

MORAY COUNCIL

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

10 DECEMBER 2019

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Bremner (Chair), Taylor (Depute), Alexander, Cowe, Cowie, Coy, Feaver, Laing, Macrae and A McLean

APOLOGIES

Apologies were intimated on behalf of Councillors Divers, Edwards and R McLean

IN ATTENDANCE

The 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, Mr Killeen, Engineer (Transport Development), Principal Building Standards Officer, Developer Obligations Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Meeting.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 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 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.

Paragraph No. of Minute Paragraph No. of Schedule 7A

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6 & 9

3. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE DATED 8 OCTOBER 2019

Under reference to paragraph 11 of the Minute of the Planning and Regulatory Services Committee dated 8 October 2019, the Chair stated that it had been brought to his attention that, during the introduction of Planning Application 19/00811/APP, the Appointed Officer had advised that a clause would be included in the Section 75 agreement to ensure that the offsite affordable housing would be delivered timeously, therefore, with the Committee's agreement, he would ask the Clerk to amend the minute to reflect this. This was unanimously agreed.

Thereafter, the Minute of the meeting of the Planning and Regulatory Services Committee dated 8 October 2019 was approved subject to the inclusion of narrative to confirm that a clause would be included in the Section 75 agreement to ensure that the offsite affordable housing would be delivered timeously.

4. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

5. PLANNING APPLICATION 19/00899/APP

WARD 1: SPEYSIDE GLENLIVET

Erection of 4No new whisky storage warehouses with associated drainage and access, retrospective permission to change a previously approved warehouse to a filling store (inclusive of welfare facilities), amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP) and altered parking arrangements at Tamdhu Distillery, Knockando, Aberlour, Moray for Ian MacLeod Distillers

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 4No new whisky storage warehouses with associated drainage and access, retrospective permission to change a previously approved warehouse to a filling store (inclusive of welfare facilities), amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP) and altered parking arrangements at Tamdhu Distillery, Knockando, Aberlour, Moray for Ian MacLeod Distillers.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation where the floor space for general industry/storage exceeds 2000m² (in this case 3862m²). The report also advised that Members of the Committee visited the site of the application on 6 December 2019.

During discussion, Councillor Feaver raised concern that the Applicant had cleared a woodland site that was not designated for development prior to receiving planning permission with no regard to the adopted policies within the Moray Local Development Plan (MLDP) 2015 and queried what action the Authority could take in this regard.

In response, the Head of Economic Growth and Development advised that the Planning Authority does not condone the developing of any site prior to applying for planning permission however felling of trees does not require planning permission. The completion of earthworks does require planning permission and, if this was identified, the planning authority would consider the site and the likelihood of obtaining planning permission then, in accordance with the Council's Enforcement Charter, ask the developer to apply for retrospective planning permission. If this is refused then enforcement action would be taken.

Councillor Feaver remained of the view that whether or not the Developer had a tree felling licence, they should not have cleared the site to sub-soil in preparation for development prior to receiving planning permission and that, in terms of climate change, the proposed compensatory planting is no match for well-established woodland. Councillor Feaver therefore moved that the Committee refuse planning permission in respect of Planning Application 19/00899/APP as the proposal is contrary to policies PP2 (Climate Change), E4 (Trees and Development) and ER2 (Development in Woodlands) of the Moray Local MLDP 2015. On failing to find a seconder, Councillor Feaver's motion fell.

Thereafter, the Committee agreed to grant planning permission in respect of Planning Application 19/00899/APP subject to:

- (i) a payment towards the provision of compensatory woodland planting; and
- (ii) the following conditions and reasons:
 1. Within three months of the date of this decision notice a visibility splay of 4.5m x 90m shall be provided and maintained thereafter in both directions at the junction of the site access onto the private road, clear of any obstruction above 0.6m in height (measured from the level of the carriageway) as shown on previously submitted drawing 'Proposed Road Access Plans, Sections & Details 5929-17/302'.

Reason: To enable drivers of vehicles leaving the site 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.

2. Within one month of the completion of the development an 'after' road condition video survey of the delivery and construction traffic routes from the B9102 Dandaleith – Grantown Road shall be submitted to the Council, as Planning Authority in consultation with the Roads Authority. Any damage to the road network, including the roadside verge, identified as a result of construction traffic and passing vehicles shall be 'made good' within three months of the completion of the development, unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Roads Authority.

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

3. A minimum of four car parking spaces shall be provided within the site prior to the completion of the development. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as 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 and road safety.

4. The rating level of noise associated with the development's filling store No. 3 operations shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling. Measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: In order to ensure the filling store operates so as not to cause an unacceptable impact upon neighbouring residential amenity

5. Unless otherwise agreed with the Planning Authority, in consultation with the Environmental Health Manager, the development's filling store No. 3 operations shall be permitted from 07:45 to 16:30 hours Monday to Thursday and 07:45 to 13:00 hours on Fridays only.

Reason: In order to ensure the filling store operates at times compatible with neighbouring residential amenity.

6. The approval hereby granted must be developed in accordance with the revised drainage information contained within the updated "Supporting Information" document prepared by SAC Consulting for Algo Design and Build in September 2019 and submitted under cover of email dated 4th November 2019.

Reason: In order to ensure the correct drainage information is adhered to.

6. PLANNING APPLICATION 19/01127/APP

WARD 3: BUCKIE

Residential development for 11 dwellings including affordable houses and associated infrastructure/landscaping on Whiteland Site to rear of Ewing Crescent, Buckie, Moray for Mr Fredrick Parkes.

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 residential development for 11 dwellings including affordable houses and associated infrastructure/landscaping on Whiteland Site to rear of Ewing Crescent, Buckie, Moray for Mr Fredrick Parkes.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the site extends to more than 2ha. The report also advised that Members of the Committee visited the site of the application on 6 December 2019.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 19/01127/APP subject:

- (i) The conclusion of a Section 75 legal agreement; and

(ii) the following conditions and reasons:

1. All landscaping shall be carried out as detailed on the approved plan entitled 'Compensatory Tree Planting Plan rev B'. Notwithstanding the approved landscaping details no development shall commence until details of additional planting along all boundaries that plots 9,10 & 11 share with the property known as Briarbank' have been submitted to and approved in writing by the planning authority. There after approved landscaping shall be carried out in accordance with condition 2 below.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

2. No development shall commence until details of the timescales and maintenance arrangements for all proposed landscaping (including the compensatory planting) and open space have been submitted to and approved in writing by the Planning Authority. Thereafter the development shall not proceed except in accordance with the approved details. For the avoidance of doubt all landscaping shall be carried out as detailed on the approved plan entitled 'Compensatory Tree Planting Plan rev B'.

Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site.

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. A full specification for archaeological works can be provided by Aberdeenshire Archaeology Service and the work shall comprise a 5-7% archaeological trial trenching to be undertaken by a suitably qualified archaeological contractor. 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 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 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.

4. No development, site excavation or groundwork (including archaeological trial trenching) shall commence until the tree protection measures detailed in the Arboricultural Impact Assessment/Method Statement, Proposed Housing Development, Site to Rear of Ewing Crescent, Buckie, dated 2 September 2019 and on the approved plan entitled Tree Protection Plan Revision C have been implemented in full. These measures shall remain in place throughout the construction period and must not be moved or removed during the construction period without the prior written approval of the Planning Authority.

Reason: In order to ensure the protection of retained trees, which are important amenity assets, during construction.

5. No trees within the application site, other than those which are specifically identified for removal on the approved plans, shall be cut down, uprooted, topped, lopped (including roots) or wilfully damaged in any way, without the prior written permission of the Planning Authority

Reason: In order to ensure the protection of retained trees, which are important amenity assets.

6. 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 as a minimum the following information:
 - a. Duration of works;
 - b. Construction programme;
 - c. Number of vehicle movements (i.e. materials, plant, staff, compounds)
 - d. Schedule of delivery of materials and plant;
 - e. Full details of construction traffic routes to the site including any temporary construction accesses;
 - f. measures to be put in place to prevent material being deposited on the public road;
 - g. Traffic management measures to be put in place during works including any specific instructions to drivers;
 - h. Parking provision for site staff;
 - i. Drop-off and turning provision for delivery vehicles to ensure entry and exit in a forward gear;
 - j. Hours of operation and restrictions during school arrival and departure times from the existing housing;
 - k. Arrangements for providing residents with information on works, points of contact for liaison and emergencies.

Thereafter, the development shall only proceed in accordance with the approved details, unless otherwise approved in writing by the Planning Authority in consultation with the Roads Authority.

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

7. Notwithstanding the details submitted for the proposed 2.5m path connection to Barr Close, and the non-adopted private access road serving plots 5-8 (which are not accepted). No development shall commence until the following details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with Roads Authority. Thereafter, the development shall only progress in accordance with the approved details and the approved arrangements shall be completed and open for use prior to the occupation of any house within the development:
 - a. Plan(s) (1:200min) showing a kerbed, continuous 2.5m cyclepath along the frontage of plots 5 to 8 between the plots and the private drive. The path shall be tapered at 1:10 (minimum) into the 2m footpath at plot 4. From the end of the shared driveway serving plot 8 to the turning head at Barr Close,

the cycle path shall be widened to 3.0m (taper details to be agreed but not less than 1:10) and set back 0.5m from the plot boundary.

Reason: In the interests of pedestrian and cycle connectivity to the proposed

8. The road width shall be 5.5 metres wide with a continuous 2 metre wide footway on the south side from Greenlaw Lane and with a road narrowing/traffic calming feature opposite plot 2 as shown on Drawing No. BW01 900.

Reason: To ensure acceptable infrastructure at the development access.

9. The width of each individual vehicular access shall be a minimum of 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the prospective public carriageway. The part of the access over the prospective public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the access to The Moray Council specification.

Reason: To ensure acceptable infrastructure at individual development accesses.

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

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

11. Parking provision shall be as follows:

- Minimum of 2 spaces for a dwelling with three bedrooms or less; or
- Minimum of 3 spaces for a dwelling with four bedrooms or more.

The car parking spaces shall be provided within the site prior to the occupation or completion of each dwellinghouse, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning 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.

12. No boundary fences, hedges, walls or any other obstruction fronting onto the prospective public road shall be within 2.4 of the edge of the carriageway and shall not exceed 1.0m in height.

Reason: To ensure acceptable infrastructure at the development access

13. Trees shall be set back at a minimum of 5.0m from the edge of the prospective public road carriageway, unless suitable root protection is utilised. The details of any proposed root protection shall be submitted to and approved in writing by the Council, as planning authority in consultation with the roads authority. Thereafter the root protection measures shall be installed in accordance with the

agreed details.

Reason: to prevent root interference that could compromise the public road carriageway (and the utilities contained therein) thereby ensuring acceptable infrastructure at the development access, in the interests of road safety.

14. All foul and surface water drainage proposals shall be in accordance with the submitted report Drainage Assessment Proposed Development Buckie, August 2019. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

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

15. The house hereby approved on plot 6 shall be accessible in accordance with the applicant's Accessible Housing Statement of Compliance (as contained within the applicants Design and Access Statement dated August 2018) and drawings Ash House type drawing no 6. Thereafter, the accommodation shall, at all times, remain capable for adaptation to 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 required and defined in terms of current planning policy and associated supplementary planning guidance.

16. The 2m high privacy fence identified on the approved site plan (1A) shall be provided prior to the first occupation of any of the houses approved on plots 9-11 and maintained in perpetuity.

Reason: In order to safeguard the amenity of neighbouring properties.

17. The houses hereby approved on plots 9-11 shall only be used for affordable housing purposes 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 housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation 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.

18. For the avoidance of doubt there shall be no change in levels within a 6m buffer zone from the top of the Burn of Buckie.

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

19. 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 additional upper floor windows or other openings shall be installed in the south east facing elevations of the houses hereby approved on plots 9 or 10, without planning permission being granted on application to the Planning Authority.

Reason: In order to safeguard the privacy and amenity of occupants of the adjacent property.

7. 19/01433/PAN – PROPOSAL OF APPLICATION NOTICE CONSTRUCTION OF TEMPORARY CONTRACTORS COMPOUND TO FACILITATE WORKS AS PART OF THE RAF LOSSIEMOUTH DEVELOPMENT PLAN AT LAND SOUTH OF RAF LOSSIEMOUTH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) for the construction of a temporary contractors compound to facilitate works as part of the RAF Lossiemouth development plan at Land South of RAF Lossiemouth, had been submitted on 5 November 2019 on behalf of the Defence Infrastructure Organisation (DIO).

During discussion, it was queried whether the developer intended to restore the site after the works are completed.

In response, Mr Smith, Principal Planning Officer advised that the Applicant intended to clear the site in 2 years and restore it as it was previously.

During further discussion it was queried whether an Environmental Impact Assessment (EIA) would be carried out on the land.

In response, Mr Smith advised that ecological information would be submitted in support of the application however a formal EIA is not required as it is a temporary proposal.

Thereafter, the Committee agreed:

- (i) to note the terms of the report and ask that the following provisional views/relevant issues about the proposed development be fed back to the prospective applicant in order to inform the development of their proposed formal application for planning permission:
 - a) the restoration of the site after 2 years; and
 - b) the impact this development may have on the environment and ecology; and
- (ii) 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.

8. BUILDING STANDARDS ANNUAL PERFORMANCE REPORT 2019-20

A report by the Depute Chief Executive (Economy, Environment and Finance) presented the Building Standards Annual Performance Report for 2019/20.

During his introduction, Mr Clark, Principal Building Standards Officer advised that, currently the Building Standards Team are appointed as Verifiers in Moray with the appointment due to expire in March 2020 however it had recently been confirmed that the Building Standards Team have been reappointed by the Scottish Government as Verifiers for a further 6 year period.

The Committee joined the Chair in commending the Building Standards Team for their achievement in being reappointed as Verifiers for the Moray area by the Scottish Government for a further 6 year period and thereafter agreed to note:

- (i) the Building Standards Annual Report as set out in Appendix 1 of the report;
- (ii) that the Building Standards Annual Report had been used by the service in terms of seeking re-appointment as a Verifier for the geographical area of Moray in April 2020; and
- (iii) that the Building Standards Annual Report 2019/20 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 2020/21.

9. ECONOMIC GROWTH AND DEVELOPMENT - SERVICE PLAN 2019-2021 INCLUDING SERVICE IMPROVEMENTS

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the Economic Growth and Development Services Service Plan Actions for Improvement for 2019-2021. The report stated that, through the Service Plan Improvements, the service can explore different ways of delivering services more efficiently and effectively whilst facing tough challenges of declining budgets and demands for service.

Following consideration, the Committee agreed to approve the Economic Growth and Development Services Service Plan – Actions for Improvement 2019-2021 as set out in Appendix 1 of the report.

10. TREE PRESERVATION ORDER - WOODLAND AT KNOCKOMIE, FORRES

Under reference to paragraph 25 of the Minute of this Committee dated 8 October 2019, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to confirm the Tree Preservation Order (TPO) approved by the Committee on 8 October 2019 at Woodland at Knockomie, Forres, without modification.

Following consideration, the Committee agreed to confirm 'The Moray Council (Woodland at Knockomie, Forres) Tree Preservation Order (No 1) 2019' without modification.

11. QUESTION TIME

Councillor Feaver made reference to the recently declared climate change emergency and how important it is to keep mature woodlands however raised concern that this Committee appeared to have little regard to biodiversity and climate change given some recent Committee decisions.

In response, the Principal Planning Officer (Strategic Planning and Development) advised that the proposed Moray Local Development Plan 2020 has several policies to address the concerns of climate change. He further advised of a new national policy regarding the Control of Woodland Removal and that work was underway to prepare a guidance note derived from this new policy to assist members and officers as to how this should be applied in Moray.

Councillor Alexander noted the effort made to protect woodland however queried whether there were any policies to protect agricultural land.

In response, the Principal Planning Officer (Strategic Planning and Development) advised that the National Planning Framework would be out for consultation early next year and that the Committee would have an opportunity to comment on this Framework with regard to protecting agricultural land.

In relation to the climate change emergency, Councillor Laing acknowledged the concerns of Councillor Feaver however stated that the Council should be sensible in its approach to climate change whilst balancing this against economic growth.

12. REVIEW OF DEVELOPER OBLIGATIONS [PARA 6 & 9]

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve the revised Developer Obligations Supplementary Guidance for public consultation and to review the cap of £6500 per residential unit.

Following lengthy discussion, particularly in relation to the removal of the cap of £6,500 per residential unit, Councillor Alexander moved that the Committee agree the recommendations as printed within the report.

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

- (i) remove the cap of £6,500 per residential unit;
- (ii) approve the revised Developer Obligations Supplementary Guidance for public consultation for a 6 week period as set out in Appendix 2 of the report; and
- (iii) grant delegated authority to the Head of Economic Growth and Development in conjunction with the Chief Financial Officer up to the negotiated value of £50,000 for negotiating developer obligations if the cap is removed.