

MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE

16 NOVEMBER 2021

VARIOUS LOCATIONS VIA VIDEO-CONFERENCE

PRESENT

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

APOLOGIES

Apologies for absence were intimated on behalf of Councillor Nicol.

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, Principal Building Standards Officer, Mrs D Anderson, Senior Engineer (Transportation), Ms Webster, Senior Planning Officer (Strategic Planning and Development), Ms L Macdonald, Senior Planning Officer, Ms R MacDougall, Planning Officer, Ms S Ward, Climate Change Strategy Officer, Mr G Gunn, Climate Change Strategy Officer, Legal Services Manager and Democratic Services Manager as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Brown, as a member of the Moray Integration Joint Board (MIJB) declared an interest in Item 11, as a member of the Moray Integration Joint Board (MIJB) and stated that he would take no part in the debate or decision. Councillor Divers also declared an interest in Item 11 due to his involvement with the MIJB and also declared a personal interest in Item 20. Councillor Warren, as a member of the MIJB declared an interest in Item 11

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.

2. EXEMPT INFORMATION

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>
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18	12
19	13
20	13

3. MINUTE OF THE COMMITTEE DATED 28 SEPTEMBER 2021

The minute of the meeting of the Planning and Regulatory Services Committee dated 28 September 2021 was submitted and approved.

4. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

5. PROPOSAL OF APPLICATION NOTICE 21/01437/PAN

PROPOSED BATTERY ENERGY STORAGE FACILITY OF APPROXIMATELY 49.9MW CAPACITY AND ALL ASSOCIATED SITE WORKS AT MILLTOWN AIRFIELD, ELGIN, MORAY, IV30 8NQ

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 15 September 2021 on behalf of Elgin Energy ESCO Ltd (Elgin Energy).

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee that the proposal related to the placing of a battery energy storage facility that will lie within a large solar array within the Milltown Airfield, Elgin and the proposed site would lie in the middle of that location and will comprise of a compound hosting a number of large container units arranged in rows that will form the battery storage facility and will be fairly concealed behind the existing solar panels.. He advised that there were no designations affecting the site and invited the Committee to identify any matters relevant to the proposal

Following consideration, there being no matters raised, Committee agreed to note the terms of the report.

6. PROPOSAL OF APPLICATION NOTICE 21/01527/PAN

PROPOSED EXTENSION TO QUARRY AT CAIRDHILL QUARRY, KEITH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 29 September 2021 on behalf of Tarmac Caledonia Limited.

During discussion Councillor Brown referred to the removal of some 2 million tonnes of quartzite over a 40 year period and raised concern regarding the level of carbon emissions arising therefrom in addition to the emissions likely to arise also from the equipment used in its extraction and stated that he would hope that the applicant would pay due regard to the need to achieve carbon zero and demonstrate how they intend to address this.

Councillor Feaver in referring to the landscaping such as trees and hedges asked what will be put in place in what is a large area to mitigate against the visual impact of this.

She further stated her concern in regard to virtual consultation events which in her opinion did not appear to be working well with little feedback from community councils/associations and the general public and asked if there was a way that these could be done better.

In response the Legal Services Manager advised that she was aware of a recent virtual consultation in relation to a windfarm proposal where there had been criticisms of the previous virtual consultation carried out and that this time the virtual consultation was well received and well attended. She further advised that perhaps it was that some worked better than others.

Councillor Feaver stated that it would be useful if, in future when an application is received, there is a better way of showing how robustly any virtual consultation was promoted.

Following consideration the Committee agreed 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 the level of carbon emissions arising from the removal of some 2 million tonnes of quartzite over a 40-year period and the equipment used in light of the need to achieve carbon zero and how the applicant can demonstrate how they intend to address this, and
- in regard to the visual impact indicate what landscaping in regard to trees, hedges etc. will be put in place to mitigate this.

7. PLANNING APPLICATION 20/00278/APP

Ward 5 – Heldon and Laich

Application for planning permission for 48 residential units all with associated infrastructure and landscaping occupying the Hopeman R1 designation at Forsyth Street, Hopeman, Moray for Tulloch Of Cummingston Ltd

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for planning permission for 48 residential units all with associated infrastructure and landscaping occupying the Hopeman R1 designation at Forsyth Street, Hopeman, Moray for Tulloch Of Cummingston Ltd.

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.

Following lengthy discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 20/00278/APP subject to :-

(i) the completion of a legal agreement regarding developer obligations relating to health care facilities, and

(ii) the following conditions and reasons:

1. No development shall commence until details of the affordable housing specification for the site have been submitted to and approved by the Council, as Planning Authority in consultation with the Head of Housing and Property Service. This shall include detailed arrangements for the long-term delivery and provision of the affordable housing accommodation on the site, together with evidence confirming the identity of the organisation (or other similar agency) responsible for the provision and management of all affordable housing provided on the site. Thereafter the development shall be implemented in accordance with the approved details and maintained on this basis for the lifetime of the development, unless otherwise agreed with the Council, as Planning Authority in consultation with the Head of Housing and Property Services.

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

2. No development shall commence until a site plan identifying the plot numbers of the accessible residential units (minimum 3) has been submitted to and approved in writing by 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 within the site as defined in terms of current planning policy and associated accessible policy guidance.

3. 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 – 1300 hours on Saturdays only, and at no other times out with 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 out with the permitted/stated hours of working.

Reason: In order to ensure that construction does not detrimentally impact upon neighbouring residential amenity.

4. The development hereby approved shall be implemented in accordance with the approved Landscape and Biodiversity Plan drawing number FR/PL/05 dated August 2021 and Landscape Specification and Maintenance Schedule Version 1.3, dated August 2021, which form part of this application. All trees, hedging/shrubs and SUDs/Swale basin planting (in both public spaces and private front gardens) shall be retained. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition.

Reason: To ensure that the approved landscaping works, equipped play area and seating are implemented and properly maintained for the lifetime of the

development, in a manner which will not adversely affect the development or amenity and character of the area.

5. No development shall commence until the following information has been submitted to and approved in writing by the Council, as Planning Authority. This shall be closely based upon the approved landscape and biodiversity plan and Placemaking Statement accompanying this application:
 - a) Details of the public artwork (sandstone features sourced from Clashach Quarry) including size of the arrangement, maintenance arrangements and timescales for delivery;
 - b) Elevation drawings of all boundary walls, stone dykes and retaining walls (scale 1:50);
 - c) Details of all seating, benches and litter bins;
 - d) Phasing plan including timescales for provision of all landscaping works across the site and the equipped play area and seating, with the play area to be installed upon completion of 50% of the development, i.e. the 24th residential unit.
 - e) Specification of bird boxes and timescales for their provision;
 - f) Elevation drawing of 1.8m privacy screen fencing to be installed along the rear (eastern) boundary of plot 1.

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

Reason: To ensure that the approved landscaping works, equipped play area and public art are timeously carried out as these details are currently lacking from the application.

6. All fencing and walls as shown on the approved Landscape and Biodiversity Plan drawing number FR/PL/05 dated August 2021 shall be erected prior to occupation of the respective residential unit to which it serves, and thereafter retained for the lifetime of the development. This shall include the fencing to divide the parking areas of plots 24 and 26 which have front and rear access.

Reason: To protect the privacy of adjoining occupiers and in respect of plots 24 and 26 to ensure provision of an acceptable parking layout in accordance with policy guidance in relation to parking and Placemaking.

7. 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.

8. That all foul and surface water drainage and associated maintenance arrangements for the development shall be in accordance with the approved Drainage Assessment and Flood Statement prepared by GMSurveys, Revision C and associated revised drainage drawings submitted in support of this application. No residential unit shall be occupied until it is connected to the SUDS scheme as detailed within the approved Drainage Assessment and drawings, unless otherwise agreed with the Council, as Planning Authority.

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

9. No development shall commence on site until a Site Specific Waste Management Plan (SWMP) has been submitted and approved by the Council, as Planning Authority in consultation with SEPA. The SWMP shall set out how demolition and construction waste associated with the application site shall be minimised, recovered, stored, reused and disposed of, the management of waste on site must be in accordance with the approved SWMP. This should include a drawing showing the waste storage locations on the construction site.

Reason: In order to improve materials resource efficiency and ensure the appropriate management and disposal of waste.

10. Prior to the commencement of any works, a Construction Environmental Management Plan incorporating a site specific pollution prevention plan shall be submitted to and approved in writing by the Council, as Planning Authority including a site specific pollution plan; this shall be based on the submitted Construction Environmental Management Document (CEMD) and include site specific mitigation measures to address dust, artificial light, vibration and noise impacts during construction (the latter of which shall be in accordance condition 3 above) and ecological management; 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.

11. The ecological mitigation measures outlined within the submitted Extended Phase 1 Habitat Survey (Section 5 refers) prepared by Northern Ecological Services for this application shall be fully implemented by the developer, unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure that the development does not have an adverse impact on protected species or habitat and to minimise disturbance to nature conservation interests.

12. No development shall commence until detailed specifications of materials of the external finishes of the houses, apartments and all street surfaces within each of the identified character areas of the development (as indicated in the Placemaking Statement, Character Area plan FR/PL/04 and associated plans accompanying this application) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter all works shall be carried in accordance with these approved details.

Reason: In order to ensure that the development has variation in street detailing through use of different materials and surfacing and reflects distinctiveness between each character area.

13. Notwithstanding the details submitted for the boundary walls (Drawing FR/PL/05), which are not accepted, no development shall commence until revised details have been submitted to and approved in writing by the Council,

as Planning Authority in consultation with the Roads Authority which show any boundary walls, fences or other features set back behind the site access visibility splays onto the B9040 (Drawing FR/PL/08). Thereafter the development shall be completed in accordance with the approved details and the visibility splays shall be maintained clear of any obstructions over 0.26m in height measured from the nearest edge of the carriageway.

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.

14. Notwithstanding the details submitted for the proposed cycle parking (Placemaking Statement) which are not accepted, no flats shall be completed until details of secure covered (i.e. enclosed with panelling, weather protected) horizontally mounted cycle parking at a rate of 1 space per flat, have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The proposed cycle parking shall be provided prior to the completion of the associated flat and thereafter shall be maintained and available for use for that purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To ensure acceptable infrastructure for cycle parking to serve the flats is provided and maintained in the interests of sustainable transport.

15. Notwithstanding the details submitted for planting within the road verge, which are not accepted, no trees shall be planted within the road verge until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority for root containment of any tree within 5 metres of any prospective public road within the development. Thereafter the development shall be completed in accordance with the approved details unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure acceptable infrastructure is provided to protect the public road through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

16. Notwithstanding the Construction Traffic Management Plan (CTMP) submitted, which is not accepted, no part of the development shall commence construction until a CTMP has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The CTMP shall demonstrate:

- Confirmation that unless otherwise agreed in writing by the Roads Authority, no construction traffic travelling between the site and the A96 or A941 shall travel via the B9012 or the U51E (Roseisle-Cummingston).
- Confirmation that no construction traffic shall travel via Cooper Street.
- Condition surveys for Manse Road, Cooper Street and the B9040 Forsyth St (between Harbour St and the U51E (Roseisle-Cummingston)).

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

provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

17. No house or flat within the development shall be completed until the following works have been completed and opened to the public:
- a) The site access onto the B9040 and any roads between the site access and the house or flat required to provide access.
 - b) The westbound bus stop has been relocated in accordance with the approved details including provision of the dropped kerb crossing of the B9040.

Reason: To ensure acceptable infrastructure is provided to serve the completed house or flat in the interests of road safety.

18. Parking provision for houses and flats shall be provided at the following rates:
- 1 Bedroom = 1 space
 - 2 -3 Bedrooms = 2 spaces
 - 4 or more bedrooms = 3 spaces

Parking shall be provided prior to the completion of each house or flat which it is associated with and thereafter retained and available for that purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

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

20. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam.

Reason: To ensure acceptable infrastructure is provided at the property accesses.

21. No residential unit shall be completed until the EV charging infrastructure associated with it has been provided in accordance with the approved drawing EV Charging Layout FR/LP/11 and associated details. This infrastructure shall be connected to the national grid via the proposed sub-station prior to completion of the 13th residential unit (or sooner if practicable), unless otherwise agreed by the Council, as Planning Authority.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport.

22. No development shall commence until details of the proposed sub-station including elevations of all works, means of enclosures and associated plant (including noise levels) have been submitted to, and approved by the Council, as Planning Authority, in consultation with Environmental Health and Trading Standards Manager. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

Reason: To ensure an acceptable form of development as these details are lacking from the application.

8. PLANNING APPLICATION 21/01615/APP

Ward 4 – Fochabers Lhanbryde

Proposed residential development of affordable housing (25 dwellings consisting of one and two-storey homes and two-storey cottage flats) and specialist supported housing (8 dwellings) with a communal/staff block associated access infrastructure and landscaping on Land To The Rear Of No 10 Urquhart Place Lhanbryde Moray for Grampian Housing Association

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for proposed residential development of affordable housing (25 dwellings consisting of one and two-storey homes and two-storey cottage flats) and specialist supported housing (8 dwellings) with a communal/staff block associated infrastructure and landscaping on land to the rear of 10 Urquhart Place Lhanbryde Moray for Grampian Housing Association.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is on a housing site designated for less than 50 houses within the Development Plan and is a departure from the Development Plan.

Following consideration the Committee agreed to grant planning permission in respect of Planning Application 21/01615/APP subject to :-

(i) the completion of a legal agreement regarding developer obligations relating to health care facilities, and

(ii) the following conditions and reasons:

1. As part of the permission hereby granted, the units hereby approved on plots 1-24 shall be used for affordable housing purposes only and those on plots 25-36 to provide specialist accommodation for people with additional needs only in accordance with the agreement(s) reached 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 and specialist 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 and specialist accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

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.

2. No development shall commence until the tree protection measures detailed on the submitted approved Tree Protection Plan 2024.RF.XX.XX.DR.L.003 have been implemented in full.

Reason: In order to ensure adequate measures to protect retained trees are in place.

3. 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.

4. No development shall commence until a strategy for public art including details of phasing and maintenance has been submitted to and approved in writing by the Council, as Planning Authority. Thereafter the strategy shall be implemented in accordance with the phasing details contained within it.

Reason: To ensure that public art is appropriately incorporated into the development.

5. Notwithstanding the submitted play strategy no development shall commence until revised details for the play park have been provided to include details of the surfacing of the play park which shall be suitable for those with physical disabilities and the inclusion of play equipment and benches for those with physical disabilities. The equipped play area shall be provided in accordance with the approved details and be available for use prior to the occupation of the 6th unit hereby approved in the 'Central Green' Character Area as identified in the submitted placemaking statement revision b dated September 2021. Thereafter the play area shall be maintained in accordance with the maintenance arrangements approved under condition 7.

Reason: To ensure that the play park makes adequate provision for all abilities play and to ensure the adequate provision of an equipped play area and its future maintenance.

6. Notwithstanding the details on approved drawing 2024.RF.XX.XX.DR.L.002 C no development shall commence until an amended planting and biodiversity plan has been provided which shows all trees to be planted along the eastern boundary of the site to be a minimum of 'standard' form and all references to feathered trees removed. Thereafter all proposed planting along the eastern boundary of the site shall be carried out in accordance with these approved details in the first planting season following the commencement of development on site and the remaining planting within each character area shall be carried out in the first planting season following the commencement of development in

that character area and shall be maintained in accordance with the maintenance arrangements approved under condition 7.

Reason: To ensure a high standard of landscaping is proposed and timeously provided.

7. No development shall commence until a full maintenance schedule for all proposed landscaping, play areas and open areas has been submitted to and approved in writing by the Council, as Planning Authority. Thereafter the approved schedules shall be implemented in full.

Reason: To ensure that these areas are properly maintained in a manner which will not adversely affect the development or amenity and character of the area and because no such information was included with the application.

8. No development shall commence until full details of the proposed hedgehog highways have been submitted to and approved in writing by the Council, as Planning Authority. The hedgehog highways shall thereafter be installed as detailed on approved plan 2024.RF.XX.XX.DR.L.002 rev C (or any amendment to that plan approved under condition 6 above) prior to the completion of development in the character area in which they are to be sited.

Reason: To ensure that the proposed biodiversity enhancements are timeously provided.

9. Notwithstanding the submitted details, no works shall commence until the following has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority;
 - i) a detailed drawing (Scale 1:500) showing revised proposals for the prospective areas of public road and public footway to be constructed to serve the development, including use of materials and specifications to meet the Roads Adoption standards used by Moray Council. The drawing shall also provide details of the locations where properties will place bins adjacent to the prospective public road to enable refuse collection and provisions for dropped kerbs and tactile paving; and
 - ii) a detailed drawing (Scale 1:250) showing proposals for the extension of street lighting along C1E Garmouth Road to a point to the north-east of the existing crossing point for Core Path EG58 which shall be used to determine the extension of the existing 30mph speed limit on C1E Garmouth Road and all road signage for that extension to meet the requirements of the Traffic Signs Regulations and General Direction 2016.

Thereafter, the development shall not proceed except in accordance with these approved details.

Reason: To ensure provision of a road network within the development, which operates safely and efficiently for the benefit of all road users, including for pedestrians and cyclists, and where applicable, is constructed to standards and using materials suitable for Roads Adoption.

10. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. For the avoidance

of doubt the CTMP shall include the following information:

- duration of works;
- construction programme;
- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- full details of construction traffic routes from the Strategic Road Network (A96) to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
- 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, in particular safeguarding movements in and around the Core Path where it meets Garmouth Road;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

And

Any temporary construction access which shall include the following information:

- a drawing (Scale 1:500 minimum) regarding the location and design specifications of the proposed access(es);
- specification of the materials used for the construction access(es);
- all traffic management measures required to ensure safe operation of the construction access(es);
- details, including materials, for the reinstatement of any temporary construction access(es); and
- 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, development shall be carried out in accordance with the approved CTMP at all times.

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

11. No development shall commence until a visibility splay of 2.4 metres by 120 metres has been provided across the development site at the junction of C1E Garmouth Road/U170E Urquhart Place, clear of any obstruction above 0.26 metres measured from the level of the public carriageway.

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.

12. No development shall commence until the following details for Electric Vehicle charging provision have been submitted to and approved in writing 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 approved details shall be implemented in full before the first 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.

13. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the 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.

14. No fences, planting/hedges, walls or any other obstruction whatsoever over 0.3m measured from the level of the public carriageway shall be permitted within any 'forward visibility' areas or any visibility splays crossing plot boundaries within all areas of the residential development, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles to have an acceptable clear forward visibility, in the interests of road safety for the proposed development and other road users.

15. Parking provision for the development shall be provided in accordance with drawing 20204/ML/GA-200/Rev B and thereafter no house or flat shall be occupied until parking has been provided and made available for use by that house or flat. The parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved.

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

16. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam or pavements in agreement with the Roads Authority.

Reason: To ensure acceptable infrastructure is provided at the property accesses.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any amendments to this order) all service strips along plot frontages shall be kept free from any obstruction and no amendments to the approved planting shall be permitted.

Reason: To ensure an acceptable form of development and effective roads drainage infrastructure is provided and safeguarded.

18. The bat boxes and swift boxes shall be installed as detailed on approved plan 2024.RF.XX.XX.DR.L.002 rev C (or any amendment to that plan approved under condition 6 above) within 3 months of the completion of the unit on which they are to be installed and thereafter retained in perpetuity.

Reason: To ensure that the proposed biodiversity enhancements are timeously provided.

19. The insect hotels shall be provided as detailed on approved plan 2024.RF.XX.XX.DR.L.002 rev C (or any amendment to that plan approved under condition 6 above) in the first planting season following the commencement of development in the character area in which they are to be sited.

Reason: To ensure that the proposed biodiversity enhancements are timeously provided

20. Notwithstanding the provisions of Article 3 and Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with or without modification), no development shall take place in the 6m exclusion zone identified on approved plan 2024.RF.XX.XX.DR.L.002 rev C (or any amendment to that plan approved under condition 6 above) and there shall be no tree removal in this area.

Reason: In order to retain effective control over future development within the application site so that it is carefully managed and does not adversely impact on bats which are a European Protected Species.

21. No trees other than those identified for removal on the approved Tree Removal plan 2024.RF.XX.XX.DR.L.004 shall be removed without the prior written approval of the Council, as Planning Authority.

Reason: In order to ensure tree removal is adequately controlled

22. 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 out with these permitted hours (including National Holidays) shall construction works be undertaken except where agreed in advance in writing with the Council, as Planning Authority and where it is demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason: To prevent noise nuisance.

23. All drainage proposals shall be in accordance with the submitted report 'Drainage Assessment, Proposed Residential Development, Woodview', Lhanbryde' Issue 4 By Fairhurst dated September 2021. All measures for the management of surface water shall be implemented in full prior to the first occupation of any residential unit hereby approved and thereafter shall be maintained in accordance with the details contained within the report.

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

24. All recommendations in section 6 of Flood Risk Assessment dated April 2021 shall be implemented in full.

Reason: To ensure that the development does not increase the risk of flooding on site or elsewhere.

25. None of the units on plots 19-24 hereby approved shall be completed until evidence has been submitted to and approved in writing by the Council, as Planning Authority to demonstrate that formal diversion procedures under Section 208 of the Town and Country Planning (Scotland) Act 1997 as amended have been promoted and confirmed in relation to the proposed diversion of the Core Path such that the proposed footway between the rear of the existing substation and the edge of plot 24 as identified on the approved plan GA 001 revision I becomes the core path.

Reason: To ensure that formal diversion procedures are undertaken in accordance with Section 208 of the Town and Country Planning (Scotland) Act 1997.

9. PLANNING APPLICATION 21/00020/EIA

Ward 1 – Speyside Glenlivet

Installation and operation of a wind farm comprising seven turbines with a generating capacity of up to 46.2MW an electricity storage facility with a maximum capacity of 3MW and associated infrastructure on Garbet Windfarm Site 5.5km Southeast Of Dufftown Moray for Energiekontor UK Ltd

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for the installation and operation of a wind farm comprising seven turbines with a generating capacity of up to 46.2MW an electricity storage facility with a maximum capacity of 3MW and associated infrastructure on Garbet Windfarm Site 5.5km Southeast Of Dufftown Moray for Energiekontor UK Ltd.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is as major development as defined under the Hierarchy Regulations 2008 as energy generation project in excess of 20mW and subject to Environmental Impact Assessment under EIA Regulations.

During his introduction Mr MacPherson advised the Committee of a correction to the report in regard to condition 20(a) in relation to micro-siting, bullet point 2 a further sentence should be included stating that 'In any incidences where this cannot be achieved, the tracks shall be floated in an area of deeper peat in accordance with adopted guidance for floating peat tracks.'

He further advised that as the proposal was close to the boundary with Aberdeenshire, the neighbouring Planning Authority and relevant Community Council had been directly consulted and whilst not objecting outright, stated that weight must be attached to the significant concerns raised by Aberdeenshire Council

and those were discussed in the report. Whilst Aberdeenshire Council had not objected to the application, it was considered that, in the event that Members were minded to approve the application, it would be appropriate as a way of offering some comfort and acknowledgement to those making representation on the application from Aberdeenshire that notification to Scottish Ministers under The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 is made prior to issue of any consent.

The Legal Services Manager advised that, in support of the comments made by Mr MacPherson, whilst it was open to interpretation in terms of The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015, Officers were of the opinion that as significant concerns have been raised from a neighbouring authority the most appropriate procedure is to refer the matter to Ministers.

During discussion Councillor Feaver stated her concerns in regard to the application, particularly in regard to the peat disturbance. She sought clarity on how much carbon will be released due to this disturbance and the cumulative effect these developments have overall. She sought clarification on how many miles of track will be required and whether floating tracks could be used. She referred to Policy DP1 which seeks to ensure that the design of any development is appropriate to the landscape in which it is set and stated that in her opinion, this development is not, as it is creating an industrial setting.

She further referred to policy DP9a1 which relates to safeguarding and enhancing the natural environment and stated that in her opinion placing lots of tracks and building very deep concrete bases for very large turbines does not achieve this. She expressed concern in regard to the conditions, as stated in relation to Policy EP12, as, in her opinion, there is no evidence that the mitigation will compensate for an area that is covered in tons of concrete and hard core roads albeit floating tracks may help.

In conclusion she referred to the Scottish Planning Policy which requires that “planning should direct the right development to the right place” and stated that there remained a lot of outstanding questions and she was concerned with this development and in particular did not believe Condition 11 will save the peat and not release huge amounts of carbon. She was of the opinion that the application is departing from policy in a number of areas and she could understand Aberdeenshire Council’s issues with the proposal.

In response Mr MacPherson advised that in relation to the impact on the natural water flow, conditions have been imposed from the Flood Team in relation to flow rates pre and post development and seek to ensure that no water courses will be blocked during the development. He further advised that in terms of the impact on the water resource, this was very difficult to calculate, and undoubtedly the building of the tracks and foundation pads and crane pads will have an impact on the water table. However, the applicants are volunteering to carry out some re-wetting of land and enhancement of wetlands on the site. He drew attention to some of the works such as enhancing bogs and wetland areas which is something that has been dealt with under environmental schemes in this area and it is hoped that the work that is intended to be undertaken by the land owner will be enhanced by the Habitat Management Plan, part of which will be financed and enabled by this development.

He further advised that unlike other developments, what has to be considered in terms of the wider picture in relation to the habitat impact assessment, is the benefit

that comes from this in terms of creating a renewable source and attach weight to that.

In response to the peat issue and the possibility of floating all of the tracks he advised that there is a technique to that which involves setting out a mat along which the track would travel and that in itself uses considerable resources. For areas where carbon neutrals aren't present, very thin or not evident, then the most efficient way of crossing that land would be by standard track. In respect of the setting of the development and the visual impact he advised that whilst there are some significant impacts these are fairly limited and fairly localised but ultimately this application is for a windfarm that is unusually situated within a valley with some of the turbines being situated 100 feet below the summits of the surrounding hilltops, This results in the visual impact, particularly from the Moray side, being significantly curtailed and on that balance the proposal is being recommended for approval.

He referred to the conditions proposed to mitigate the impacts on peat and flora and confirmed that the developer will be obliged to carry out a significant amount of enhancement. In terms of the mitigations required, he was confident, based on considerable experience dealing with windfarm applications, that the conditions provided the comfort needed to support the recommendation for approval. Councillor Brown referred to the objections relating to the cumulative impact, the impact of the red navigational lights in the dark skies area and the light pollution that would create. He also referred to visitors being deterred from visiting the area and the economic impact of the development which he considered the Committee had to give regard to.

He referred to the LVIA statement that the development would adversely affect the 'sense of arrival' experienced from the A920 and it would also have cumulative effects on some views when seen together with the operational Dorenell or Clashindarroch wind farms.

In terms of the landscape effects, he further referred to the LVIA findings that significant effects would arise on part of the Open Uplands with Settled Glens LCT and that significant adverse effects would be likely to arise on the Open Uplands with Settled Glens LCT. The proposed development is located in the narrow upland glen of Glen Markie. It would have a particularly severe and dominant effect on the character of this small-scale and secluded glen. Significant adverse effects would extend approximately 2-3km from the application site where this proposal would introduce new large-scale infrastructure affecting the present openness and perception of naturalness associated with the immediately surrounding hills. On the effects on visual amenity he again referred to the LVIA findings which state that although the location of the proposal within Glen Markie limits visibility, significant adverse effects would still occur on views from viewpoints within Moray at Ben Rinnies, the Cabrach area and The Scalp.

He further referred to the LVIA conclusions in relation to light pollution and the concerns it raises in regard to the effect on the surrounding area notable the dark skies and the likely effects of aviation lighting on views particularly from the popularly accessed hills, including Ben Rinnes, where small numbers of walkers may choose to stay on the hill to view the night sky.

In conclusion Councillor Brown stated that, taking on balance the cumulative impact of all the different significantly adverse implications, in his opinion, the application did not comply with policies DP1 and DP9 and moved that the Committee refuse the application as an unacceptable departure from policies DP1 (Development

Principles) and DP9 (Renewable Energy) as the proposal fails to integrate into the landscape and adversely impacts on landscape and visual amenity and would have significant combined cumulative impact on the Open Uplands with Settled Glens LCT along with the operational windfarms of Dorenell and Clashindarroch.

Councillor Feaver seconded the Motion.

Councillor Bremner moved as an amendment that the Committee approve the application subject to the conditions as outlined in the report.

Councillor Warren seconded the Amendment.

On a Division there voted:

For the Motion: (8)

Councillors Brown, Feaver, Ross, Cowe, Divers, Powell, Macrae and R McLean

For the Amendment: (3)

Councillors Bremner, Warren and A McLean

Abstentions: (2)

Councillors Cowie and Taylor

Accordingly the Motion became the finding of the meeting and the Committee refused the application as an unacceptable departure from policies DP1 (Development Principles) and DP9 (Renewable Energy) as the proposal fails to integrate into the landscape and adversely impacts on landscape and visual amenity and would have significant combined cumulative impact on the Open Uplands with Settled Glens LCT along with the operational windfarms of Dorenell and Clashindarroch.

The Legal Services Manager reminded members that as the decision had been made contrary to the recommendation of the planning officers then members would need to be involved directly in the event that an appeal was lodged in respect of the decision.

10. PLANNING APPLICATION 21/00348/APP

Ward 1 – Speyside Glenlivet

Substitution of Plots 31-39 at R2 Speyview Aberlour Moray for Springfield Properties PLC

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for substitution of Plots 31-39 at R2 Speyview Aberlour Moray for Springfield Properties.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application is on a housing site designated for 50 or more dwellings within the Development Plan, regardless of whether the application is for all or part of the site.

Following consideration the Committee agreed to grant planning permission in respect of Planning Application 20-00278-APP subject to:-

(i) modification of the existing legal agreement, and

(ii) the following conditions and reasons:

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

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

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

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

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

3. A Construction Phase Surface Water Management Plan shall be submitted a minimum of two months prior to the commencement of the development and shall be agreed in writing prior to work commencing with the Council, as Planning Authority in consultation with Moray Flood Risk Management. The plan shall include measures to prevent increased flood risk to neighbouring properties and to ensure heavily silted surface water does not enter the River Spey catchment. Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To prevent surface water flooding during the course of the development and minimise risk to the River Spey SAC.

4. Prior to development commencing, details of the road surfacing/colouration between points A and B on the site plan approved as part of planning application 18/01373/APP shall be submitted to and agreed in writing with the Council, as Planning Authority. This section of road shall have a different finish/colouration to the remainder of the roads in the development. Thereafter the roads shall be finished in accordance with the agreed details.

Reason: To emphasise the street hierarchy and improve legibility of the development.

5. Unless otherwise agreed in writing with the Council, as Planning Authority, the equipped play area approved as part of planning application 18/01373/APP shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit within the R2 designation area.

Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan AB02_L_02 for the lifetime of the development.

Reason: To ensure the timeous provision of the play area and surrounding open space.

6. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved 'Drainage Assessment' and associated drawings AB01_ENG_250, AB02_ENG_220 A and AB02_ENG_600 B approved as part of planning application 18/01373/APP. Unless otherwise agreed in writing with the Council, as Planning Authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime of the development in accordance with the approved 'Drainage Assessment'.

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

7. Prior to the commencement of development (with the exception of works to form the access) the proposed ghost island priority junction with the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-901 (Revision 5) "Proposed Ghost Island Layout" as approved in relation to planning application 18/01373/APP shall be constructed and agreed in writing by the Council, as Planning Authority, following consultation with Transport Scotland.

Reason: To ensure that the standard of access layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

8. Prior to the occupation or completion of any of the dwelling houses hereby approved, whichever is the sooner, a new footway along the east side of the re-aligned A95 (T), as illustrated in Springfield Properties Drawing No. AB02-ENG-260 (Revision A) "A95 Re-Alignment" as approved in relation to planning application 18/01373/APP, shall be constructed and agreed in writing by the Council, as Planning Authority, following consultation with Transport Scotland.

Reason: To ensure that facilities are provided for the pedestrians that are generated by the development and that they may access the existing footpath system without interfering with the safety and free flow of traffic on the trunk road.

9. Prior to the occupation or completion of any of the dwelling houses hereby approved, whichever is the sooner, the proposed bus stop lay-bys on both sides of the A95 (T), as illustrated in Cameron + Ross Drawing No. A/180471-905 "Proposed Bus Stop Locations" as approved in relation to planning application 18/01373/APP, shall be constructed to the satisfaction of the Council, as Planning Authority, following consultation with Transport Scotland.

Reason: To be consistent with the requirements of Scottish Planning Policy (SPP) and PAN 75 Planning for Transport.

10. Prior to commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and agreed in writing with the Council, as Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

11. Prior to commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted to, and agreed in writing with the Council, as Planning Authority, following consultation with Transport Scotland and thereafter implemented in accordance with the agreed details.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

12. There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.

13. Prior to the commencement of development the following shall be submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:

- a) A Construction Traffic Management Plan which includes details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 minimum) and proposals to safeguard non-motorised road users;
- b) Details (Plan scale 1:500) which show the provision of a temporary turning area, including details of all materials to be used in the construction of the turning area, adjacent to Plots 35/36 to provide a turning facility for refuse collection vehicles and other visiting vehicles.

The approved Construction Traffic Management Plan must be complied with at all times. The works identified in b) shall be completed prior to the first occupation or completion, whichever is the sooner, of any of the houses on plots numbered 29 to 36 and shall be retained until such time that the roads connecting Plots 35/36 and Plots 13/14/15/16 are connected and available for use by visiting service vehicles.

Reasons:

- a) To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
 - b) To ensure acceptable infrastructure to service the development through the provision of details currently lacking.
14. Prior to the commencement of development a Travel Information Pack, which sets out opportunities for travel by foot, cycle and public transport, shall be submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority. The Travel Information Pack shall include:
 - a) Information on routes for pedestrians and cyclists to access local facilities.

- b) Information on the provision of bus services serving the development.
- c) Details of how to access personal Travel Planning and of incentives to travel by foot, cycle and public transport.
- d) Details of the programme for updating the Travel Information Pack as the development progress.

The approved Travel Information Pack shall thereafter be provided to each dwelling as they are completed from the date of first completion of any part of the residential development.

Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

15. 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. This should comprise an archaeological trial trenching evaluation of 7-10% of the total proposed development site, to be undertaken by a suitably qualified archaeological contractor, the results of which will be used to inform whether further mitigation is required. 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 occupied 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.

16. No development shall commence until details of protection measures of existing private water supplies leading through the site (both during construction and for the lifetime of the development) have been submitted to and agreed in writing with the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with the agreed details, unless otherwise agreed with the Council, as Planning Authority.

Reason: In order to safeguard the water supplies which serve the neighbouring houses.

17. Prior to development commencing, cross sections through the proposed play area approved as part of planning application 18/01373/APP shall be submitted to and agreed in writing with the Council, as Planning Authority. Thereafter the play area shall be provided in accordance with the agreed details.

Reason: To ensure the play area is provided at an acceptable gradient, to maximise the functionality of this facility.

18. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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

19. The width of the individual vehicular access shall be 3.0m – 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway shall be to the Moray Council specification and surfaced with bituminous macadam.

Reason: To ensure acceptable infrastructure at the individual development accesses.

20. Houses requiring 2 parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are provided. No part of the driveway shall be included in the public road.

Reason: To ensure acceptable development in the interests of road safety.

21. The bat and bird boxes as detailed in the ecological mitigation measures submitted in support of this application, shall be provided prior to the completion of each house on the plots in which they are located and thereafter retained throughout the lifetime of the development.

Reason: In order to enhance habitat provision throughout the development in the interests of increasing biodiversity.

22. 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.

23. No residential unit shall be occupied until the EV charging infrastructure associated with it has been provided in accordance with the approved EV charging details, submitted in support of this application.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport

11. HIGH HEDGE APPLICATION – 21/00279/HHCOMP

Ward 4 – Fochabers Lhanbryde

Application for High Hedge Notice at 12 Charlotte Street Fochabers Moray IV32 7EE for Ms Sarah Johnson

A report by the Appointed Officer recommended that given the application relates to a high hedge, and that the high hedge is having an adverse impact on the reasonable enjoyment of the applicant's property, a High Hedge Notice should be issued by the Council.

The Committee noted that the application had been referred to Committee because it relates to an application for a High Hedge Notice.

In regard to Condition 3 as detailed in the report, Councillor Feaver queried the dates relating to the bird nesting season and sought clarification in regard to dates which differed from that provided by NatureScot as she was concerned that the timing of any reduction to the height of the hedge could impact on any nesting birds.

In response the Development Management and Building Standards Manager advised that the bird nesting season will be checked with NatureScot and if required the condition will be amended accordingly.

Councillor Brown sought clarification on whether any professional advice had been sought in regard to the impact a fifty percent reduction to the height would have on a tree and whether there was a likelihood of such a reduction killing the tree or whether the height could be reduced in stages?

In response Mr Smith, Principal Planning Officer advised that no advice had been sought from a tree surgeon in this regard. He referred to the Ecologist survey that stated that it was likely that the trees are likely to continue to grow.

The Development Management and Building Standards Manager advised that in terms of previous experience and understanding of the legislation the recommendation is that it comes down in one phase however further guidance can be sought in regard to issuing the notice and that Members be advised of the outcome of this.

This was agreed and thereafter the Committee agreed:

- (i) In relation to condition 3 as outlined in the report that clarification be sought from NatureScot in relation to the bird nesting season being between March and August and the condition amended accordingly if required;
- (ii) In relation to condition 1 as outlined in the report that advice be obtained from a specialist tree surgeon on whether the trees being cut to 6.25m in a single cut would be likely to result in the trees dying or cause long term damage or whether cutting them in two phases would mitigate any potential damage and the outcome of this be circulated to Members of the Committee ; and
- (iii) No change in relation to condition 2 as outlined in the report.

12. ELGIN CITY CENTRE FINAL MATSERPLAN

Under reference to paragraph 13 of the Minute of the meeting of this Committee dated 26 January 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) advised the Committee of comments received on the draft Elgin City Centre Masterplan following consultation and to ask Committee to agree the final Masterplan and that a Steering Group is set up to co-ordinate and progress delivery of the Masterplan

Following consideration the Committee agreed:

- (i) to note the comments received during the consultation and agrees the proposed responses and changes arising from consultation set out in Appendix 2;
- (ii) to note progress on a number of projects as set out in para 4.4;
- (iii) the final Masterplan in Appendix 3;
- (iv) the Delivery Programme in Appendix 4;
- (v) to grant delegated authority to the Head of Economic Growth and Development to add CGI images to the final Masterplan;
- (vi) that the Masterplan is treated as a material consideration in the development management process;
- (vii) that a Steering Group of key partners and stakeholders is set up to progress and co-ordinate delivery of the Masterplan; and
- (viii) to note that Improvement Plans for other Town Centres will be reported to the meeting of this Committee in early 2022.

13. BUILDING STANDARDS ANNUAL PERFORMANCE REPORT 2021-22

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the Building Standards Annual Performance Report for 2021/22, covering the reporting period 1 April 2020 to 31 March 2021 for the Moray Council.

Following consideration the Committee agreed to:

- (i) note the Building Standards Annual Report (Appendix 1 of the report);
- (ii) note the Building Standards Annual Report will be used by the service in terms of demonstrating they continue to meet the operating and performance framework for the appointment as a Verifier for the geographical area of Moray; and
- (iii) note the Building Standards Annual Report 2021/22 will be made available to all designers, developers, stakeholders, and internal services seeking comment/feedback to assist with continuous improvement to be fed back into the annual report for 2022/23.

14. MORAY LOCAL DEVELOPMENT PLAN 2020 ANNUAL MONITORING REPORT

Under reference to paragraph 14 of the Minute of the meeting of this Committee dated 15 September 2020, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider and approve the Moray Local Development Plan Annual Monitoring Report 2021.

Following consideration the Committee agreed to:

- (i) approves the Monitoring Report as set out in Appendix 1 and Appendix 2;
- (ii) note the progress and revised timescales for the Delivery Plan/Action Programme in Appendix 3;
- (iii) grant delegated authority to the Head of Economic Growth and Development to finalise graphics for the Annual Monitoring Report.

15. NATURE RESTORATION FUND

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of a grant of £101,000 which has been made available to the Council by the Scottish Government from the Nature Restoration Fund and to ask the Committee to agree how the grant is allocated.

Following consideration the Committee agreed:

- i) to note receipt of the £101,000 grant from the Scottish Government's Nature Restoration Fund; and
- ii) the proposed projects and budgets as set out in para 4 of the report.

16. QUESTION TIME

Councillor A McLean stated that he had received some queries in relation to derelict buildings in Forres in particular in relation to the Mart on Tytler Street and some buildings on North Street and Caroline Street and asked how the derelict buildings policy was progressing in relation to derelict land and buildings in towns and whether there was any movement in seeking to mitigate unsightly areas/buildings.

In response the Strategic Planning and Development Manager advised that officers were working on a report on vacant, derelict and empty properties to be brought to this committee in March 2022 at which there will also be a report on the draft National Planning Framework 4 which was published the previous week and that it was hoped that these would show the scale and challenge of the issue in Moray. He further advised that the National Planning Framework 4 will bring greater emphasis on bringing forward brownfield vacant derelict sites into productive use which also takes a considerable amount of time and resource. He also referred to the Town Centre Improvement Plans which it was hoped would be coming to committee in January 2022 and these will highlight some of the properties referred to by Councillor A McLean.

The Head of Economic Growth and Development advised that the work outlined by the Strategic Planning and Development Manager takes in a much wider scope than the previous policy where it looked at a select list of buildings that had caused issues over time and it had been agreed to work individually through the list in terms of seeking to resolve them, the first being the property in Prospect Terrace, Lossiemouth and the next being in Viewfield in Keith which was a semi-detached property and staff were working with colleagues in Legal and Housing Services to try and resolve the issues surrounding this property. He further advised that other properties on the list had been successfully resolved through other means, by negotiations with potential title holders etc. but that it has been a slow process with those that do not have clear title or clear ownership where ultimately the council will require to see a compulsory

purchase order to resolve the issue, however it is finding a way to resolve the issue with the best possibility of success in finding a long term solution.

Councillor Warren in referring to the timing, sought clarification on how the council worked with developers in relation to the building of play parks within housing developments to improve the situation.

In response the Development Management and Building Standards Manager advised that currently there is one Conditions Compliance Officer and one Enforcement Officer covering the whole of Moray which is a huge task where the service is under resourced. She further advised that in terms of working with developers this is done better during the planning application process rather than post discharge but that there are systems now in place where a notification of initiation of development comes in advising of when works are due to start and the department then write to developers ensure that conditions that are suspensive are discharged and these are monitored and followed up but that it is a huge task and in order to do it better additional resource would be required as well as perhaps targeting those developers where there has previously been bad experience to see how we can work better with them in the future.

17. 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.

18. BREACH OF PLANNING CONTROL AT MULBEN [PARA 12]

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of a breach of planning condition on a site encompassing land at Mulben, Keith.

Following consideration the Committee agreed to:

- (i) Officers issuing a Breach of Condition Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring the developer to fully comply with Condition 11 of planning application reference number 14/01859/APP in relation to the provision of the approved landscaping scheme and if required; and
- (ii) authorise direct action to remedy the breach of condition in relation to the provision of the approved landscaping if the Enforcement Notice is not complied with within the specified time (end of next planting season).

19. BREACH OF PLANNING CONTROL ENCOMPASSING LAND AT GARMOUTH [PARA 13]

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee on unauthorised development consisting of the change of use of land, erection of a wooden fence, stationing of two caravans and two shipping type containers, formation of hardstanding, the erection of a wooden building and the storage of two motor cars.

Following consideration the Committee agreed to authorise Officers to serve an enforcement notice and, if required, take direct action to remedy the under noted

breaches of planning control and restore the land at Burniestrype, Garmouth to its former condition:

- Erection of a wooden fence
- Stationing of two caravans
- Stationing of two shipping containers
- Formation of hardstanding
- Erection of a wooden building
- Storage of two motor cars
- Storage of three trailers

20. TREE PRESERVATION ORDER – DUFFTOWN [PARA 13]

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider an application to revoke the Tree Preservation Order (TPO) at Cowie Avenue/Fife Street, Dufftown.

Following discussion Councillor Brown, seconded by Councillor Macrae, moved that the Committee support the application to revoke the Tree Preservation Order at Cowie Avenue/Fife Street, Dufftown.

As an Amendment Councillor A McLean, seconded by Councillor Warren, moved that the Committee approve the recommendations as outlined in the report.

On a division there voted:

For the Motion: (4)

Councillors Brown, Macrae, Powell and Ross

For the Amendment: (8)

Councillors A McLean, Warren, Taylor, Feaver, Bremner, Cowe, Cowie and Divers.

Abstentions: (0)

Accordingly the Amendment became the finding of the meeting and the Committee agreed:

- (i) to retain the Tree Preservation Order in Dufftown, for the reasons detailed in Section 6 of the report;
- (ii) that officers liaise with the solicitor acting as Executor for the landowner's estate to secure the funding available towards maintenance of the trees and co-ordinate works to the value of the available funds; and
- (iii) that officers liaise with the Roads Maintenance section to undertake any tree works deemed necessary under relevant roads regulations.