

MORAY COUNCIL

Minute of Meeting of the Planning and Regulatory Services Committee

Tuesday, 18 September 2018

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor George Alexander, Councillor David Bremner, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor John Divers, Councillor Claire Feaver, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Ray McLean, Councillor Amy Patience

APOLOGIES

Councillor Ryan Edwards, Councillor Louise Laing

IN ATTENDANCE

Also in attendance at the above meeting were:

The Head of Development Services, the Manager (Development Management), Mr A Burnie, Principal Planning Officer, Mr Neal MacPherson, Principal Planning Officer, Mr G Templeton, Principal Planning Officer, Mrs D Anderson, Senior Engineer (Transport Development), the Acting Consultancy Manager, Mrs E Gordon, Planning Officer, Mr P Nevin, Senior Solicitor as Legal Adviser and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

Also present by invitation:

Ms Carol Anderson, Landscape Associates

1. Award Nomination

The Committee joined the Chair in wishing the pupils of Buckie High School well after being nominated for an award following the excellent film they made for the Moray Local Development Plan 2020.

2. Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct the following declarations were made:

- i. Councillor Macrae declared an interest in item 6 on the agenda, Planning Application 18/00964/APP, being a director of another leisure organisation in Elgin;
- ii. Councillor Divers declared an interest in item 6 on the agenda, Planning

Application 18/00964/APP, being a director for Elgin BID who were one of the objectors to the application;

- iii. Councillor Alexander declared an interest in item 5 on the agenda, Planning Application 17/00120/PPP, having shares in Aberdeen Northern Marts.

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. Resolution

The meeting resolved that under Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting for items 13-15 of business on the grounds that they involve the likely disclosure of exempt information of the class described in Paragraph 1 of Part 1 Schedule 7A of the Act.

Para Number of Minute	Para Number of Schedule 7A
17	13

4. Minute of Meeting dated 19 June 2018

The Minute of the meeting of the Planning and Regulatory Services Committee dated 19 June 2018 was submitted and approved.

5. Written Questions

The Committee noted that no written questions has been submitted.

6. Planning Application - 17/01862/MIN

Ward 4: Fochabers Lhanbryde

Establishment of a sand and gravel quarry including site restoration at Nether Dallachy Quarry, Beaufighter Road, Nether Dallachy, Moray for Limehillock Quarries Ltd.

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of the establishment of a sand and gravel quarry including site restoration at Nether Dallachy Quarry, Beaufighter Road, Nether Dallachy, Moray for Limehillock Quarries Ltd. The report also advised that members of the Committee visited the site of the application on 14 September 2018.

The Committee noted that the application had been referred to Committee as the application is a "major" development as defined under the Hierarchy Regulations 2008 (and the approved Scheme of Delegation) because the development is subject to the EIA Regulations and the site area exceeds 2 hectares.

Following consideration, Councillor Macrae moved that the Committee agree to grant

planning permission in respect of Planning Application 17/01862/MIN, as recommended, subject to the conditions detailed within the report. This was seconded by Councillor Cowie.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 17/01862/MIN as recommended, for the following reasons:

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the approval hereby granted is for a limited period only expiring 15 years from the date of this consent.

Reason - In order to avoid ambiguity over the temporary nature of the permission hereby approved.

2. One year prior to the exhaustion of minerals in Phase 1 a finalised restoration plan for the whole site, based upon the approved conceptual restoration plan, must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA). This plan must be accompanied by details of a finalised aftercare scheme including potential water management post-operation.

Reason - In order to ensure the timeous provision of the landscaping restoration and aftercare details.

3. Once mineral extraction has been exhausted or the permission duration expires (whichever is the sooner) the final restoration of the approved quarry shall be carried out in accordance with the approved final restoration plan referred to in the previous condition. The restoration works shall be carried out within 12 months of the quarry ceasing to operate.

Reason - In order to ensure, upon expiry of the mineral extraction, that the quarry is landscaped to minimise any long term visual impact and to encourage biodiversity back to the area.

4. Any trees or plants within the site and proposed on the finalised restoration plan (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 that the approved landscaping works are properly maintained in a manner to ensure the appropriate landscaping and quarry restoration is achieved.

5. Prior to any development works commencing:
 - i. a detailed drawing (scale 1:500) showing proposed road edge markings across the access of the site onto the U8E shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and

- ii. the road markings shall be provided in accordance with the approved drawing prior to any quarrying works commencing

Reason - To enable an acceptable vehicular access is provided to the development in the interest of road safety.

6. Programme of archaeological works:

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 written scheme of investigation 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.

7. All quarry operations shall be carried out and permitted between 07:30-17:00 hours, Monday to Friday, and 07:30-12:00 hours on Saturday, and at no other times (including Bank and National Holidays) shall operations be undertaken without the prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

8. During the normal daytime working hours defined in the above condition, the free field Equivalent Continuous Noise Level (LAeq, 1hr.) for the period, excluding soil and overburden handling activity in connection with bund formation in Phases 1 and 2, shall not exceed 50 dB(A), as determined at any existing noise sensitive dwelling.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

9. Soil and overburden handling in connection with soil stripping operations in Phase 1 and 2, as referenced in Table 3.1 to 3.3 of the supporting document by Vibrock Limited, referenced as "Assessment of Environmental Impact of Noise at Nether Dallachy Quarry, Moray. Johnson Poole & Bloomer R17.9652/2/AF. Date of Report: 31 May 2017", shall not exceed the free field Equivalent Continuous Noise Level (LAeq, 1hr.) of 70 dB(A) at any existing noise sensitive receptor and be limited to a period not exceeding 8 weeks in a year.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to sensitive receptors in the area.

10. No quarry blasting operations are permitted at the development.

Reason - In the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

11. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note "PAN 50, Annex A: The Control of Noise at Surface Mineral Workings". The results of such monitoring shall thereafter be forwarded to the Planning Authority. In the event that the results of the subsequent monitoring specified above records levels exceeding those specified in conditions 8 and 9 above further timeous mitigation measures will be required to be identified in a scheme agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager, and thereafter implemented.

Reason – In order that adequate mitigation can be sought in the event of noise complaints, if found to be justified and in the interests of amenity so as to ensure that the development does not cause a nuisance or disturbance to residents in the area.

12. Prior to the expiry of the first planting season following the grant of planning permission the 2 hectares of compensatory tree planting proposed at Bogend Quarry, Buckie must be planted in accordance with the 'Nether Dallachy – Proposed Compensatory Planting Areas' submitted on the 8 August 2018 in so far as it relates to Bogend Quarry, Buckie.

Reason – In order to compensate for the loss of woodland that will result from the development.

13. For the areas of compensatory planting off and on site, following planting, if any trees (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 the planning condition.

Reason - In order to ensure that the approved areas of compensatory planting are managed and maintained until the new planting can establish itself.

14. Unless other suitable compensatory planting areas are agreed in writing with the Council, as Planning Authority (in consultation with the Forestry Commission) no extraction of any materials below the water table in Phase 1 shall be permitted to occur (no deeper than 5m below the current ground level). These areas, shall then be restored and planted with trees of a species, and density of planting that will have been agreed in writing in advance by the Council as Planning Authority. If off site compensatory planting and timescales are agreed for the area covered by Phase 1, then the extraction may occur to the depth as shown

on approved 'Cross Sections' plan drawing no OG220/PA/F/02.

Reason – In order to compensate for the loss of woodland that will result from the development.

15. Unless other suitable compensatory planting areas are agreed in writing with the Council, as Planning Authority (in consultation with the Forestry Commission) no extraction of any materials below the water table in Phase 2 (no deeper than 5m below the current ground level). These areas, shall then be restored and planted with trees of a species, and density of planting that will have been agreed in writing in advance by the Council, as planning authority. The only exception to this shall be an area of 2 hectares within Phase 2, which shall be defined on an amended plan and cross section and agreed in writing with the Council, as planning authority prior to mineral extraction commencing on Phase 2. If off site compensatory planting is agreed for the area covered by Phase 2, then the extraction may occur to the depth as shown on approved 'Cross Sections' plan drawing no OG220/PA/F/02.

Reason – In order to compensate for the loss of woodland that will result from the development.

16. In the event that no other compensatory planting areas are proposed beyond the area agreed at Bogend Quarry, Buckie, prior to the commencement of each phase, a revised cross section plan, and finalised restoration plan (also in accordance with the information required in condition 2 above) must be submitted to and approved in writing by the Council, as planning authority showing the revised quarry depths. The approved restoration plan shall be implemented in accordance with the details and timescales.

Reason - In order to avoid any ambiguity regarding the terms of the consent and to ensure the further consideration of the final site restoration details.

17. A radiological site walkover is required once tree felling has been completed for each phase. This will establish whether or not radium 226 is present within the top 20-30cm of soils on site and if present further radiological screening is required during the extraction of these soils to establish suitability for re-use on site. Findings of the radiological surveys (and if necessary proposals for further screening) must be submitted to the Council (in consultation with SEPA) for prior written approval before soils can be reused on site. If radium 226 is present the soils must be disposed of or treated to satisfaction of both SEPA and Moray Council.

Reason – In order to ensure that suitable checks for radioactive material are undertaken and suitable mitigation is undertaken if required given the historic use of the site as a military airfield.

18. Unless otherwise agreed in writing with the Council, as Planning Authority in consultation with SEPA there shall be no dewatering of the site.

Reason – To avoid impacts on groundwater flow.

19. Unless otherwise agreed in writing, no development shall commence until a strategy to assess and then, where subsequently appropriate, a strategy to deal

with potential contamination on the site, including assessment of risk from explosive ordnance, have been submitted to, and accepted in writing by, the Council, as Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:

- i. an appropriate level of characterisation of the type, nature and extent of contamination on the site and accompanying risk assessment as described in Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
- ii. how any identified contamination will be dealt with during construction works;
- iii. details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
- iv. a means of verifying the condition of the site on completion of the remedial measures.

Thereafter, no development shall commence (other than those works required to investigate and remediate contamination on the site) until written confirmation has been issued by the Council, as Planning Authority that the works have been implemented and completed in accordance with the agreed details.

Reason - To ensure that the site is suitable for the proposed use, and that risks to the wider environment and to users of neighbouring land from on-site contamination are appropriately assessed and managed.

7. Planning Application - 18/00384/EIA

Ward 5: Heldon & Laich

Proposed extraction area to be used in conjunction with (and retention of) the existing processing area at Caysbriggs Quarry, Elgin, Lossiemouth, Moray for Tarmac Trading Ltd

A report by the Appointed Officer recommended that, subject to the conditions detailed in the report, planning permission be granted in respect of a proposed extraction area to be used in conjunction with (and retention of) the existing processing area at Caysbriggs Quarry, Elgin, Lossiemouth, Moray for Tarmac Trading Ltd. The report also advised that members of the Committee visited the site of the application on 14 September 2018.

The Committee noted that the application had been referred to the Committee as the application is a "major" development as defined under the Hierarchy Regulations 2008 (and approved Scheme of Delegation) because the development is subject to the EIA Regulations and the site area exceeds 2 hectares.

During his introduction, Mr Burnie, Principal Planning Officer advised the Committee of 2 corrections within the report, the first at condition 3 iii) where the height should read 0.6 metres and not 1.0 metres and the second at condition 5 where the word

"Construction" should be removed when referring to the Traffic Management Plan. Mr Burnie further advised that the recently applied weighting restriction on Arthurs Bridge resulting in the current one way control crossing had made no change to the Environmental Impact Assessment. This was noted.

During discussion surrounding the provision of additional car parking at the cemetery, it was queried whether this could be included as a condition to the application.

In response, the Appointed Officer advised that additional car parking at the cemetery did not form part of the proposal however suggested that an informative be included asking that consideration be given to the provision of additional car parking to serve the Cemetery which would require to be the subject of a separate planning application. This was agreed.

Following consideration, Councillor Cowe moved that the Committee agree to grant planning permission in respect of Planning Application 18/00384/EIA, as recommended, subject to the conditions and reasons detailed within the report and with the inclusion of an additional informative in relation to additional car parking at the cemetery. This was seconded by Councillor Patience.

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

i. note the following corrections to the report:

- a) Condition 3 iii) height should read 0.6 metres and not 1.0 metres;
- b) Condition 5 should read Traffic Management Plan and not Construction Traffic Management Plan;

ii. note that the recently applied weighting restriction on Arthurs Bridge resulting in the current one way control crossing have made no change to the Environmental Impact Assessment; and

iii. approve planning permission in respect of Planning Application 17/00384/EIA as recommended, for the following reasons and subject to the inclusion of the following informative:

Consideration should be given to the provision of additional car parking to serve the Cemetery which would require to be the subject of a separate planning application.

The following Conditions 1 – 13 inclusive apply to both the extraction and processing areas hereby approved:

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on 1 October 2044 (the 'cessation date') by which time and prior to that cessation date, the application site (both excavation and processing areas) shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 12 below).

Reason: To ensure an acceptable form of development enabling the

development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, and to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance of the site and surrounding area together with securing removal of all site infrastructure used in the extraction process prior to embarking upon the restoration of the site.

2. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/developer shall operate the development in accordance with the provisions of the application, the Environmental Impact Assessment Report (EIA Report) and the plans hereby approved including:

- a) the extraction of cobbles, pebbles and sand within the proposed extraction area at Inchbroom Road, and the processing of the extracted material (screening and sorting) within the processing area at Caysbriggs quarry;

- b) the extraction of not more than 40,000 tonnes of cobbles, pebbles and sand (combined) annually or extraction operations to take place on not more than 60 days per year (whichever is the greater), with the operator to maintain records of daily output/production from the extraction area, which shall be made available to the Council, as Planning Authority at any time on request;

- c) in terms of the development of the site (Chapter 3 of EIA Report refers), extraction and restoration of the site shall be undertaken progressively across the site (Phases 1 – 11 in that order) in accordance with all elements associated with the phasing and woodland replanting details as identified on drawing nos. C165-00038-04, 05 and 06; including the incorporation and provision of a protective margin/retained tree buffer around the site, additional tree planting along the north/northeastern/western (part) boundaries and construction of a 2m high screen bund along the northern/western (part) perimeter of the site as shown, and all elements shall be implemented prior to commencement of extraction operations and maintained in situ for the duration of all phases of extraction operations;

- d) the adoption and commitment to implement all proposed and required mitigation measures as identified in the EIA Report (and summarised in Table 14.1, Volume 1 contained therein);

- e) no extraction until soils (top and sub-soil) have been stripped to their full depth within the proposed operational extraction areas in advance of any extraction commencing within each phase and stored on site for re-use progressively as part of the site restoration arrangements and no material shall be deposited or brought onto the site from elsewhere;

- f) no extraction of cobbles, pebbles and sand above the levels shown on the submitted drawings;

- g) all stockpiles of extracted cobbles and pebbles (pre- and post- processing) shall be located within the processing area only; and no stockpiling is permitted in the extraction area;

- h) upon restoration, the land shall be restored to woodland/habitats and agricultural land and to finished levels as identified within the EIA Report;

i) all woodland planting (additional and replacement following each worked phase) shall be provided in accordance with the approved plans and details contained within Chapter 13 'Woodland' (EIA Report, Vol 1 and 2 refers) and associated Appendix 13.2 Forestry Report prepared by Scottish Woodlands, dated November 2017 (EIA Report, Vol 3 refers);

j) extraction operations shall be undertaken by a single wheeled shovel loader or excavator only; and all fixed and mobile plant used for processing operations shall be located only within the processing area.

Reason: To ensure an acceptable form of development in accordance with the submitted particulars and in order to safeguard the amenities, character and appearance of the locality within which the proposal is located.

3. Notwithstanding the details submitted (which are not accepted):

- i. prior to works commencing on any part of the development details shall be submitted and approved by the Council, as Planning Authority in consultation with the Roads Authority regarding a detailed drawing (scale 1:1000) which shall include details to demonstrate control of the land) showing the visibility splay 4.5 metres by 215 metres in both directions from the Oakenhead access track junction onto the B9103, all boundary walls/fences/hedges set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area; and
- ii. thereafter, the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
- iii. the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

4. Notwithstanding the details submitted (which are not accepted) and prior to works commencing on any part of the development, the following details shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:

- i. a detailed plan (scale 1:500 min) showing the first 25 metres of the access track to the site from the B9103 widened to 7.3 metres, constructed to the Moray Council specification and surfaced with bituminous macadam and with a gradient of not more than 1:20 for the first 10m, measured from the edge of the public carriageway; and
- ii. a plan (scale 1:200 min) showing resurfacing (using Hot Rolled Asphalt (HRA)) of the full width of the B9103 road 20 metres in both directions from the centreline of the Oakenhead access; and
- iii. thereafter, the improvements both to the access track and resurfacing of the B9103 shall be completed in accordance with the approved details prior to the commencement of any other part of the development.

Reason: To ensure an acceptable form of development in the interest of road

safety.

5. No works shall commence on site until a Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Traffic Management Plan shall include the following information:
 - evidence to confirm that a Wear and Tear Agreement has been agreed with the Council, as Roads Authority, to include the length of the B9103 and C21E between the proposed quarry and the processing site, a schedule for monitoring surveys (bi-annually minimum), and arrangements for undertaking works to mitigate against damage to the public road due to quarry traffic.
 - measures to be put in place to safeguard the movements of pedestrians; and
 - instructions to drivers and details of specific routes to be used for access.

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 during the operation of all works at the site.

6. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

Reason - To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

7. 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 in consultation with Aberdeenshire Archaeology Services 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 written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. In the event that 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 in consultation with Aberdeenshire Archaeology Services. The PERD shall be carried out in complete accordance with the approved details.

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

8. In the event of a complaint being received of the existence of any negative effect(s) on private water supplies (in terms of either quality or quantity) as a result of the development, then within two weeks of being notified by the Council, as Planning Authority, in consultation with the Environmental Health Manager (or within a longer period as the Council may allow) the applicant/quarry operator shall submit to the Council as Planning Authority, in consultation with the Environmental Health Manager for its approval, proposals to secure the protection of that supply and urgent restorative mitigation measures to remedy the effects, including timescale(s) for their implementation. Thereafter, these proposals shall be carried out in accordance with the approved details.

Reason: To protect the adequacy and wholesomeness of any private water supplies which may be affected by the development hereby approved.

9. Notwithstanding the provisions of Classes 55 and 56 of the Town & Country Planning (General Permitted) (Development) (Scotland) Order 1992 (as amended, or as revoked or re-enacted; with or without modification) no buildings, plant or machinery (other than the single wheeled shovel loader or excavator within the extraction area and/or similar fixed/mobile plant, machinery and buildings located with the processing area), shall be installed or operated within the site without the prior approval of the Council, as Planning Authority.

Reason: In order to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or adversely impact on the amenity or character of the area.

10. Where proposed as part of extraction and/or site restoration operations, any proposed infilling including partial infill of excavated quarry voids shall only be undertaken using material sourced on the site and no part of the permission hereby granted shall authorise or permit at any time the removal of top or sub-soil from the site or the import of material from outwith the site.

Reason: To prevent pollution of the water environment.

11. Not less than 12 months prior to completion of mineral workings (including extraction within Phase 11, details shall be submitted to and approved by the Council, as Planning Authority in consultation with the SEPA (and others where appropriate) regarding:

- a) a detailed restoration plan and aftercare scheme for both the processing area and extraction area hereby approved to include:
 - i. the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from each area;
 - ii. details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or moulding of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum) etc. to describe the finalised landform;
 - iii. the provisions for re-instatement for after-uses to include woodland, arable land and habitat creation (wetland/pond) as proposed within the EIA Report including sections and finished ground levels to

- show the finished profile of the re-instated ground;
 - iv. landscaping and planting/seeding information associated with the proposed formation of all identified habitats, including woodland planting and the formal landscaped area opposite the Cemetery;
 - v. details of the location, route and construction of the new footpath to be formed within and through the excavation area which would link the footpath along the western site boundary with the Oakenhead access track to the east;
 - vi. information on the effects of restoration upon the water environment including ground water quality and quantity;
 - vii. the arrangements for the monitoring and aftercare scheme (see Condition 12 below) which shall specify all the steps to be taken and the time periods within which the steps will be taken; and
- b) thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details.

Reason: To ensure that both the processing and extraction sites are appropriately restored in the interests of the protection of the environment and that the final landform and uses are in keeping with the existing amenities and appearance of the surrounding area, as these details are currently lacking from the application.

12. Following restoration works (whether for each individual Phase or upon completion of Phase 11, and thereafter for the whole quarry site (including both the extraction and processing areas), the approved restoration works within the site (Condition 11) shall be subject to a monitoring and aftercare scheme for a period of 5 years, the method statement and specification for which shall be submitted to and approved by the Council, as Planning Authority in consultation with SEPA and others as appropriate not less than 2 months prior to undertaking the restoration works.

Thereafter, the agreed scheme shall be implemented in accordance with the agreed details and any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season.

Reason: In order to monitor the condition of the site after restoration.

13. Prior to the commencement of development a bird hazard management plan shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Ministry of Defence and SNH. The submitted plan shall include details as to how birds are to be managed on site for the period of extraction and shall contain specific measures as detailed below:

- i. to ensure that there are no more than 20 gulls, waders (Lapwing, Golden Plover, Oystercatcher and Curlew) or corvids on the site at any one time;
- ii. where 20 or more of the above named species are observed on site, details of measures to ensure that the species are to be dispersed in a controlled manner; and
- iii. the arrangements for the site operator to notify RAF Lossiemouth in

writing at least 24 hours prior to any active bird control measures being undertaken to ensure that they are not dispersed into the path of an aircraft.

Thereafter, the agreed measures shall be implemented in full for the lifetime of the development.

Reason: To avoid endangering the safe movement of aircraft and the operation of RAF Lossiemouth aerodrome as a result of a potential increase in bird strike risk during the period of extraction.

The following Conditions 14 to 21 inclusive apply to the extraction area only:

14. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a detailed dust management plan, as referred to in Section 11.63 of the EIA Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To ensure that an acceptable plan with monitoring is in place from the start of the development in accordance with the submitted EIA Report, to address/mitigate dust impacts upon neighbouring property.

15. Extraction operations shall be undertaken by a single wheeled shovel loader or excavator only and no screening plant or blasting operations are permitted.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit the impact of noise associated with on-site extraction upon the amenities of the locality and neighbouring property.

16. All quarry operations within the extraction area shall be carried out and permitted between 08:00 to 17:00 hours, Monday to Friday, at 08:00 to 13:00 hours on Saturday only, and at no other times (including Bank and National Holidays) shall such operations be undertaken without prior written consent of the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason: To control/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

17. Noise emissions associated with soil and overburden handling in connection with soil stripping operations in all phases, and the provision of the 2m high bund associated with Phase 1, as highlighted in drawing number C165-00038-05 of the EIA Report: Volume 2, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU', shall not exceed the free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) of 70dB(A) at any noise sensitive dwelling, and all such noise emissions shall be limited to a period not exceeding 8 weeks in any year at any one dwelling.

Reason: To control/restrict the impact of noise emissions resulting from such

operations upon the amenities of the locality, including neighbouring property.

18. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a noise mitigation scheme, as referred to in Section 10.82 of Tarmac's Environmental Impact Assessment Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'. The scheme, shall include, amongst other measures, details of community liaison protocols on planned burials proposed in conjunction with the Moray Council Registrar Service and commemorative services/ceremonies proposed in conjunction with the Commonwealth War Graves Commission at the adjacent Lossiemouth Cemetery, during which all quarry, including excavation operations shall cease.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit/mitigate the impact of noise associated with on-site extraction upon the amenities of the locality, including neighbouring property and events to be to be undertaken at Lossiemouth Cemetery.

19. No development shall commence until details have been submitted to and approved by the Council, as Planning Authority in consultation with the Environmental Health Manager, regarding a scheme of compliance noise monitoring (to be undertaken at or close to sensitive noise receptors), as referred to in Section 10.79 of the EIA Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To ensure an acceptable form of development in accordance with the submitted EIA Report and to limit/mitigate the impact of noise associated with on-site extraction upon the amenities of the locality and neighbouring property; with further mitigation measures to be agreed and implemented where such impacts are identified as a result of the compliance noise monitoring.

20. During normal daytime working hours defined in Condition 16 above, the free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) for the period associated with quarry operations, excluding soil and overburden handling activity referred to in Condition 7 above, shall not exceed 45 dB(A) at any noise sensitive dwelling and within the grounds of Lossiemouth Cemetery.

The exception to this noise limit is in respect of Caysbriggs Farm, which shall be subject to a free-field Equivalent Continuous Noise Level (L Aeq, 1 hr) of 52 dB(A), as referred to in Section 10.62 of Tarmac's Environmental Impact Assessment Report: Volume 1, dated March 2018 and titled 'Caysbriggs Quarry, Inchbroom Road, Lossiemouth, Moray IV31 6RU'.

Reason: To regulate/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

21. Prior to the commencement of development, a scheme identifying all mitigation measures to safeguard existing Scottish Water assets on the site shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Water.

Thereafter, the development shall be carried out in accordance with these approved details.

Reason: To ensure that Scottish Water assets and infrastructure within the extraction area are adequately protected during the lifetime of the development.

The following Conditions 22 to 25 inclusive apply to the processing area only:

22. The processing area shall not be used for the development hereby permitted before 0700 hours on weekdays and 0700 hours on Saturdays, nor after 1700 hours on weekdays and 1500 hours on Saturdays, nor at any time on Sundays other than essential maintenance work between the hours of 0800 and 1200 hours by prior agreement with the Council, as Planning Authority in consultation with the Environmental Health Manager.

Reason: To regulate/restrict the impact of noise emissions resulting from processing operations upon the amenities of the locality and neighbouring property

23. Noise emissions from plant and machinery within the processing area shall not exceed an Leq of 52dB(A), 1 hour (free-field) at the nearest noise sensitive dwelling. The reference period shall be 1 hour, where 1 hour means any of the 1 hour periods during the defined working day (0700 - 1900 hours).

Reason: To regulate/restrict the impact of noise emissions resulting from such operations upon the amenities of the locality and neighbouring property.

24. Prior to the commencement of development, a dust management scheme shall be agreed with the Council, as Planning Authority in consultation with the Environmental Health Manager. This scheme shall be monitored by the developer on an annual basis and arising from this, any additional measures required to manage dust shall be immediately incorporated into the dust management procedures in accordance with details which shall previously have been agreed with by the Council, as Planning Authority, in consultation with the Environmental Health Manager.

Reason: To ensure that an acceptable plan with monitoring is in place from the start of the development in accordance with the submitted EIA Report, to address and mitigate dust impacts upon neighbouring property.

25. Prior to the commencement of development, a detailed site layout plan drawn to scale showing the processing area shall be submitted to and approved in writing by the Council, as Planning Authority. The plan shall identify the location and height of all fixed/mobile plant, machinery or other structures, stock pile areas and buildings, the location of water treatment lagoons, foul/surface water drainage arrangements, parking areas, access arrangements, screen bund and planting (existing and new).

Thereafter, the processing area shall be maintained in accordance with these approved details.

Reason: To ensure an acceptable form of development appropriate to the surrounding area and provide an up-to-date record of the site layout and

features, as these details are currently lacking from the application.

8. Planning Application - 17/00120/PPP

Ward 4: Elgin City South

Proposed mixed use development comprising family restaurant with licensed premises and housing with associated access infrastructure and landscaping works at Elgin Auction Mart, New Elgin Road, Elgin, Moray for Aberdeen and Northern (Estates) Ltd

Councillor Alexander, having declared an interest in this planning application, took no part in the relevant discussion or decision.

A report by the Appointed Officer recommended that, for reasons detailed within the report, planning permission in principle be refused in respect of a proposed mixed use development comprising family restaurant with licensed premises and housing with associated access infrastructure and landscaping works at Elgin Auction Mart, New Elgin Road, Elgin, Moray for Aberdeen and Northern (Estates) Ltd. The report also advised that members of the Committee visited the site of the application on 14 September 2018.

The Committee noted that the application had been referred to Committee as the application is a major development as defined under the Hierarchy Regulations 2009 wherein, as a mixed-use development, the site area exceeds 2ha and more than 50 dwellings are proposed.

During his introduction, Mr Burnie, Principal Planning Officer advised that 2 late representations had been received which had been circulated to Members of the Committee however no new material planning considerations had been included within these further representations.

Councillor Divers, stated that he was aware that the area in question had flooded significantly in the past, despite the recent flood scheme and, as the Applicant did not sufficiently address these issues in their application, moved that the Committee agree to refuse planning permission in principle in respect of Planning Application 17/00120/PPP, as recommended, for the reasons detailed in the report. This was seconded by Councillor Macrae.

Councillor A McLean, in recognising that a further application may come back for consideration should the flooding issues be addressed, asked that future prospective applicants be asked to consider the character of existing buildings when proposing further development and that any proposed residential flats should be no more than 2 storeys in height.

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

- i. that future prospective applicants be asked to consider the character of existing buildings when proposing further development and that any proposed residential flats should be no more than 2 storeys in height; and
- ii. to refuse planning permission in principle in respect of Planning Application 17/00120/PPP, as recommended, for the following reasons:

Notwithstanding the 'in principle' status of the application, the development is contrary to the provisions of the Moray Local Development Plan 2015 and Scottish Planning Policy whereby

- although required, a detailed Flood Risk Assessment has not been provided (Elgin OPP5 designation refers) and insufficient information is provided about the arrangements to manage and mitigate the risk of flooding, in terms of details about the extent of all proposed/required mitigation measures (which may include land raising and/or any other measures) to address all identified sources of flood risk associated with the site and demonstration that the effects of such mitigation measures as required/proposed will not exacerbate the risk of flooding whether to the development itself and to elsewhere, including property adjoining the site (Policy H1, IMP1 and Scottish Planning Policy refers).

9. Planning Application - 18/00964/APP

Ward 7: Elgin City South

Subdivision of an existing retail unit and part change of use to Class 11 (Assembly and Leisure) with creation of new entrance and associated external work at New Look Plc, Unit 3, Springfield Retail Park, Edgar Road, for Springfield Retail Park Elgin Real Estate S.A.R.L.

Councillors Divers and Macrae, having declared an interest in this planning application, left the meeting, taking no part in the relevant discussion or decision.

Councillor Patience also declared an interest in this planning application being a Director on the Board of another leisure organisation in Elgin and left the meeting, taking no part in the relevant discussion or decision.

A report by the Appointed Officer recommended that, subject to the conditions detailed within the report, planning permission be granted in respect of the subdivision of an existing retail unit and part change of use to Class 11 (Assembly and Leisure) with creation of new entrance and associated external work at New Look Plc, Unit 3, Springfield Retail Park, Edgar Road, for Springfield Retail Park Elgin Real Estate S.A.R.L. The report also advised that members of the Committee visited the site of the application on 14 September 2018.

The Committee noted that the application had been referred to Committee as the introduction of a proposed (Class 11) leisure use within the Class 1 non-food retail use of Springfield Retail Park would represent a significant amendment to that development as granted planning permission.

Following consideration, the Chair moved that the Committee agree to grant planning permission in respect of Planning Application 18/00964/APP as recommended, for the reasons detailed in the report.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 18/00964/APP for the following reasons:

- i. Notwithstanding the provisions of the Town and Country Planning (Use

Classes) (Scotland) Order 1997 (or such Order that may revoke, amend or re-enact that Order) the permission hereby granted shall relate only to the use of the existing retail unit (once sub-divided) for Class 1 non-food retailing purposes and the use of the remainder of the unit (once sub-divided) for the purposes of a gym within Class 11, and neither the retail unit nor the gym shall be used for any other use or purpose without the approval of the Council, as Planning Authority.

Reason - To ensure consideration can be given to the effects and impacts of uses other than that approved herewith upon the amenity and appearance of the surrounding area. Councillors Divers, Macrae and Patience rejoined the meeting at this juncture.

Councillors Divers, Macrae and Patience rejoined the meeting at this juncture.

10. 18/00978/PAN - Proposal of Application Notice

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been received on 12 July 2018 by Robertson Homes Limited and Hanover Housing Association.

The PAN intimated that a formal application for planning permission would be submitted for a major development proposal, in this case for permission for a residential development consisting of 90 private and affordable houses and associated infrastructure (access, drainage and landscaping) and asked that the Committee and any other member of the Council identify any provisional views/relevant issues which they would wish to see taken into account and inform the proposed development.

Councillor R McLean, in noting that the proposed development was for Hanover Housing Association, asked that the Applicant ensure that public transport is provided and made available and accessible to the development.

In response, Mr Burnie agreed to feed this request back to the prospective Applicant.

Thereafter, the Committee agreed:

- i. to note the terms of the report and asked that the prospective applicant ensure that public transport is provided and made available and accessible to the development; 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.

11. 18/01083/PAN - Proposal of Application Notice

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) had been received on 13 August 2018 on behalf of Tulloch Homes Limited, Stoneyfield Business Park, Inverness.

The PAN intimated the intention to submit a formal application for planning permission for a major development proposal for a residential development and associated roads, infrastructure, landscaping and boundary treatment on the Forres R1 Knockomie (South) Site, Grantown Road, Forres and asked that the Committee and other Council Members identify any provisional views/relevant issues which they would wish to see taken into account in order to inform the development of the proposal.

During discussion, the Committee raised concern in relation to the issues and asked that these be fed back to the prospective Applicant:

- Increased traffic if new A96 goes North of Forres;
- The requirement for public transport provision;
- Cycle paths, footpaths, landscaping and trees be included at the beginning of the development and not at the end;
- East/West movement of wildlife – ensure that developers provide a wildlife corridor between existing housing;
- Noise mitigation against road noise if A96 goes South of Forres

In response, Mr A Burnie agreed to feed back these issues to the prospective applicant.

Thereafter, the Committee agreed:

- i. to note the terms of this report;
- ii. that the prospective applicant be informed of the following views/relevant issues from the Committee in order to inform the development of their proposed formal application for planning permission:
 - Increased traffic if new A96 goes North of Forres
 - The requirement for public transport provision;
 - Cycle paths, footpaths, landscaping and trees be included at the beginning of the development and not at the end;
 - East/West movement of wildlife – ensure that there is a good barrier area for wildlife between existing houses; and
 - Noise mitigation against road noise if A96 goes South of Forres; and
- iii. the matters raised by the Committee be forwarded also to consultees likely to be involved in any formal application for planning permission for the proposal

12. Moray Local Development Plan 2020 - Moray Local Landscape Designations Review - Draft Report

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to approve the Moray Local Landscape Designations Review - Draft Report, which proposes a series of new candidate Special Landscape Areas (SLA's) for consultation, with the final SLA's replacing the current Areas of Great Landscape Value (AGLV) and Coastal Protection Zone (CPZ) designations.

The Committee noted a presentation by Ms Carol Anderson, Landscape Associates in relation to the Moray Local Landscape Designation review and joined the Chair in

thanking Ms Anderson for her informative and interesting presentation.

Following consideration, the Committee agreed to:

- i. note the candidate SLA's set out in the Moray Local Landscape Designations Review Draft Report which was issued separately with this agenda;
- ii. approve the Moray Local Landscape Designations Review Draft Report for consultation; and
- iii. agree that a report setting out consultation responses be considered at a special meeting of this Committee on 5 December 2018 and thereafter the SLA designations be incorporated into the Proposed Moray Local Development Plan 2020.

13. Kinloss Golf Course Masterplan Supplementary Guidance

Under reference to paragraph 10 of the Minute of this Committee dated 24 April 2018, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to agree the responses to comments received during the public consultation on the Kinloss Golf Course Masterplan Supplementary Guidance and grant delegated powers to the Head of Development Services to work with the developer and partners to prepare a Delivery Plan/Programme for the Masterplan area.

Councillor Feaver having attended the site visit and observed a house in which the roof of the house was on the ridge line and was only hidden by one or two trees moved that the Committee agree the recommendations as printed with a further recommendation that all houses should be nestled within trees well below the ridge sky line and not just within the tree line. This was seconded by Councillor R McLean.

Councillor A McLean was content that the Masterplan adequately addressed the issues raised by Councillor Feaver in relation to prominent properties and moved the recommendations as printed within the report. This was seconded by Councillor Coy.

On a division there voted:

For the Motion (3): Councillors Feaver, R McLean and M Macrae

For the Amendment (8): Councillors A McLean, P Coy, Alexander, Bremner, Cowe, Cowie, Divers and Patience

Abstentions (0): None

Accordingly the amendment became the finding of the Meeting and the Committee agreed:

- i. the responses to the comments received to the public consultation on the draft Kinloss Golf Course Masterplan Supplementary Guidance set out in Appendix 2 of the report;
- ii. to delegate authority to the Head of Development Services to make the identified minor changes to the final draft Masterplan;
- iii. to delegate authority to the Head of Development Services in consultation with the Chair and Depute Chair to work with the developer and partners to prepare

a Delivery Plan/Programme for the Masterplan area; and

- iv. that the finalised Kinloss Golf Course Masterplan Supplementary Guidance be approved and used as a material consideration following agreement of the Delivery Plan/Programme, that will be given significant weight in the determination of planning applications in this location.

14. Development Services - Improvement Actions/Service Plan 2018/19

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider Development Services Service Plan - Actions for Improvement for 2018/19.

Following consideration, the Committee agreed to approve Development Services Service Plan – Actions for Improvement 2018/19 as set out in Appendix 1 of the report.

15. Appointment of Public Analyst, Agricultural Analyst and Food Examiner

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the resignation of the appointed Public Analyst, Agricultural Analyst and Food Examiner and asked that the Committee formally appoint the successors.

Following consideration, the Committee agreed to appoint:

- i. Dr Duncan James Campbell B.Sc., D.Phil., M.Chem.A., C.Chem., F.R.S.C to act as Public Analyst and Agricultural Analyst for Moray Council; and
- ii. Kerry Louise Parrott H.N.C., M.I.F.S.T as the Food Examiner for Moray Council.

16. Question Time

There were no questions raised.

17. Unauthorised Business Near Forres [Para 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of an unauthorised log cutting business at Dyke in Forres.

During her introduction, the Manager (Development Management) suggested, should the Committee be minded to agree the recommendations within the report, that the owner of the business be given 12 weeks to comply with the Enforcement Notice. This was agreed.

During discussion surrounding the search required in relation to title deeds, it was queried who was financially responsible for this. In response, the Manager (Development Management) advised that this would usually be borne by the

Council. The Committee were of the view that, in the current financial climate, any expense be borne by the land owner and not the Council. In response the Manager (Development Management) agreed that the cost of the title search would be recovered from the site owner.

Thereafter, the Committee agreed:

- i. to Officers issuing a Planning Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997;
- ii. the Enforcement Notice will require the site owner to cease all activities associated with the log cutting business, clear the site of all items associated with the log cutting business and restore the site to its original levels and condition within 12 weeks of receipt of the Enforcement Notice;
- iii. to Officers issuing a Stop Notice under Section 140 of the Town and Country Planning (Scotland) Act 1997 which will have the effect of immediate cessation of activities once issued;
- iv. to grant delegated authority to the Head of Development Services, in consultation with the Chair of the Committee, to take direct action to provide the works described at Para. 3.1 (ii) of the report, in the event that the terms of the notice are not complied with by those parties with an interest in the site and to recover any costs incurred, as a result of direct action, as a civil debt; and
- v. that the cost of the title search be recovered from the site owner.