

## MORAY COUNCIL

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

30 MAY 2023

COUNCIL CHAMBERS, ELGIN

#### **PRESENT**

Councillors Gordon, Macrae, Cameron, Coull, Cowe, Divers, Dunbar, Fernandes, Gatt, Keith, Lawrence, McBain, Ross, Van Der Horn and Warren

#### **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, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mr J Killeen, Engineer (Transportation), Mrs R MacDougall, Planning Officer, Mr D Westmacott, Planning Officer, Legal Services Manager, Mrs L Rowan and Mrs T Sutherland, Committee Services Officers as Clerks to the Committee.

#### **1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS**

In terms of Standing Order 21 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.

Councillor Cameron declared an interest in item 6a) "Planning Application 22/01234/APP as he is the Secretary of the Moray Ramblers Association and had advised the group of this development and stated that he would leave the Chamber and not take part in the decision.

In relation to Item 6 "Planning Application 23/00121/APP" Councillor Ross stated that his wife is Chair of the Speyside Community Council who had put forward an objection to the development and that, although he had attended a meeting arranged to discuss the proposal and an exhibition, he had taken no part in the discussion therefore was content that he could take part in the determination of the application.

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

#### **2. Minute of Meeting Dated 15 February 2023 (Hearing)**

Under reference to the Minute of the meeting of the Planning and Regulatory Services Committee dated 15 February 2023 (Hearing), Councillor Ross stated that he was marked as being an apology however was at the meeting.

In response, the Legal Services Manager advised that, although Councillor Ross was marked as an apology, in the "Declaration of Member's Interests" section, she had explained that Councillor Ross had declared an interest in the planning application and that was the reason he was absent.

Councillor Ross raised concern that this would be noted as an absence when he was at the meeting.

In response, the Clerk advised that she would check Councillor Ross' attendance for this meeting and amend if required. This was noted.

The Minute of the meeting of the Planning and Regulatory Services Committee dated 15 February 2023 (Hearing) was approved subject to any necessary changes in relation to Councillor Ross' attendance.

### **3. Minute of Meeting Dated 15 February 2023**

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

### **4. Minute of Meeting Dated 14 March 2023**

Under reference to paragraph 1 of the Minute of the meeting of the Planning and Regulatory Services Committee dated 14 March 2023, Councillor Divers stated that he had declared an interest in Item 5 however the minute paragraph was number 6.

In response, the Clerk advised that this would be checked and amended if necessary.

Thereafter, the Minute of the meeting of the Planning and Regulatory Services Committee dated 14 March 2023 was submitted and approved subject to any necessary changes in relation to Councillor Divers' comments.

### **5. Written Questions**

The Committee noted that no written questions had been submitted.

### **6. Planning Application 23/00121/APP**

#### **WARD 2: KEITH AND CULLEN**

#### **Section 42 to vary condition 22 part (a) relating to the frequency of operational noise surveys from biennial to 5 yearly Edintore Wind Farm Keith Moray AB55 5PJ for Koehler Renewable Energy UK Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a Section 42 to vary condition 22 part (a) relating to the frequency of operational noise surveys from biennial to 5 yearly at Edintore Wind Farm, Keith, Moray AB55 5PJ for Koehler Renewable Energy UK Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major application.

Following consideration, the Committee agreed to grant planning permission, as recommended, in relation to Planning Application 23/00121/APP subject to the following conditions and reasons:

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. This permission shall cease to have effect on 15 July 2041. Within 12 months of the expiry of this period the wind turbines and ancillary equipment shall be dismantled to ground level and removed from the site and the land shall be restored in accordance with a method statement to be approved in advance by the council as planning authority.

**Reason:** To ensure that the turbines are removed when no longer required, and to secure the satisfactory restoration of the site.

3. If, upon completion of the development, any wind turbine fails to supply electricity to the grid for a continuous period of 9 months then, unless agreed in writing by the planning authority, a scheme for the removal of the wind turbine and any surface ancillary works solely relating to that wind turbine, shall be submitted in writing for the approval of the planning authority. The scheme shall be implemented as approved.

**Reason:** To ensure that any redundant wind turbine is removed from site, in the interests of safety, amenity and environmental protection.

4. An omni-directional 25 candela red light or infrared lighting with optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration shall be placed at the highest practical point of each turbine and kept in operation outwith daylight hours. The lights shall flash in synchronisation.

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

5. Where interference to domestic television reception is caused as a result of the development hereby approved the developer shall take steps to make good the reception, either by eliminating the cause of the interference or by providing an alternative means by which television signals may be received. Within two weeks of being notified by the council as planning authority of the existence of such interference (or within such longer period as the planning authority may allow) the developer shall submit to the council for its approval proposals to make good the reception, including a programme showing the time within which the proposals shall be completed. The proposals shall be carried out in accordance with the terms on which they are approved by the council.

**Reason:** To ensure the development does not cause unacceptable interference with nearby television reception.

6. Prior to the commencement of works a detailed plan of public access across the site (existing, during construction and upon completion) shall be provided for the approval of the Council as planning authority:
  - (i) All existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights;

- (ii) Any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures;
- (iii) All paths and tracks proposed for construction, for use by walkers, riders, cyclists, all ability users, etc;
- (iv) Any diversions or paths, temporary or permanent, proposed for the purposes of the development;
- (v) The above access plans must show consideration of linking any paths through to Cairds Wood paths and linking to the path to the north.

**Reason:** To ensure that proper consideration is given to improving paths in the vicinity of the development.

7. Prior to development commencing the developer shall submit to the council details of:
- a) a Sustainable Drainage System (SuDS) including calculations for comment and approval. The SuDS scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing with the council as planning authority.
  - b) a Surface Water Management Plan for the construction, operation and maintenance stages of the development. The plan once approved shall be adhered to unless otherwise agreed in writing with the council as planning authority.

**Reason:** To ensure consideration is given to the impact of the development on surface water in the locality.

8. Prior to commencement of any works, a full site waste management plan shall be submitted for the written approval of the planning authority, in consultation with the Scottish Environment Protection Agency (SEPA), and work shall be carried out in accordance with the approved plan.

**Reason:** To ensure that waste on the site is managed in a sustainable manner.

9. At least two months prior to the commencement of works, a full site specific environmental management plan (EMP) shall be submitted for the written approval of the planning authority in consultation with SEPA and other agencies such as SNH as appropriate, and all work shall be carried out in accordance with the approved plan.

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

10. The proposed route for any abnormal loads on the trunk road network shall be approved by the trunk roads authority and/or its operating company prior to the event. Any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc. must similarly be approved in advance.

**Reason:** To maintain the safety of trunk road traffic and traffic moving to and from the development, and to ensure that the transportation does not have a detrimental effect on structures within the route path.

11. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of the loads being delivered shall be undertaken by a

recognised QA traffic management consultant to be approved by Transport Scotland and/or its operating company before delivery commences.

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

12. No development shall commence until details regarding a plan for the management of abnormal loads has been submitted to and approved by the council as planning authority in consultation with Moray Council Transportation (Traffic) and Transport Scotland (as appropriate). The plan shall include the following:
- (a) a detailed survey of the chosen route for delivery vehicles;
  - (b) the locations of structures, e.g. bridges and street furniture affected by any construction and abnormal load vehicle movements;
  - (c) the location, design construction and timescale for provision of any road improvements/ strengthening required or proposed;
  - (d) details of the arrangements including timescale to undertake and monitor abnormal load trial runs prior to commencement of construction;
  - (e) in the event of the trial runs identifying any restrictions not identified in any earlier detailed survey, details of the location, design construction and timescale for the provision of any additional road improvements/strengthening required or proposed to be carried out;
  - (f) details of the number, spacing, location and timescale for all passing places to be provided and constructed, in accordance with The Moray Council specification;
  - (g) details to demonstrate how abnormal load convoys will be managed travelling along the B9115;
  - (h) details of the proposals to promote a short term Road Traffic Regulation Order allowing the introduction of a one-way system for the triangular area incorporating the B9115/C75H (Marypark Edintore Road);
  - (i) thereafter, the development shall be carried out in accordance with the approved details prior to any delivery of materials to the site.

**Reason:** In the interests of road safety and to enable a safe and suitable access for large construction vehicles to/from the site.

13. No development shall commence until details regarding a Traffic Management Plan have been submitted to and approved by the council as planning authority in consultation with Moray Council Transportation (Traffic) and Transport Scotland (as appropriate). The Plan shall include the following:
- (a) the arrangements to undertake verge hardening at the A96/B9115 junction to accommodate the wide turning circle of the abnormal load vehicles transporting turbine components over the junction areas, with dropped kerbs to be installed during the construction period to enable over-running onto the hardened verge and post-construction, the existing 254mm x 127mm h.p.c.c. kerbs shall be reinstated at the junction;
  - (b) the methods of marshalling and manoeuvring at junctions on the public road network;
  - (c) details of all heavy construction traffic routes to/from the site.
  - (d) the arrangements to undertake and submit before and after video surveys of the proposed delivery route(s) together with confirmation to make good any damage caused to the road network, including the verge as a result of construction traffic and passing vehicles;

- (e) details regarding the location(s), design construction (to The Moray Council specification) and timescale for provision of all passing places to accommodate construction traffic, turbine delivery vehicles and on-coming traffic required or proposed to be provided along the B9115 between the A96 and the site access junction;
- (f) details including the location and duration for a temporary speed limit to be provided at the site access together with identification of all relevant or required statutory procedures to be promoted for the temporary speed limit. The required speed limit shall be in force for the duration of the construction and decommissioning of the wind farm;
- (g) thereafter, the development shall be carried out in accordance with the approved details prior to any delivery of materials to the site.

**Reason:** In the interests of road safety and to enable a safe and suitable access for vehicles to/from the site.

14. The new access junction to the site onto the B9115 shall have visibility splays of 4.5 metres x 120 metres, and shall be kerbed to a radius of 15 metres using 254mm x 127mm h.p.c.c. kerbs.

**Reason:** In the interests of road safety and to enable a safe and suitable access.

15. No water shall be permitted to drain, or loose material be carried onto the public footway/carriageway.

**Reason:** In the interests of road safety.

16. The applicant shall secure a warranty from the turbine supplier and/or manufacturer for the absence of tonality of the turbines, as determined in accordance with a recognised standard. A copy of the standard detailing the assessment method shall be submitted for approval by the planning authority. In the absence of such warranty a tonal penalty of 5dB will be assumed and noise levels specified in the following condition will be reduced by 5dB.

**Reason:** To protect local residents from noise from the turbines.

17. At Wind Speeds not exceeding 12m/s, (as measured, or calculated, at a height of 10 metres above ground level, at the location of one of the turbines), the Wind Turbine Noise Level, when measured at any dwelling, shall not exceed:-
- (a) during Night Hours, 40dB LA90,10min or the Night Hours LA90,10min Background Noise Level plus 5dB(A), whichever is the greater.
  - (b) during Daytime Hours, 35dB LA90,10min or the Daytime Hours LA90,10min Background Noise Level plus 5dB(A), whichever is the greater.

The Background Noise Level in this condition means the level determined at each property at the time of the Background Noise Level survey submitted with this application – see the Moray Council Informative below. The condition shall only apply to dwellings vacant, or occupied and existing at the date of this planning permission. The above noise limits shall not apply to those properties acknowledged as having a direct financial involvement in the development, as detailed in Section 6.49 of the Environmental Statement submitted by Vento Ludens.

**Reason:** To protect local residents from noise from the turbines.

18. The Wind Turbine Operator shall log wind speed and wind direction data continuously and shall retain the data, which has been obtained for a period of no less than the previous 12 months, showing the average wind speed in metres per second for each 10 minute period. The measuring periods shall be set to commence on the hour and in 10 minute increments thereafter. The wind speed data shall be made available to the planning authority on request. The data shall be provided on a Microsoft Excel spreadsheet in electronic format or other format agreed with the planning authority. The wind speed shall be measured at a height of 10 metres, or derived and normalised to 10 metres height. The operator should be aware that if formal investigation is required, following complaint, the wind speed shall be measured at two heights and the 10 metre height wind speed derived in accordance with the procedure prescribed in the Moray Council Informative below.

**Reason:** To protect local residents from noise from the turbines.

- 19.
- (a) The wind turbine operator shall measure, at its own expense, the level of noise emissions from the wind turbines within 5 years of the date of the last measurement exercise (31 October 2022) and every five years thereafter. The frequency of measurement of the level of noise emissions shall be subject to review every 5 years by the planning authority. The results of any measurement exercise shall be forwarded to the planning authority as soon as is practicable.
  - (b) At the reasonable request of the planning authority, following a complaint to Moray Council relating to noise emissions from the wind turbines, the wind turbine operator shall measure, at its own expense, the level of noise emissions from the wind turbines (inclusive of existing background noise). The LA90 index shall be used over a minimum of 20 periods each of 10 minutes duration. At least 10 of the periods of measurement shall be made at wind speeds between a wind speed specified by the council and a wind speed of not more than 2 metres per second above the wind speed(s) specified by the council. At least 10 measurements shall be made at wind speeds between the wind speed specified by the council and a wind speed not less than 2 metres per second below the wind speed(s) specified by the council. Measurements of noise emissions shall, so far as reasonably practicable, be made in consecutive 10-minute periods provided that they fall within the wind speed range defined in this condition.

The LA90, 10min noise level from the combined effect of the wind turbines (inclusive of existing background noise) shall be correlated with wind speed and derived using a Best Fit Curve and, where appropriate, allowing for a correction for the influence of the background noise level as described on page 88 of the ETSU-R-97 document, which will necessitate measurement of the background noise level in the absence of the turbines operating. Measured wind turbine noise levels and background noise levels shall be referenced to derived 10 metre height wind speeds, (see Moray Council Informative below for methodology). The locations of monitoring shall be determined by, or agreed with, the planning authority.

**Reason:** To protect local residents from noise from the turbines.

20. Where considered appropriate by the planning authority the wind turbine operator shall be required to carry out an assessment for tonal noise in accordance with the procedure recommended in Section 6 of the document "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-97) i.e. the procedure based on the Joint Nordic Method.

Where the tone level above audibility is greater than 2dB a tonal penalty shall be applied to permitted noise levels, in accordance with figure 16 of the document; so that the permitted levels specified in these conditions will be reduced by the tonal penalty.

**Reason:** To protect local residents from noise from the turbines.

21. Should the noise levels referred to in these conditions be exceeded, the wind turbine operator shall take steps forthwith, to ensure that noise emissions from the wind farm are reduced to the prescribed noise levels, or below.

**Reason:** To protect local residents from noise from the turbines.

22. Construction work, including access to the site by lorries, shall be restricted to between 0730 to 1900 hours on Mondays to Fridays and 0700 to 1400 hours on Saturdays, with no activities on Sundays or Bank Holidays. Any required works outwith those times shall not be permitted, unless prior written details are provided by the developer and are agreed in advance by the planning authority.

**Reason:** In the interests of residential amenity.

23. Shadow flicker modules shall be installed on the turbines identified in Section 13.7.3 of the Environmental Statement. At the reasonable request of the planning authority following a complaint the wind turbine operator shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

**Reason:** To minimise any potential nuisance from light flicker.

24. In the event that the on-site borrow pit requires to undergo blasting, a detailed vibration impact assessment shall be provided in writing to the planning authority, and appropriate mitigation measures shall be agreed with the planning authority prior to commencement of this activity.

**Reason:** To protect local residents from any adverse effects from blasting.

25. No wind turbine, transformer unit or anemometer mast shall be erected or installed on site until details of the following have been submitted to and approved by the planning authority:
- (a) the wind turbine towers, nacelles and blades, which shall incorporate a semi-matt finish unless otherwise agreed in writing by the planning authority;
  - (b) external transformer units (if any);
  - (c) anemometer masts.



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

**Reason:** For the avoidance of doubt and in the interests of visual amenity.

26. No name, sign or other logo shall be displayed on any external surfaces of the wind turbines or external transformer units save as required by law.

**Reason:** In the interests of visual amenity.

27. All turbines blades shall rotate in the same direction.

**Reason:** In the interests of visual amenity.

## **7. Planning Application 22/01673/APP**

### **WARD 1: SPEYSIDE GLENLIVET**

#### **Erection of whisky maturation warehouses and associated works on Land West of Glenrothes Distillery, Burnside Street, Rothes, Moray for The Edrington Group**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for the erection of whisky maturation warehouses and associated works on Land West of Glenrothes Distillery, Burnside Street, Rothes, Moray for The Edrington Group.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the development site area is greater than 2 hectares and the overall footprint of buildings exceeds 10,000 sqm thereby falling within the category of “major development” as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and subject to Environmental Impact Assessment under EIA Regulations. The report also advised that available Members of the Committee visited the site of the application on 26 May 2023.

During discussion surrounding the farmhouse mentioned in Condition 13, it was queried whether this should read “Ardcanny” instead of “Ardnilly”.

In response, Mr MacPherson, Principal Planning Officer advised that this was a typographical error and that it should indeed read “Ardcanny”.

In relation to unwanted fire alarms at bonded warehouses, Councillor Gatt queried whether there could be a condition added to reflect this issue to rectify it.

In response, Mr MacPherson advised that, if Committee agreed, a change could be made to condition 10 asking for details of the fire alarm systems that will be in place.

Councillor Gatt, having considered the report in detail, moved that the Committee grant planning permission, as recommended, in respect of Planning Application 22/01673/APP subject to the conditions detailed within the report subject to the two changes discussed. This was seconded by Councillor Warren.

Councillor Ross raised a number of concerns in relation to the proposal including whether or not the warehouses would be able to support the weight of solar panels as he would not like to see further land being used for solar panels for the distillery and, given the climate emergency, was of the view that this should be known prior to any decision being made.

In response, Mr MacPherson advised that solar panels had not formed part of the planning application and, should the Applicant wish to apply for planning permission to have solar panels on nearby land to provide energy to the distillery, then this would need to be applied for through a further planning application.

Councillor Ross raised further concern in relation to the phasing of the development over 9 years and stated that this was a long time for the residents of Rothes to face this disruption.

In response, Mr MacPherson explained that the phasing of the development was to reduce the level of traffic to and from the development and it had been agreed that 1 warehouse would be constructed per year to achieve this.

In relation to potential dangers in relation to the release of ethanol into the environment, Councillor Ross queried whether a condition, similar to one that had been added to development of the same nature in Highland Council, could be added to mitigate against any potential dangers.

In response, Mr MacPherson advised that enforcing such a condition would be difficult given there are already distilleries in this area and that, although the Scottish Government were looking into the damage to the environment through the release of ethanol, this was not in planning policy as yet.

The Head of Economic Growth and Development further advised that conditions could only be added to planning consents if they were reasonable and proportionate and, as there has been no evidence to suggest that there is any risk to human health, then adding such a condition would not be advisable.

The Development Management and Building Standards Manager advised that the Applicant had stated that, should the Scottish Government's review identify any changes to best practice for maturation storage practices, appropriate consideration would be given to the relevance of these to the proposed development, and any required changes included in the Operational Environmental Management Plan, and that an informative could be added to reflect this.

Having considered the report and the responses from the Officers, Councillor Ross moved that the Committee refuse planning permission in respect of Planning Application 22/01673/APP as the proposal is contrary to policy EP6 (Settlement Boundaries) as the development would be placing a significant amount of concrete over a green area of land and EP7 (Forestry, Woodlands and Trees) as the proposal would require the removal of existing woodland. This was seconded by Councillor Van Der Horn.

On a division there voted:

For the Motion (12):	Councillors Gatt, Warren, Cameron, Coull, Cowe, Divers, Dunbar, Fernandes, Keith, Lawrence, Macrae
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	and McBain
For the Amendment (3):	Councillors Ross, Van Der Horn and Gordon
Abstentions (0):	Nil

Accordingly, the Motion became the finding of the meeting and the Committee agreed to grant planning permission in relation to Planning Application 22/01673/APP subject to:

- (i) an amendment to condition 13 to omit “Ardnilly” and replace it with “Ardcanny”;
  - (ii) an amendment to condition 10 to include details of the fire alarm systems that will be in place.
  - (iii) an informative to ensure action should the Scottish Government bring forward guidance in relation to the effects of Ethanol in the environment; and
  - (iv) the following conditions and reasons:
1. The development to which this permission relates must be began not later than the expiration of 3 years beginning with the date on which this permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. Prior to any development works commencing:
  - a) Details (Plans/written proposals) shall be submitted for road improvements to Burnside Street (lay-by parking or alternative scheme to be agreed with the Roads Authority). Thereafter, unless otherwise approved in writing by the Planning Authority the road improvements shall be completed in accordance with the approved details prior to completion or operational use of the first warehouse (whichever is soonest).
  - b) Evidence that a Section 96 (S96) ‘Wear and Tear’ Agreement (covering the extents of Burnside Street (U179E) from the A941 to the end of the public road and including its junction with the A941 and the immediate approaches to it, and any other roads to be agreed by the Roads Authority which are likely to be affected by the impact of the development construction traffic) has been completed and signed on behalf of the Developer and the Roads Authority.

**Reason:** Provision of information currently lacking from the submission, to ensure acceptable infrastructure is provided on the route to/from the development to accommodate construction and operational traffic in the interests of road safety.

3. Notwithstanding the details submitted for electric vehicle (EV) charging (which do not show the number of charging units or their specifications) No development shall commence until the following details have been submitted for approval by the Planning Authority in consultation with the Roads Authority:

- a) Details confirming the number (minimum of 1) type and specifications (22Kw minimum) of the proposed EV charging units(s).

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to completion of the Filling Store and Disgorging Unit (FSDU) and offices, and shall be maintained and made available for use thereafter unless otherwise agreed in writing by the 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, through the provision of details currently lacking from the submission.

4. No works shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The CTMP shall include the following information:
  - a) duration of works;
  - b) construction programme;
  - c) number of vehicle movements (i.e. materials, plant, staff, components);
  - d) anticipated schedule for delivery of materials and plant;
  - e) details for the volume of any materials to be removed from site and the destinations for this in order to consider any potential impact or mitigation required at other locations on the public road network;
  - f) full details of any temporary construction access/routes including any traffic management measures to be put in place between the site and A941;
  - g) specific measures to address issues identified by the Road Safety Assessment;
  - h) measures to be put in place to prevent material being deposited on the public road;
  - i) measures to be put in place to safeguard the movements of pedestrians;
  - j) details for the management of deliveries to avoid peak periods during school arrival departure and break times;
  - k) details of any specific instructions to drivers; and
  - l) parking provision, loading and unloading areas for construction traffic.

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

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

5. Prior to development commencing, a finalised landscaping plan scheme must be provided showing the phasing of the landscaping provision, and a breakdown of the specific tree species mix and numbers in each block of planting and the phasing delivery of the pedestrian path on the south side of the development. Prior to the development commencing an Access Management Plan must be submitted, developed in consultation with the Moray Access Manager and the Moray Local Outdoor Access Forum (MLOAF) detailing arrangements for access linking existing path routes west and east of the site.

The landscaping, tree protection and proposed landscaping management arrangements must be carried out in accordance with the approved details and

plans listed as part of this decision notice below. Prior to development, details will be provided and agreed in writing the frequency of when the proposed path shall be mowed, trimmed and cleared of encroachment from trees, shrubs or other vegetation.

**Reason:** In order that the phasing for the delivery of the landscaping and of the new informal path south of the warehouses is appropriately provided.

6. Unless otherwise agreed in writing with the Council as Planning Authority, the proposed build out rate of the warehouses shall follow the below build out rate as proposed in the applicants submissions.

Phasing of the development;-

- 2023: Preparatory works and landscape planting
- 2023-2024: Phase 1 – 2 warehouse units
- 2025-2026: Phase 2 – 2 warehouse units
- 2027-2028: Phase 3 – 2 warehouse units
- 2029-2030: Phase 4 – 2 warehouse units
- 2031-2032: Phase 5 – 2 warehouse units

**Reason:** In order to control the rate of construction and its impact upon local amenity.

7. Prior to any of the warehouses coming into use, a specific post-construction lighting plan, showing measures to minimise light pollution and contain any light spill in the direction of the golf course must be submitted to and approved in writing by Moray Council as planning authority (in consultation with the Environmental Health Manager). The permanent lighting design must incorporate the mitigation measures identified in para 8.6.42 of the “Ardcanny Maturation Warehousing EIA” submitted as part of the application.

**Reason:** In order that more detailed consideration can be given to the proposed lighting arrangements for the development.

8. Unless otherwise agreed in writing with the Council as Planning Authority, the development shall be constructed and operated in accordance with Table 13.1 Schedule of Environmental Commitments contained within the “Ardcanny Maturation Warehousing EIA” Report submitted as part of the application.

**Reason:** In order to ensure that construction operations are undertaken in accordance with the proposed mitigation measures and commitments to minimise or prevent environmental disruption and reduce the impact of the development.

9. 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). This limit shall include no waiting or stacking of HGV construction traffic approaching the site on Burnside Street outwith these times. The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

**Reason:** To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

10. No development shall commence until a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise (including vibration), dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan.

**Reason:** In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

11. During hours (0700 to 2300 hours), the rating level of noise associated with the development shall not exceed 30 dB at the nearest noise sensitive dwelling which has lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level associated with this condition is defined within BS 4142: 2014+ A1:2019 Methods for rating and assessing industrial and commercial sound.

**Reason:** In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

12. Unless otherwise agreed in writing with the Council the development must adopt the measures detailed in the EIAR: Technical Appendix 8.4: Reptile Species Protection Plan Para 5.4 – 5.6 Ecology Mitigation and Compensation measures and associated Technical Appendix 8.4: Reptile Mitigation Plan.

**Reason:** In order to ensure protected species are given the full range of protection cited within the Environmental Impact Assessment Report.

13. If the Ardcanny farmhouse is to be demolished any later than 1 year from the date of the planning approval a further pre-commencement bat survey (and habitat survey for other species) must be undertaken and the recommendation submitted to and approved by the Council as Planning Authority in writing prior to the demolition being carried out.

**Reason:** In order to ensure that an appropriately recent survey has been undertaken prior to any demolition of the dwelling.

14. 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 planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD

shall be carried out in complete accordance with the approved details.

**Reason:** In order to ensure that fuller consideration can be given to the potential presence of archaeological assets upon the site and to safeguard and record the archaeological potential of the area if present.

15. Unless otherwise approved in writing with the Council as planning authority, all warehouses, other buildings, the pump house and switch room must be built in accordance with the most up to date submitted drawings (and specified materials and colours) hereby listed on this planning approval.

**Reason:** In order to ensure that the development is built in accordance with the approved plans and colours as applied for.

16. Unless otherwise agreed with the Council as Planning Authority the development must be progressed in accordance with the approved Tree Protection Plan drawing number 1301.2 - TPP, and nine specific Tree Constraints Survey Plans drawing numbers 1301 – TCP to 1301.9 – TCP.

**Reason:** In order to ensure that the various trees throughout the site to be retained are protected.

## **8. Planning Application 22/01234/APP**

### **WARD 5: HELDON AND LAICH**

#### **Restoration and change of use of fishing bothy to form holiday home at Land Adjacent to Millie Bothy, Roseisle, Moray for Millie Bothy Ltd**

Councillor Cameron, having declared an interest in this item, left the meeting at this juncture and took no part in the consideration of this item.

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be refused for an application for a restoration and change of use of fishing bothy to form holiday home at Land Adjacent to Millie Bothy, Roseisle, Moray for Millie Bothy Ltd.

The meeting noted that the application had been referred to Committee as it raises matters of wider community interest and/or planning significance. The report also advised that available Members of the Committee visited the site of the application on 26 May 2023.

Following consideration, the Committee agreed to refuse planning permission in relation to Planning Application 22/01234/APP as recommended.

Councillor Cameron re-joined the meeting at this juncture.

## **9. Planning Application 23/00123/APP**

### **WARD 5: HELDON AND LAICH**

#### **New distillery process building alterations to existing building to house bio-plant/evaporator and new office/labs building with associated infrastructure**

## **including a new access road at Miltonduff Distillery Miltonduff Elgin Moray for Chivas Brothers Ltd**

Councillor Cowe left the meeting during consideration of this item.

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a new distillery process building alterations to existing building to house bio-plant/evaporator and new office/labs building with associated infrastructure including a new access road at Miltonduff Distillery Miltonduff Elgin Moray for Chivas Brothers Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as it is a major development as defined under the Hierarchy Regulations 2009 for a general industrial development on a site which exceeds 2 hectares. The report also advised that available Members of the Committee visited the site of the application on 26 May 2023.

During discussion surrounding woodland planting on the development, it was queried whether a condition could be added to extend the landscaping belt to the east of the development to connect with the Black Burn.

In response, Mr Smith, Principal Planning Officer advised that he would add a condition to reflect this should the Committee be minded to approve the planning application.

Following consideration, the Committee agreed to grant planning permission in relation to Planning Application 23/00123/APP subject to:

- (i) the addition of a condition to extend the landscaping belt to the east of the development to connect with the Black Burn; and
- (ii) the following conditions and reasons:
  1. The development to which this permission relates must be began not later than the expiration of 3 years beginning with the date on which this permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended.

2. Prior to the commencement of construction, compensatory storage shall be provided in the area (420m<sup>3</sup>) to the east of the proposed SUDS pond, as illustrated on the drawing "Flood Risk Compensation Storage" (EC22832:00:010 C 20.4.2023). A second compensatory storage area located immediately to the south of the proposed bio plant and also illustrated on the drawing "Flood Risk Compensation Storage" (EC22832:00:010 C 20.4.2023 as "existing bunds to be decommissioned and removed on completion of new distillery"), shall be provided within 6 months of the cessation of production of the existing distillery. These areas shall be retained as such in perpetuity.

**Reason:** To ensure that compensatory storage is provided to offset a localised increase in flood risk located in the immediate vicinity of the new bio plant.



3. 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 planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details. (NOTE: The exact specification of work is to be agreed with the archaeological contractor, but likely will require a monitored topsoil strip of select areas of the proposed development site. This is alongside the archaeological Level 1 Standing Building survey required of the 18th Century dovecot (Moray HER NJ16SE0001) and the photographic survey of the existing distillery buildings (Moray HER NJ16SE0114)).

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

4. Upon completion and commissioning of the development (Phase 1) hereby approved, as shown on Drawing titled Proposed Site Plan – Phase 1, MILMP22-NOR-ST-ZZ-DR-A-07003 P08, all production from the existing distillery shall cease.

**Reason:** In order to avoid any ambiguity regarding the terms of this consent and to address potential cumulative impacts from the development in combination with the existing distillery.

5. Prior to the commencement of development details of the following shall be submitted to and approved by the Council, as planning authority in consultation with the Roads Authority:
  - a) a detailed survey of the route(s) for deliveries by abnormal indivisible load traffic to/from the site in accordance with the scope of the survey which shall previously have been submitted to and approved by the Council, as planning authority in consultation with the Council as Roads Authority. The survey shall identify and determine the locations of structures (e.g. bridges) and street furniture affected by any abnormal load vehicle movements together with a schedule of works including the location(s), design specifications and time-scales for undertaking works including all road improvement/ strengthening/ verge hardening works required/proposed to accommodate construction and abnormal load traffic; and
  - b) detailed proposals for undertaking both trial runs and also delivery of abnormal indivisible loads, to include (but not be limited to) identification of all temporary and permanent modifications and measures required to protect the public road and structures together with the arrangements for traffic, vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times, etc.

Thereafter, all required/proposed modifications to the road network and the arrangements for undertaking trial runs shall be implemented in accordance with the approved details.

**Reason:** To ensure an acceptable development including the provision of additional information currently lacking from the submission and to ensure infrastructure is provided to facilitate the proposed delivery/construction route to the site access in the interests of road safety.

6. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- duration of works;
  - construction programme;
  - number of vehicle movements;
  - anticipated schedule for delivery of materials and plant;
  - full details of any temporary construction access;
  - construction traffic routes between the site and the A96;
  - 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;
  - 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.

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

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

7. No development shall commence until evidence of a satisfactory Wear and Tear Agreement has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The scope of the Wear and Tear Agreement shall be agreed with the Planning Authority in consultation with the Roads Authority and shall include a condition survey of the network undertaken jointly by the developer and a representative from the Council. The survey shall include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which shall be identified by the Roads Authority.

**Reason:** To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

8. Prior to any other construction works being undertaken (unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority), the work to form the proposed site access road and junction onto the C3E, shall be completed in accordance with the approved details. Thereafter the completed access shall be used for all construction traffic unless otherwise approved by the Planning Authority in consultation with the Roads Authority.

**Reason:** To ensure acceptable infrastructure is provided at the appropriate time to access the development in the interests of road safety.

9. A visibility splay of 4.5m metres by 215 metres shall be provided in both directions at the site access onto the C3E and maintained at all times clear of any obstruction above 0.26 metres in height, measured from the level 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.

10. Parking for the proposed development shall be provided in accordance with the approved details prior to the proposed laboratory/offices being completed or becoming operational (whichever is soonest) and shall be maintained and available for use thereafter in association with the development unless otherwise agreed in writing by the Planning Authority.

**Reason:** To ensure the permanent availability of the level of parking necessary for staff/visitors/others in the interests of an acceptable development.

11. Notwithstanding the details submitted which indicate the provision of 16 EV chargers. Details shall be submitted in writing to confirm the location of a minimum of 5 EV charging points with a minimum output of 22Kw each. The EV charging infrastructure shall be provided in accordance with the approved details prior to the proposed laboratory/offices being completed or becoming operational (whichever is soonest) and shall be maintained and available for use thereafter in association with the development unless otherwise agreed in writing by the 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, through the provision of details currently lacking from the submission.

12. 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). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

**Reason:** To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

13. Unless otherwise agreed in writing with the Planning Authority, the construction phase of the development shall be carried out in accordance with the agreed details in the supporting document by Blyth and Blyth , dated 12<sup>th</sup> December 2022, Project Number : EC 22832, and titled "Chivas Brother Ltd. Miltonduff Distillery – Construction Phase Environmental Management Plan and Construction Phase Traffic Management Plan."

**Reason:** In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

14. Unless otherwise agreed in writing with the Planning Authority, operational lighting shall be provided and maintained in accordance with the agreed details within the supporting document by ZG Lighting (UK) Ltd, dated January 2023, document 11 and titled "Miltoduff Distillery. Lighting Impact Assessment."

**Reason:** To minimise the potential for light pollution disturbance upon the visual amenity of the surrounding area and nearby residential properties.

15. The rating level of noise associated with the development shall not exceed 38 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission in the location of Lochiepots Road to the south west and also dwellings around Heather Cottage to the south of the development. For the avoidance of doubt, the rating level associated with this condition is defined within BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound.

**Reason:** To protect local residents from noise nuisance due to the use of the development.

16. The rating level of noise associated with the development shall not exceed 29 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission in properties north of the development around the location of Ballantine Circle and/or located on the minor road C3E. For the avoidance of doubt, the rating level associated with this condition is defined within BS 4142: 2014+A1:2019 Methods for rating and assessing industrial and commercial sound.

**Reason:** To protect local residents from noise nuisance due to the use of the development.

17. Unless otherwise agreed in writing with the Planning Authority, the construction details and sound insulation values for the noise mitigation measures shall be implemented and maintained in accordance with Section 5.1.1 to 5.1.10 of the approved Noise Impact Assessment document by RMP Report No.R-9170B-CL3-RRM, dated 22<sup>nd</sup> May 2023, and titled "Noise Impact Assessment: New Miltoduff Distillery, Elgin, Morayshire, IV30 3TQ."

**Reason:** To protect local residents from noise nuisance due to the use of the development.

18. Unless otherwise agreed in writing with the Planning Authority, the earthwork and landscape mound north of the proposed new distillery shall be provided and maintained in accordance with the Proposed Site Plan, Drawing No. EC22832:00:003 Revision C, dated December 2022 and indicated as "Proposed Earthworks & Landscaping Mound".

**Reason:** To protect local residents from noise nuisance due to the use of the development.

19. No development shall commence until details of timescales of all tree planting, landscaping works and biodiversity measures as detailed on drawing titled

Landscape Mitigation Plan Figure 4, Rev E and the Landscape Strategy and document titled Landscape and Biodiversity Plan, prepared by TGP Landscape Architects Document 9, Rev C, have been submitted to and agreed in writing by the Planning Authority.

Thereafter the tree planting, landscaping and biodiversity measures shall be implemented in accordance with these approved plans and timescales. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council, as Planning Authority gives written consent to any variation of this planning condition.

**Reason:** In order to ensure an acceptable level of planting in the interests of the amenity and appearance of the surrounding countryside and to enhance biodiversity in the area.

20. That all tree works and tree protection measures on the development site shall be carried out in accordance with those detailed in the submitted Tree Protection Plan by SCOTTISH ARBORICULTURAL SERVICES dated 29 November 2022, unless otherwise agreed in writing with this Council as Planning Authority. No trees on the site other than those identified for removal in the abovementioned Protection Plan shall be removed without the prior written consent of the Council, as Planning Authority.

**Reason:** In order to protect trees within the site scheduled for retention.

21. The surface water drainage SUDS arrangements detailed in the approved drawings, Drainage Impact Assessment prepared by Blyth and Blyth dated 19 December 2022 shall be installed prior to first occupation or completion of the development whichever is sooner, unless otherwise agreed.

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

22. The ecological mitigation, compensation and enhancement measures as detailed within the accompanying Ecological Impact Assessment (Table 8 refers), prepared by Latimer Ecology updated 24 March 2023, shall be fully implemented by the developer, unless otherwise agreed in writing by the Council, as Planning Authority. This shall include the submission of a repeat otter survey (with mitigation if required) of the Black Burn prior to works commencing on the installation of the two SUDs outfalls for the approval of the Council, as Planning Authority, as recommended within the Ecological Assessment.

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

23. Prior to development commencing, a Waste Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority. The Waste Management Plan shall address both the construction and operational phases of the development and include information on the following:

- a) identification of the likely waste sources associated with the construction and operation of the development;
- b) proposed waste management requirements, including provisions to maximise waste reduction and waste separation at source; and
- c) proposed waste management and storage strategy, which shall include details of:
  - i. measures to minimise cross-contamination of materials
  - ii. storage of waste and by-products (including measures to ensure waste is secure from wind/weather)
  - iii. provision of access for collection of waste, and
  - iv. recycling and localised waste management facilities.

Thereafter, the Waste Management Plan shall be implemented in full accordance with the details hereby approved.

**Reason:** To ensure waste is minimised as a result of the operation of the proposed development, in accordance with National Planning Framework 4 Policy 12: Zero Waste.

24. Prior to development commencing (unless agreed in writing with the Planning Authority), finalised details of the discharge outfalls to the Black Burn serving the SUDs ponds 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 and as these details are currently lacking from the application.

25. The evaporator and bio plant hereby approved shall process pot ale from Miltonduff and Glen Burgie distilleries only, as detailed within the approved Transport Statement prepared by Blyth and Blyth Consulting Engineers, Version 4, dated 16 May 2023, document 14, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure an acceptable form of development and in order to avoid any ambiguity regarding the terms of this consent, which has been assessed based on the information submitted.

26. Prior to development commencing, a revised Landscape Mitigation Plan Figure 4, Rev E shall be submitted to and approved by the Council, as Planning Authority. The plan shall incorporate an area of additional woodland planting to infill the area between woodland edge WE3 (as identified on the Mitigation Plan) and the existing riparian woodland along the Black Burn to the southeast to create a more substantive enhanced woodland corridor. Thereafter the tree planting, landscaping and biodiversity measures shall be implemented in accordance with this approved plan.

**Reason:** In order to ensure an acceptable level of planting in the interests of the amenity and appearance of the surrounding countryside and to enhance biodiversity in the area.

## 10.23/00369/PAN

### **Installation of a 30mw battery storage facility with associated infrastructure on land to east of A941, Bishopmill, Elgin**

Councillor Warren left the meeting at this juncture.

Under reference to paragraph 4 of the Minute of the meeting of this Committee dated 11 November 2014, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application (PAN) was submitted on 27 February 2023 on behalf of Green Power Consultants.

During discussion, the Committee raised a number of concerns in relation to the potential hazardous nature of the proposal which could impact the safety of the residents in the nearby proposed Findrassie residential development and asked that the following points be forwarded to the Applicant for consideration ahead of the submission of a formal planning application:

That the Developer:

- engages with local officers of Scottish Fire and Rescue Services;
- has a fully developed plan to contain and extinguish any fire;
- plans on containment for any 'fire' water or other chemical spill into local waterways;
- plans to deal with any airborne chemical release as a result of lithium ion fire;
- plans for blast containment should thermal runaway result in a fire leading to potential explosion;
- notes the Committee's concern in relation to the proximity of the proposal to the Findrassie residential housing development.

In response, Mr Smith, Principal Planning Officer agreed to forward the concerns of the Committee on to the Applicant.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:

That the Developer:

- engages with local officers of Scottish Fire and Rescue Services;
- has a fully developed plan to contain and extinguish any fire;
- plans on containment for any 'fire' water or other chemical spill into local waterways;

- plans to deal with any airborne chemical release as a result of lithium ion fire;
  - plans for blast containment should thermal runaway result in a fire leading to potential explosion;
  - notes the Committee's concern in relation to the proximity of the proposal to the Findrassie residential housing development; and
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

### **11. Draft Mosstodloch Masterplan**

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to agree the draft Mosstodloch Masterplan for public consultation.

Following consideration, the Committee agreed:

- (i) the draft Mosstodloch Masterplan for public consultation for a 12-week period; and
- (ii) to note that the comments received to the consultation and the Council's response to these, along with the final Masterplan will be reported back to a future meeting of this Committee for approval.

### **12. Planning Policy Guidance – Moray Development Plan**

Under reference to paragraph 9 of the Minute of the meeting of this Committee dated 14 March 2023, a report by the Depute Chief Executive (Economy, Environment and Finance) asked Committee to approve planning policy guidance for National Planning Framework 4 (NPF4) policies 2, 17 and 25 to support delivery of the Moray Development Plan.

During his introduction, the Strategic Planning and Development Manager pointed out a typographical error in Appendix 3 of the report where "under" should read "within" under the heading "Aims of Guidance". This was noted.

Following consideration, the Committee agreed:

- (i) to approve the planning policy guidance for NPF4 Policy 2 Climate Change and Adaption as set out in Appendix 1 of the report;
- (ii) to approve the planning policy guidance for NPF4 Policy 17 Rural Homes as set out in Appendix 2 of the report;
- (iii) to approve the planning policy guidance for NPF4 Policy 25 Community Wealth Building as set out in Appendix 3 of the report subject to changing "under" to "within" under the heading "Aims of Guidance"; and
- (iv) that the planning policy guidance set out in Appendices 1-3 of the report will be used as a material consideration in the determination of planning applications.



### **13. Tree Preservation Orders**

Under reference to paragraph 13 of the Minute of the meeting of this Committee dated 20 December 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to confirm Tree Preservation Orders (TPOs), without modification, at Cherry Tree Avenue, Dunkinty (Elgin), Queen Victoria Picnic Tree (Glenfiddich) and King George Playing Field (Rothiemay). The report further asked that the Committee confirm the revocation of TPOs at Dunkinty House (Elgin), Rothiemay, Woodland at Damhead Cottage (Kinloss) and Woodland at Seapark House (Kinloss).

Following consideration, the Committee agreed to confirm without modification:

- (i) Moray Council (Dunkinty House, Elgin) Revocation of Tree Preservation Order 2023;
- (ii) Moray Council (Cherry Tree Avenue, Dunkinty, Elgin) Tree Preservation Order (No 1) 2023;
- (iii) Moray Council (Queen Victoria Picnic Tree, Glenfiddich) Tree Preservation Order (No 1) 2023;
- (iv) Moray Council (Rothiemay) Revocation of Tree Preservation Order 2023;
- (v) Moray Council (King George Playing Field, Rothiemay) Tree Preservation Order (No 1) 2023;
- (vi) Moray Council (Woodland at Damhead Cottage, Kinloss) Revocation of Tree Preservation Order 2023; and
- (vii) Moray Council (Woodland at Seapark House, Kinloss) Revocation of Tree Preservation Order 2023.

### **14. Question Time**

Councillor Ross made reference to the 2 large developments that had recently been approved in Rothes and raised concern in relation to the increase in large vehicles passing through the village and asked if there was anything the Council could do to address this as it is having an impact on the quality of life of the residents.

In response, the Strategic Planning and Development Manager advised that the process to bring forward the new Local Development Plan is underway where local place plans will be prepared including evidence gathering and consultation with communities. The Strategic Planning and Development Manager further offered to speak to Councillor Ross following the meeting in relation to his concerns.

Councillor Fernandes stated that, last month, the Scottish Government launched a consultation on Draft Local Living and 20 Minute Neighbourhood planning guidance and asked if Officers were responding to the consultation and if so whether the Committee could have sight of any response.

In response, the Strategic Planning and Development Manager agreed to this request.

Councillor Gatt sought an update on the possible A96 dualling.

In response, the Head of Economic Growth and Development stated that this is part of a review by Transport Scotland, the results of which have not been released.

The Chair stated that the NP4 policy notes of 20 March 2023 stated that the Council will be supporting 20 minute neighbourhoods and asked that this be brought for discussion with the Committee at the earliest opportunity.

In response, the Strategic Planning and Development Manager advised that a series of workshops are to be organised from September – December 2023 to collect comments and views of Members ahead of the Evidence Report being submitted to Full Council in March 2024 and agreed to circulate the timeline to the Committee following the meeting.

Councillor Van Der Horn sought an update on the coastal flood adaptation plan, particularly in relation to advice that had been provided for proposed development on land predicted to fall below annual flood levels in 2050.

In response, the Strategic Planning and Development Manager advised that he would liaise with Consultancy colleagues and respond to Councillor Van Der Horn following the meeting.

The Chair stated that the Landscape Sensitivity Study had been approved on 14 March 2023 where he had asked that a 781 metre Corbett, Corryhabbie, be included within that list and queried whether this had been possible.

In response, the Head of Economic Growth and Development advised that the Landscape Sensitivity Study is prepared by Consultants as they are the experts in this regard however agreed to pass this on when the study is reviewed in the future.