

MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE

24 OCTOBER 2023

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Macrae (Depute Chair), Cameron, Coull, Cowe, Divers, Dunbar, Fernandes, Gatt, Keith, Lawrence, McBain, Ross and Warren

APOLOGIES

Councillors Gordon and Van Der Horn

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mrs L MacDonald, Senior Planning Officer, Strategic Planning and Development Manager, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs D Anderson, Senior Engineer (Transportation), Mr K Henderson, Planning Officer, Mr D Westmacott, Planning Officer, Legal Services Manager, Democratic Services Manager and Mrs L Rowan, Committee Services Officers as Clerks to the Committee.

1. Declaration of Group Decisions and Member's Interests

In terms of Standing Orders 21 and 23 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

In relation to Item 4 "Planning Application 23/00324/APP, Councillors Gatt and Coull stated that they had received 3 representations however had responded explaining that these could not be considered as they were both members of the Planning and Regulatory Services Committee and, after seeking legal advice, were both of the view that this would not preclude them from taking part in the debate and decision of this item.

The Legal Services Manager further confirmed that both Councillors had advised that they had received representations and had responded appropriately and advised that a late representation from the Applicant's Agent had also been received the day before the committee and that this had followed the late representation procedure and would be addressed during consideration of the item and that another had been received that was outwith the statutory time period and therefore disregarded.

There were no other declarations of Member's interests in respect of any item on the agenda.

2. Minute of meeting dated 15 August 2023

The Minute of the meeting of the Planning and Regulatory Services Committee dated 15 August 2023 was submitted and approved.

3. Written Questions

The Committee noted the following written question submitted by Councillor Fernandes and the Council's subsequent response:

Retailers' Charter for the Responsible Sale of Tobacco and Vaping Products

At a recent meeting of its Communities, Housing and Public Protection committee, Aberdeen Council considered the possibility of introducing a Retailers' Charter for the Responsible Sale of Tobacco and Vaping Products.

The Charter aims to address "proxy purchasing" whereby an adult purchase vapes for young people.

One of the measures is to encourage vapes retailers to voluntarily agree to accept payment for tobacco and vapes by electronic means only.

The reasoning behind this is that young people are less likely to give their debit card to a stranger rather than cash.

The Charter is supported by NHS Grampian and Police Scotland.

Could such a Charter be introduced in Moray? If so, can officers bring back a report to this Committee?

RESPONSE

The Charter proposed in Aberdeen is a pilot project and is a voluntary charter for retailers to try and address the issues of underage sales of tobacco and vapes.

Legislation relating Tobacco and Vapes is enforced by the Councils Trading Standards section, recent resignations means that we do not have sufficient capacity at this time to enforce the legislation and be proactive around Tobacco and Vape sales and products.

The Charter proposed by Aberdeen has 5 principles as shown below. In addition to staffing resources to support the scheme this would require a budget to promote the scheme which in Aberdeen was costed at £1500, no budget is available for Moray to promote a scheme.

1. The retailer will only accept card payments for purchases of cigarettes, tobacco and nicotine vapour products including disposable vapes.
2. The retailer will operate an Age Verification Policy (AVP) that ensures that any customer seeking to buy cigarettes or nicotine vapour products, who appears to be under the age of 25, will be asked to provide proof of their age. The retailer and staff will only accept photographic proof of age cards with a 'PASS' hologram, a passport, or a driving licence.

3. The retailer will train all staff regarding their AVP before they are permitted to serve customers with any age restricted products. Regular reminders will be given to staff. The retailer will maintain records of all staff training and produce these to trading standards staff on request. The retailer will display appropriate customer and staff information and use the CharterKit materials to reinforce the messages in their AVP.
4. The retailer and staff will maintain a refusal recording system and they will monitor the entries to ensure all staff are adhering to the AVP. They will act, where it may be necessary to re-train individual members of staff.
5. The retailer acknowledges that checks may be made by trading standards officers. They will use underage volunteers to attempt to purchase age restricted products. Membership of the Charter could be cancelled if non-compliances are found.

At this time it is recommended that officers monitor the success or otherwise of the pilot in Aberdeen, should it be successful a report would be submitted to Committee which would identify budget and staffing implications.

In response, Councillor Fernandes expressed disappointment that there is no capacity to support the legislation however thanked Officers for their response.

4. Planning Application 23/00314/APP

WARD 2: KEITH AND CULLEN

Erect cooerage including office staff facilities, storage yard and associated works on land adjacent to Kynoch Park, Keith, Moray for Isla Cooerage

The Meeting had before it a report by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be refused for an application to erect a cooerage including office staff facilities, storage yard and associated works on land adjacent to Kynoch Park, Keith, Moray for Isla Cooerage.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application raises matters of wider community interest.

During her introduction, Mrs MacDonald, Senior Planning Officer responded to the late representation that had been received advising that, in relation to the cost to provide a road to the east, there is no requirement for the Applicant to provide this road however there is a requirement to safeguard the land. In relation to the alternative access proposed, this is not acceptable due to the considerable constraints on the potential route. With regard to I11 and Long 2 sites only likely to be used for energy related development, Mrs MacDonald acknowledged that the I3 site had been developed for that purpose however confirmed that there were no current permissions in the system for the I11 and Long 2 sites which have industrial designations in the current Moray Local Development Plan (MLDP) 2020. In relation to the Applicant being advised that they did not have to comply with NPF4 1 and 2, the Applicant was advised that whilst it was not necessary to comply with the Council's carbon guidance as it came into force on 1 July 2023 and the Planning

Application was already in the system, the NPF4 policies still have to be complied with.

During discussion, Councillor Coull welcomed the development and the job opportunities that it would bring to Moray however expressed disappointment that the Applicant and Officers could not find an appropriate access to the development site and moved that the Committee refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the reasons stated in the report and that she hoped that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development. This was seconded by Councillor Warren.

Councillor Gatt agreed with the views of Councillor Coull and that further discussion needs to take place between the Applicant and Officer to come up with a solution to the access problem.

Following further discussion, where Members and Officers discussed land constraints around the proposal and how a suitable access could be provided, Councillor Coull was unsure whether she wanted to proceed with her original motion.

The Legal Services Manager advised that Councillor Coull could withdraw her motion with the agreement of her seconder however reiterated that Officers had recommended refusal of the planning application as the proposal did not fully comply with the MLDP 2020 for the reasons stated in the report and that if Members were minded to approve the application, they would have to provide robust reasons to depart from policies within the MLDP 2020.

Adjournment

Upon hearing the advice from the Legal Services Manager, Councillor Warren sought a short adjournment, through the Chair, to allow Councillor Coull to consider her position. This was agreed.

Resumption of Meeting

Following a short adjournment, Councillor Coull confirmed she wished to proceed with her original motion to refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the reasons stated in the report and that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development.

Councillor Warren, on noting that Councillor Gatt is the Ward Member for the proposed development, reiterated her support for Councillor Coull's motion however withdrew her second to allow Councillor Gatt, as Ward Member to second Councillor Coull's motion.

Councillor Gatt agreed to second Councillor Coull's motion.

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

- (i) to refuse planning permission, as recommended, in relation to Planning Application 23/00314/APP for the following reasons:
 1. The proposal is contrary to National Planning Framework 4 policy 18 (a & b) Moray Local Development Plan Policy 2020 Policies Keith I2 and I4 PP3 (a)(iii), and DP5 as it fails to provide for a future connect to the

Keith I11 and Keith LONG2 sites and would prejudice the future development of the I11 and LONG2 sites and restrict the future employment land supply in Keith.

2. The proposal is contrary to National Planning Framework 4 policy 18 (a & b) and Moray Local Development Plan Policy 2020 Policies Keith I2 and I4 PP3 (a (iii)), and DP5 as it fails to provide for a future connect to the Keith I11 and Keith LONG2 sites and as such would which would compromise the future vehicular infrastructure to the detriment of road safety in the area.
 3. The proposal is contrary to National Planning Framework 4 policies 1 and 2 as the application has failed to provide sufficient information to demonstrate that adequate steps have been taken to address the nature and climate crises or that the development has been sited and designed to minimise lifecycle greenhouse gas emissions and to adapt to current and future risks from climate change.
- (ii) that further discussion takes place between the Applicant and Officers in relation to the most appropriate access to the development.

5. Proposal of Application Notice 23/01712/PAN

Development of a cemetery, soft and hard landscaping, access parking and associated development on land opposite Linkwood Dairy, Elgin

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Committee that a Proposal of Application Notice (PAN) had been submitted on 25 September 2023 on behalf of Moray Council.

During discussion, Councillor Divers highlighted the parking issues at the present Elgin Cemetery and asked that consideration be given to providing substantive parking at the proposed cemetery.

Councillor Warren further asked that consideration be given to designating part of the cemetery for green burials in accordance with the Council's environmental policies.

In response, Mr MacPherson, Principal Planning Officer advised that he would forward these points on.

Thereafter, the Committee unanimously 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:

That the Applicant give consideration to:

- the provision of substantive car parking at the proposed cemetery; and

- the designation of a green burial section within the proposed cemetery; 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.

6. Proposal of Application Notice 23/01222/PAN

Proposed residential development with retail units, landscaping and associated infrastructure on land east of Barhill Road, Buckie

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Committee that a Proposal of Application Notice (PAN) had been submitted on 27 July 2023 on behalf of Springfield Properties PLC.

During discussion the Committee raised concern in relation to road safety and flooding and asked that the Applicant consider the following points:

- Connectivity, in particular the provision of walking routes and public transport;
- Road safety at the junction on to the A98 due to increased volume of traffic and the speed of cars on the A98 with consideration being given to installing traffic lights at this junction;
- School capacity;
- Sufficient doctors and dentists;
- Sufficient green space and phasing of it;
- Provision of leisure facilities;
- Provision of retail units and phasing of these;
- Flooding and surface water at Barhill Road and on the A98 at Arradoul.

In response, Mrs MacDonald advised that she would forward these points on.

Thereafter, the Committee unanimously agreed:

- (iii) 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:

- Connectivity, in particular the provision of walking routes and public transport;
- Road safety at the junction on to the A98 due to increased volume of traffic and the speed of cars on the A98 with consideration being given to installing traffic lights at this junction;
- School capacity;
- Sufficient doctors and dentists;
- Sufficient green space and phasing of it;
- Provision of leisure facilities;
- Provision of retail units and phasing of these;
- Flooding and surface water at Barhill Road and on the A98 at Arradoul; and

- (iv) 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.

7. Conservation Area Designation Review 2023

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking that the Committee consider the Cullen, Archiestown, Portknockie and Findochty Conservation Area Character Appraisals and thereafter agree to issue the appraisals and proposed boundary changes for public consultation. The report also asks the Committee to note the success of the Windows Repair and Replacement Windows Grant Scheme.

Following consideration, the Committee unanimously agreed:

- (i) to approve the draft Cullen, Archiestown, Portknockie, and Findochty Conservation Area Character Appraisals and proposed boundary changes as set out in Appendix 1 for public consultation for a 12 week period;
- (ii) that a further report on the consultation response be brought to a future meeting of this Committee with a view to adopting the appraisals as material considerations in the determination of planning applications and agree to final boundary changes; and
- (iii) to note the success of the Windows Repair and Replacement Grant Scheme.

8. Town Centre Improvement Plans Update and Funding Opportunities

Under reference to paragraph 10 of the meeting of the Economic Development and Infrastructure Services (EDIS) Committee dated 5 September 2023, the Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking the Committee to consider a report recently approved by the EDIS Committee on the Town Centre Improvement Plans and funding opportunities, work being undertaken to address feedback on the unsuccessful Levelling Up Fund bid and to further investigate the feasibility of a heat network for the centre of Elgin.

Following consideration, the Committee unanimously agreed to note:

- (i) the report as approved by the Economic Development and Infrastructure Services Committee on 5 September 2023; and
- (ii) that a separate report on Long-Term Town Plans will be considered at a meeting of the Council on 25 October 2023.

9. Tree Preservation Orders

The Meeting had before it a report by the Depute Chief Executive (Economy, Environment and Finance) asking the Committee to confirm the revocation of Tree Preservation Orders (TPOs) at The College, King Street (Elgin) and Tomnabat Lane (Tomintoul), without modification.

Following consideration, the Committee unanimously agreed:

- (i) Moray Council (The College, King Street, Elgin) Revocation of Tree Preservation Order 2023; and
- (ii) Moray Council (Tomnabat Lane, Tomintoul) Revocation of Tree Preservation Order 2023.

10. Question Time

RAAC in Forres Academy

Councillor Keith queried whether Officers are confident that there is sufficient staff for RAAC inspections in schools, council houses and other council properties timeously and when a further report could be expected advising of the financial consequences accruing from the inspection and plans to approach the Scottish Government for additional funding.

In response, the Head of Economic Growth and Development advised that this was not a question for this Committee however advised that he was aware that the Council is undertaking a desk top review of plans of approximately 6300 properties and that resourcing this would be a matter for the Head of Housing and Property.

21/01901/EIA

Councillor Ross made reference to the recently approved planning in principal application for a Malt Production Facility on land at Greens of Rothes and noted that an application had been submitted for approval of matters specified in conditions 1-32 (21/01901/EIA) and asked if this application would come to this Committee for determination as the local community are concerned in relation to the 13208 additional HGV movements over the 2 year construction phase which doesn't include vans and cars.

In response, the Development Management and Building Standards Manager advised that it was hoped this planning application would be considered at the meeting of this Committee on 19 December 2023.