning Authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the WSI will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Council, as Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

**Reason:** To safeguard and record the archaeological potential of the area.

2. Notwithstanding the submitted details, no works in connection with the development hereby approved shall commence unless the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
  - a) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications, materials and timescale for the provision of pedestrian and cycle routes from the south of The Esplanade side of the new bridge, including the provision of new paths and the widening of existing paths, to ensure minimum widths of 3.0 metres for any routes to be used by cyclists, and an enhanced circulatory area where the new bridge meets The Esplanade at Clifton Road. Dropped kerbs and tactile paving are to be provided at all locations where the route(s) meet with or cross the public road and 'Ladder'/'Tramline' paving is to be provided at all locations where pedestrian only routes meet with shared pedestrian/cycle routes. (Note: On existing routes which are to be utilised by cyclists and/or wheelchair users, 'cobble' and other uneven surfaces must be reviewed and, if necessary, replaced with a surface suitable for wheeled users).
  - b) Detailed drawings (Scale 1:200 minimum) showing the longitudinal sections of all new and widened paths connecting to the existing paths and to the circulatory area at The Esplanade end of the new bridge to demonstrate that gradients are compliant with mobility standards. Cross Section drawings (Scale 1:100 minimum) showing any required re-grading of slopes adjacent to the new/widened paths and the location and design specification for any required ground retaining features.
  - c) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of a cycle route utilising Clifton Road and the adjacent improved paths to provide access for cyclists travelling from the A941 to the new bridge, including all signage, road markings and dropped kerbs to direct and aid cyclists travelling to the bridge and nearby cycle parking.
  - d) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of wayfinding signage for pedestrians and cyclists from the northern and southern approaches to the new bridge, in particular from the Gregory Place and Station Car Parks and from the A941 (Clifton Road).
  - e) Detailed drawings (Scale 1:500 minimum) showing the location, design specifications and timescale for the provision of additional signage

directing road users from the A941 Elgin Road to the Public Car Parks within Lossiemouth and the relocation of the existing road signage on the southern side of Seatown Ring Road/Church Street to the rear of the proposed new footway at the Gregory Place Car Park.

- f) Detailed drawings (Scale 1:500 minimum) showing the design specifications, materials and timescale for the provision of a new footway connecting the Gregory Place Car Park to Seatown Ring Road/Church Street on either the eastern or western side of the existing vehicular access.

Thereafter the improvements to pedestrian and cycle access and signage shall be provided in accordance with the approved details and agreed timescales.

**Reason:** To ensure provision of safe and suitable access to the bridge for pedestrians (including those with mobility impairments) and cyclists in the interest of road safety.

3. No works in connection with the development hereby approved shall commence unless the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority regarding:

- a) A Construction Traffic Management Plan which shall include the following information:
- i) Construction Programme, including start date and duration of works;
  - ii) Details of the location of a site compound for the storage of materials, equipment, staff parking, deliveries and the provision of welfare facilities;
  - iii) Measures to be put in place to prevent material being deposited on the public road;
  - iv) Measures to be put in place to safeguard the movements of pedestrians and cyclists;
  - v) Traffic management measures to be put in place during the works, including any specific instructions to drivers, including delivery drivers.

And

- b) Details of any required/proposed temporary construction access which shall include the following information:
- i) A drawing (scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
  - ii) Specification of the materials used for the construction access(es);
  - iii) All traffic management measures required to ensure safe operation of the construction access(es);
  - iv) Details, including materials, for the reinstatement of any temporary construction access(es); and
  - v) Details regarding the timescale for the opening up and closure of any temporary access(es) together with the time period over which the temporary access(es) will be used.

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

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic and construction vehicles during construction works at the site, and in the interests of road safety and the amenity of the area/adjacent properties.

4. The development hereby approved shall be carried out in accordance with the mitigation measures specified in section 5 of the Preliminary Ecological Survey by Walking the Talk dated 21 October 2020 approved as part of this application.

**Reason:** In order to ensure the development is carried out with minimal impact on species that may potentially be present in and around the development site.

5. Within one month of completion of works or first use of the bridge (whichever is the soonest) evidence shall be submitted to the Council, as Planning Authority, that shows as built drawings of the bridge have been submitted to the UK Hydrographic Office (Admiralty Way, Taunton, Somerset, TA1 2DN) for their records.

**Reason:** To ensure the UK Hydrographic Office charts can be updated timeously, in the interests of navigational safety of mariners.

6. No development shall commence until details of the colour of finishes for all steel work (bridge decking and legs) and the composite decking of the bridge hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented accordance with the approved details.

**Reason:** To ensure the finishes of the bridge are appropriate details of which are lacking and in the interests of the character of the surrounding area.

## **10. PLANNING APPLICATION 20/01455/APP**

### **Ward 8 – Forres**

#### **Proposed residential development (48 affordable units) and all associated landscaping and infrastructure on Site at Caroline Street, Forres, Moray for St Machar Properties Limited.**

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for a proposed residential development (48 affordable units) and all associated landscaping and infrastructure on Site at Caroline Street, Forres, Moray for St Machar Properties Limited.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is for 5 to 49 dwellings which is not in accordance with the development plan, and is being recommended for approval.

It was further noted that delegated authority would be given to the Head of Economic Growth and Development to issue the decision subject to no further representations being received following expiry of the neighbour notification period.

During his introduction, Mr Smith, Principal Planning Officer advised of a typo on page 3 of the Supplementary Agenda under the “Comments” section where the last bullet point should read that there were 13 representations from 10 parties and not 11 representations from 8 parties as printed. This was noted.

Councillor A McLean noted and agreed with the reasons detailed in the report as to why the proposal is considered to be an acceptable departure from the requirements of policies PP1 (Placemaking), DP1 (Development Principles) and EP5 (Open Space) of the Moray Local Development Plan (MLDP) 2020 and moved that the Committee grant planning permission in respect of Planning Application 20/01455/APP.

Councillor Macrae agreed to second Councillor A McLean’s motion noting that the proposal was for the redevelopment of a derelict site for affordable housing and that the Developer had worked with Officers to comply with policies within the MLDP 2020 as much as possible and that he agreed that the proposal is an acceptable departure from the requirements of policies PP1 (Placemaking), DP1 (Development Principles) and EP5 (Open Space) of the MLDP 2020.

Councillor Warren raised concern in relation to insufficient play areas and green space for children. She noted that the development is for affordable housing which would typically be occupied by young families and was concerned that there isn’t a footpath on part of the road to the park on Bogton Road for parents with young children and prams/pushchairs which raised concerns regarding safety. Councillor Warren raised further concern regarding inadequate parking facilities within the development and feared that this would lead to parking out with designated parking spaces and on Bogton Road which would further compromise the safety of children and pedestrians. Councillor Warren therefore moved that planning permission be refused in respect of Planning Application 20/01455/APP as it is an unacceptable departure from policies PP1 (Placemaking), DP1 (Development Principles) and EP5 (Open Space) of the MLDP 2020.

In response, Mr Smith, Principal Planning Officer advised that the nearest play area is at Bogton Road and that there is also open space across from the site. Mr Smith further advised that there is a condition which requires a piece of inclusive play equipment at the Bogton Play area.

In relation to the short section of Bogton Road where there is no footpath, Mrs Anderson, Senior Engineer (Transportation) advised that the Developer is providing a path through the Northern part of the site crossing Caroline Street towards Bogton Road which would avoid having to walk along the section of Bogton Road which does not have a footpath although there would still be a short section of road where there would be no footpath when accessing the park.

Councillor Brown agreed to second Councillor Warren’s motion to refuse planning permission in respect of Planning Application 20/01455/APP as he shared her concerns in relation to the lack of children’s play area and insufficient car parking and stated that the use of the Forres Mechanics football pitch at weekends would result in increased traffic and parking and further exacerbate the lack of parking in the development.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that the use of the old supermarket car park by football supporters was as a matter of good will by the Applicant and that this could be stopped at any time as owner of the site.

On a division there voted:

For the Motion (4): Councillors A McLean, Macrae, Nicol and Powell

For the Amendment (6): Councillors Warren, Brown, Cowe, R McLean, Ross and Taylor

Abstentions (2): Councillors Cowie and Edwards

Accordingly, the amendment became the finding of the meeting and the Committee agreed to refuse planning permission in respect of Planning Application 20/01455/APP as it is an unacceptable departure to the adopted Moray Local Development Plan 2020 policies PP1 (Placemaking), DP1 (Development Principles) and EP5 (Open Space) in relation to a lack of play area within the site and the alternative provision causing safety concerns and insufficient parking and open space as what is proposed fails to meet minimum standards required by policy.

## **11. PROPOSAL OF APPLICATION NOTICE 21/00803/PAN**

### **Proposed residential development, landscaping and associated infrastructure at R7 Land at Muirton, Buckpool, Buckie**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 21 May 2021 on behalf of Morlich Homes Ltd.

During discussion, Councillor Powell raised concern in relation to the access road via Muirton Way which is narrow and in poor condition and asked that the Developer give consideration to widening this road and repairing it to a standard suitable for adoption by the Council.

Councillor Warren also raised concern in relation to the access roads into the development and stated that there is already congestion at Golf View Drive, St Andrews Square and at the junction at the A98. She further highlighted the lack of connectivity for residents from Buckpool into Buckie and a lack of community facilities in Buckpool and asked that consideration be given to enhancing the design of the development to reflect its locality.

In relation to drainage, Councillor Cowie sought assurance that the water course that runs through the site is unrestricted.

In response, Mr MacPherson, Principal Planning Officer advised that he would pass these comments on to the Developer.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
  - concern regarding access via Muirton Way which is narrow and in poor condition and that consideration be given to widening this road and repairing it to a standard suitable for adoption by the Council;

- concern regarding congestion at Golf View Drive, St Andrews Square and the junction at the A98;
  - lack of connectivity for residents from Buckpool into Buckie;
  - lack of community facilities in Buckpool
  - assurance that the water course that runs through the site is unrestricted; and
  - consideration be given to enhancing the design of the development to reflect its locality.
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **12. SUSPENSION OF STANDING ORDERS**

In terms of Standing Order 83, the Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12:45 pm. This was unanimously agreed.

## **13. PROPOSAL OF APPLICATION NOTICE 21/00740/PAN**

Councillor Feaver re-joined the meeting at this juncture.

### **Proposed 100,000 tonnes per annum malt production facility on land at Greens of Rothes, Rothes, Moray**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 14 May 2021 on behalf of Simpsons Malt Limited.

During discussion, Councillor Ross stated that he had attended a meeting of the Speyside Community Council where this PAN had been discussed and stated that members of the Community Council had raised concern in relation to an increase in lorry movements; odour from the development; the affect the development will have on the amenity of the area and how it will affect climate change; and concern that water is to be taken from the River Spey with only 60% being returned.

In response, Mr MacPherson, Principal Planning Officer advised that he would pass these comments on to the Developer.

Thereafter, the Committee agreed:

- i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
- concern regarding an increase in lorry movements;
  - concern regarding odour from the development;
  - the affect the development will have on the amenity of the area;
  - how the development will affect climate change; and
  - concern that water is to be taken from the River Spey with only 60% being returned; and



- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

#### **14. MEETING ADJOURNMENT**

In terms of Standing Order 75, the meeting agreed to adjourn and reconvene at 2:00 pm.

#### **15. RESUMPTION OF MEETING**

##### **PRESENT**

Councillors A McLean (Depute Chair), Brown, Cowe, Cowie, Edwards, Macrae, R McLean, Nicol, Powell, Ross, Taylor and Warren.

##### **APOLOGIES**

Apologies for absence were intimated on behalf of Councillors Bremner and Feaver.

#### **16. PROPOSAL OF APPLICATION NOTICE 21/00670/PAN**

##### **Proposed residential development including associated roads, drainage and landscaping at Duffus Road, Findrassie, Elgin, Moray**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 4 May 2021 on behalf of Robertson Homes Limited.

During discussion, Councillor Brown welcomed the proposal however noted that a previous bus service had been funded by Developer Obligations and asked that the Developer give consideration to re-instating the bus service to support public transportation.

Councillor A McLean asked that the Developer ensure that the development is in line with the approved masterplan and that active travel is supported.

In response, Mr Smith, Principal Planning Officer advised that he would pass these comments on to the Developer.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
- consideration be given to re-instate the bus service to support public transportation;
  - ensure that the development is in line with the approved masterplan; and
  - ensure that active travel is supported.

- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

## **17. PROPOSAL OF APPLICATION NOTICE 21/00653/PAN**

### **Installation of underground electricity cables and associated development at land between Greenhill and Factors Park Plantation Deskford, Cullen, Moray**

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 14 May 2021 on behalf of Moray Offshore Windfarm (West).

During his introduction, Mr MacPherson, Principal Planning Officer advised of a typo at paragraph 1.1 in the report and asked that the Committee note that the proposed application was from Moray Offshore Windfarm (West) and not Simpsons Malt Limited as stated in the report. This was noted.

Following consideration, the Committee agreed:

- (i) to note that the proposed application was from Moray Offshore Windfarm (West) and not Simpsons Malt Limited as stated in the report;
- (ii) to note the terms of the report in respect of a Proposal of Application Notice (PAN) for the installation of underground electricity cables and associated development at land between Greenhill and Factors Park Plantation, Deskford, Cullen, Moray; and
- (iii) that there were no provisional views/relevant issues on the PAN from any Member of the Council.

## **18. PERFORMANCE REPORT (ECONOMIC GROWTH AND DEVELOPMENT) – PERIOD TO MARCH 2021**

Under reference to paragraph 19 of the Minute of the meeting of the Economic Growth, Housing and Environmental Sustainability Committee dated 8 June 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the performance of the Service for the period from 1 January to 31 March 2021.

During his introduction, the Head of Economic Growth and Development advised that, since the report had been written, the annual performance indicators for planning had been published which revealed that the average time for determining local development had risen from 6.5 weeks to 6.9 weeks which still placed Moray at the top of the table for speed of processing applications and demonstrated the tremendous effort of staff during an extremely difficult year.

The Committee joined the Chair in commending the Service for maintaining its high level of performance despite the difficult circumstances surrounding the pandemic and thereafter agreed to note:

- (i) performance in the areas of Service Planning, Service Performance and other related data to the end of March 2021; and

- (ii) the actions being taken to improve performance where required.

## **19. ELGIN SOUTH MASTERPLAN UPDATE 2021**

Councillor Nicol left the meeting at this juncture.

Under reference to paragraph 15 of the Minute of the meeting of this Committee dated 23 March 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to note the responses to the consultation on the draft Elgin South Masterplan Update, agree the final draft Masterplan to be used as a material consideration in the development management process and to delegate authority to the Head of Economic Growth and Development to work with Springfield Properties plc (SPL) to make any further technical amendments and proceed to adoption as non-statutory supplementary guidance upon completion of ground investigations work into the proposed primary school.

Following consideration, the Committee agreed:

- (i) to note the consultation responses to the draft Elgin South Masterplan Update and the resultant changes made to the final draft Masterplan;
- (ii) to note progress with ground investigations into the proposed new primary school site at Glassgreen;
- (iii) that the final draft Masterplan is treated as a material consideration in the development management process;
- (iv) that land currently designated as CF4 for a primary school in the Moray Local Development Plan 2020 is not released for the development of alternative uses until the Council is satisfied as to the suitability of the proposed new primary school site and its inclusion in the revised Masterplan;
- (v) that if ground investigation works conclude that the new proposed primary school site is unsatisfactory that the matter is referred back to Council to consider options;
- (vi) to note, that upon satisfactory completion of ground investigations into the new primary school site, a report is considered by Asset Management Working Group considering the merits of early acquisition of the site; and
- (vii) to delegate authority to the Head of Economic Growth and Development to work with Springfield Properties plc and proceed to make any additional technical changes required and to adopt the Masterplan as non-statutory supplementary guidance upon satisfactory completion of ground investigations into the new primary school site.

## **20. DEVELOPER OBLIGATIONS SERVICE UPDATE**

Under reference to paragraph 6 of the Minute of the meeting of Moray Council Emergency Cabinet dated 14 May 2020, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to note the update on developer obligations received and spent during the financial years of 2019/20 and

2020/21, agree minor operational changes in the process and changes in transport trip rates and agree the updated commuted sums for affordable housing.

During her introduction, the Developer Obligations Officer advised of a typo in table 5 and asked the Committee to note that the refund line should appear in the section above as the works were completed in April 2019. This was noted.

Following consideration, the Committee agreed:

- (i) to note the content of the report including a typo in table 5 where the refund line should appear in the section above as the works were completed in April 2019;
- (ii) the table of exemptions as set out in Appendix 1 of the report;
- (iii) the change in transportation trip rates as set out in Section 4.6 and Appendix 2 of the report; and
- (iv) the commuted sums for affordable housing as set out in Section 5 and Appendix 3 of the report.

## **21. EMPLOYMENT LAND AUDIT 2021**

A report by the Depute Chief Executive (Economy, Environment and Finance) summarised the employment land supply in Moray and asked the Committee to agree the final version of the Moray Employment Land Audit 2021.

During her introduction, Ms MacDougall advised of a typo in paragraph 5.6 of the report and asked the Committee to note that the number of hectares that have been developed should read 4.68 and not 0.85. This was noted.

Following consideration, the Committee agreed:

- (i) to note that the number of hectares that have been developed should read 4.68 and not 0.85 as detailed at paragraph 5.6 of the report;
- (ii) to note the employment land supply in Moray;
- (iii) the responses set out in Section 4 of the report; and
- (iv) to approve the finalised Moray Employment Land Audit 2021, as set out in Appendix 1 of the report.

## **22. HOUSING LAND AUDIT 2021**

A report by the Depute Chief Executive (Economy, Environment and Finance) summarised the housing land supply situation in Moray and asked the Committee to agree the final version of the Moray Housing Land Audit 2021 and the partial release of Elgin LONG2 *Elgin South* to replace land at Linkwood which is now considered to be constrained.

Following consideration, the Committee agreed:

- (i) to note the housing land supply in Moray;

- (ii) the response to the consultation on the draft audit, as set out in Appendix 1 of the report;
- (iii) the finalised Moray Housing Land Audit 2021, as set out in Appendix 2 of the report; and
- (iv) the partial release of Elgin LONG2 *Elgin South* to replace land at Linkwood which is now considered to be constrained, as set out in Appendix 3.

### **23. PROCEDURE FOR PRE-DETERMINATION HEARINGS**

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to agree the revised procedural arrangements for planning applications that require to be considered at pre-determination hearings following the introduction of The Planning (Scotland) Act 2019 (Commencement No. 3) Regulations 2019.

Following consideration, the Committee agreed:

- (i) that, for applications where a pre-determination hearing is mandatory, these will be carried out in accordance with the hearing procedure set out in Appendix 1 of the report;
- (ii) that, following the completion of the pre-determination hearing, the planning application is then determined by the Planning & Regulatory Services Committee; and
- (iii) to note that a further referral report will be required to the Full Council to amend the Council's Scheme of Administration to reflect this change.

### **24. QUESTION TIME**

Under reference to paragraph 1 of the Minute of the meeting of the Planning and Regulatory Services Committee dated 18 May 2021, Councillor Cowie sought clarification as to why Councillor Divers was not on the membership for today's meeting when it was noted at the last meeting that he was a member of the Committee.

In response, the Clerk advised that she did not have this detail to hand and would provide an explanation to the Committee following the meeting.

Councillor Edwards provided further clarification and stated that he had intimated his wish to come off of Planning and Regulatory Services Committee and that Councillor Divers would go on in his place however this decision had to be ratified by the Council therefore the membership of the Committee had to remain unchanged until the next meeting of Council on 15 September 2021. This was noted.

Councillor Warren raised concern in relation to the loss of a layby that lorries used for overnight parking as a result of the Burnbank Development in Buckie and queried whether there were any plans for a lorry park within Buckie?

In response, the Head of Economic Growth and Development advised that this was a question for the Economic Growth, Housing and Environmental Sustainability Committee and that he would pass this to the Head of Environmental and Commercial Services for a response.

## **25. UPDATE ON PLANNING APPLICATION S.75 - ELGIN [PARA 6 AND 9]**

Under reference to paragraph 2 of the Minute of the special meeting of the Planning and Regulatory Services Committee dated 1 October 2020, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider a way forward to allow planning application reference 19/01510/APP at R13, Lesmurdie Fields, Elgin to be determined.

Following consideration, Councillor Brown moved that the Committee agree the recommendations as printed within the report. This was seconded by Councillor Cowe.

There being no-one otherwise minded, the Committee agreed to Officer's accepting the revised layout presented by the applicant and that it be taken through a full assessment process prior to it being presented back to the first available committee for re-determination subject to the following:

- the applicant's agreeing to undertake a full Viability Assessment as set out in the Adopted Supplementary Guidance on Developer Obligations and that the £6,500 cap no longer applies to the application; and
- the general layout that has been presented being updated to accord with the policy requirements set out in the Adopted Moray Local Development Plan 2020, Supplementary Guidance and Planning Policy Guidance.

## **26. TREE PRESERVATION ORDER [PARA 14]**

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee not to confirm the emergency Tree Preservation Order (TPO), served under the Scheme of Delegation on 3 June 2021, at a property in Kingston.

Following consideration, the Committee agreed that 'Moray Council (Corlic, Beach Road, Kingston) Tree Preservation Order (No 1) 2021' should not be confirmed as a result of a recent change in circumstances.

## **27. TREE PRESERVATION ORDER – ROTHES [PARA 13]**

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to agree to the service of a Tree Preservation Order (TPO) in response to a threat to a tree, the details of which were set out in the report.

Councillor Brown was of the view that the tree in question was not of significant amenity value to the area, was disproportionate in size and raised concern as it overhangs the pavement and road and creates a hazard and moved that the Committee agree that a Tree Preservation Order should not be served at Green Street, Rothes.

Councillor Ross agreed to second Councillor Brown's motion stating that overhanging of the tree obscured the school signage and blocked considerable light from the building next to it.

Councillor A McLean was of the view that a TPO should be served to protect the tree in question and moved that the Committee agree the recommendations as printed within the report. On failing to find a seconder, his motion fell.

There being no-one otherwise minded, the Committee agreed that a Tree Preservation Order should not be served at Green Street, Rothes, as set out in Appendix 1 to the report.