

MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE

09 DECEMBER 2021

VARIOUS LOCATIONS VIA VIDEO-CONFERENCE

PRESENT

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

APOLOGIES

Apologies for absence were intimated on behalf of Councillors Cowie and Powell

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, Ms L Macdonald, Senior Planning Officer, Legal Services Manager and Democratic Services Manager as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Divers declared a personal interest in agenda items 3 "Planning Application 21/00206/APP" and agenda item 4 "Planning Application 21/00396/APP".

There were no other declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

2. ORDER OF BUSINESS

In terms of Standing Order 28 the meeting agreed to vary the order of business and take Item 4 Planning Application 21/00396/APP as the first item of business.

3. PLANNING APPLICATION 21/00396/APP

Ward 4 – Fochabers Lhanbryde

Plot substitutions at no's 1 to 43 and 47-50 (total no of plots are decreased from 47 to 35 and proposed to be renumbered 301 - 319 and 401- 413) (permissions 18/01209/APP and 16/01244/APP) Glassgreen Elgin South Elgin Moray for Springfield Properties PLC

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application has previously been reported to Committee and the appointed officer considers that the proposals contains significant amendments that Committee may wish to re-consider. Namely the relocation of the commercial units.

Mr MacPherson, Principal Planning Officer clarified to the Committee an issue in relation to the numbering of the plots as described within the application and advised that following a review of the numbering this would now be simplified and would be amended to read 301 – 335 and should the Committee be minded to approve the application a condition would be imposed to clarify the numbering of those plots. In addition he further advised that should the application be approved this will be subject to a modification of the existing Section 75 Legal Agreement for Elgin South.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 20/00396/APP subject to:

- (i) a modification of the existing Section 75 Legal Agreement for Elgin South; and
 - (ii) the following conditions and reasons:
 - 1 The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 16/01244/APP dated 10 May 2018 wherein:
 - a) the terms and conditions as attached to the permission granted under formal decision notice 16/01244/APP are hereby re-iterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 13-22, 24, 27, 30, 34, 39-41, 50, 52, 53-56 inclusive (or as amended under 18/01209/APP approved on 16 May 2019), including any details already approved thereunder to discharge the requirements of the identified conditions; and
 - b) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plot substitutions at plots 1-43 and 47-50 (total no of plots are decreased from 47 to 35 and proposed to be renumbered 301-322, and 323-335).
- Reasons:** To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented.
2. Notwithstanding the EV Charging details shown on Drawing Number EL02_PL_SL_14 Rev B which are not accepted, no development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and

details prior to the first occupation of the dwelling house.

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.

3. Parking provision for houses shall be provided at the following rates:
- 1 Bedroom = 1 space
 - 2-3 Bedrooms = 2 spaces
 - 4 or more bedrooms = 3 spaces
 - 1 secure covered cycle parking space shall be provided per flat

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

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

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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 minimum interference to the safety and free flow of traffic on the public road.

5. No works shall commence on any area proposed for development until a Construction Traffic Management Plan for the respective area 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:
- 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. full details of any temporary construction access;
 - f. full details of construction traffic routes from the A941 and A96 to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - g. measures to be put in place to prevent material being deposited on the public road;
 - h. measures to be put in place to safeguard the movements of pedestrians;
 - i. traffic management measures to be put in place during works including any specific instructions to drivers; and
 - j. 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.

4. PLANNING APPLICATION 00206/APP

Ward 4 – Fochabers Lhanbryde

Application under S42 to vary condition no 2 of planning permission 18/01209/APP - phasing to reflect updated masterplan 2021 along with revisions to layout and substitution of Plots 122 to 129 at Elgin South Elgin Moray for Springfield Properties PLC

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application under S42 to vary condition no 2 of planning permission previously approved by Committee decision under application reference 18/01209/APP – phasing to reflect updated masterplan 2021 along with revisions to layout and substitution of Plots 122 to 129 at Elgin South Elgin Moray for Springfield Properties PLC.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application has previously been reported to Committee and the appointed officer considers that the proposals contain significant amendments for Committee to re-consider. Namely the Section 42 revision to phasing across the whole Elgin South 18/01209/APP consent and the relocation of the commercial units.

Mr MacPherson, Principal Planning Officer referred the Committee to a previous condition relating to the overall Elgin South consent that no development shall commence beyond 295 houses, a Sports Centre and (Linkwood) Primary School as defined on revised Phasing Plan phases 1A and 1B) until either a bypass is in place or a transport assessment is submitted for each of these phases to identify capacity within existing road network. He further advised that as that stage has already been reached Transport Scotland had asked that this condition be re-iterated within this application in terms of phasing and should the Committee be minded to approve the application he would recommend that this condition be included. In addition he further advised that should the application be approved this will be subject to a modification of the existing Section 75 Legal Agreement for Elgin South.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 21/00206/APP subject to :-

- (i) a modification of the existing Section 75 Legal Agreement for Elgin South; and
- (ii) the following conditions and reasons:
 1. The development hereby granted forms part of, and is related to, a development granted planning permission under formal decision notice 16/01244/APP dated 10 May 2018 wherein:
 - a) the terms and conditions as attached to the permission granted under formal decision notice 16/01244/APP are hereby re-iterated and remain in

force in so far as they relate to the development hereby approved, in particular Conditions 13-22, 24, 27, 30, 34, 39, 40, 51, 53-56 inclusive (or as amended under 18/01209/APP approved on 16 May 2019), including any details already approved thereunder to discharge the requirements of the identified conditions; and

- b) no part of the development as hereby granted shall be exercised in conjunction with, or in addition to, the building design and plot layout details already approved for plots 122 to 129.

Reason: To ensure a satisfactory form of development and that it progresses in accordance with the already approved and required details, and that only one permission is implemented.

2. Notwithstanding the submitted 'Phasing Plan' superseding the phasing referred to in condition 2 of planning permission 18/01209/APP, no development shall commence on the area covered by Moray Local Development Plan 2020, Elgin Settlement Statement designation CF4 Glassgreen Primary School until such time as Moray Council, as planning authority, have confirmed in writing to the applicant that it is satisfied that an alternative school site has been secured elsewhere. Thereafter the development of the CF4 designation must be carried out in accordance with the updated 'Phasing Plan' hereby approved.

Reason: In order to ensure that the currently designated CF4 school site is put to no other use until an acceptable alternative school site at Glassgreen has been investigated, and ensure Moray Council retain control over the adequate provision of the school site.

3. Prior to development starting, details of the 0.9m stone wall, adjoining the apartment on plots 131-136 must be submitted to and approved in writing by Moray Council as Planning Authority. The wall must be constructed and completed prior to the first occupation of the flats.

Reason: In order that further consideration of the proposed boundary treatment.

4. No development works shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit(s) can be connected to an appropriate electricity supply, including details (written proposals and/ or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to occupation of the first dwelling house.

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.

5. Parking provision for houses shall be provided at the following rates:
- (i) 1 Bedroom = 1 space.
 - (ii) 2 -3 Bedrooms = 2 spaces.
 - (iii) 4 or more bedrooms = 3 spaces.
 - (iv) Parking for flats (Plots 131-136) shall be provided as shown on Drawing EL02_PL_SL_07 including provision of 6 bicycle stores and 2

visitor parking spaces.

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.

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

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

7. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.

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.

8. No works shall commence on any area proposed for development until a Construction Traffic Management Plan for the respective area 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:
 - 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. full details of any temporary construction access;
 - f. full details of construction traffic routes from the A941 and A96 to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - g. measures to be put in place to prevent material being deposited on the public road;
 - h. measures to be put in place to safeguard the movements of pedestrians;
 - i. traffic management measures to be put in place during works including any specific instructions to drivers; and
 - j. parking provision, loading and unloading areas for construction traffic.

9. No development shall commence beyond 295 residential units plus Moray Sports Centre and (Linkwood) Primary School as defined on revised Phasing Plan phases 1A and 1B) until:

a) details (which may include evidence from Transport Scotland) have been submitted to the Council, as Planning Authority to confirm that the Trunk Roads Authority has completed the upgrading and realignment of the A96 (T) Hardmuir to Fochabers section of the A96 Dualling programme;

OR

b) a Transport Assessment for each sub-phase has been submitted to the Council, as Planning Authority and that any trunk road mitigation measures necessary to off-set the impact of the sub-phase have thereafter been implemented in accordance with a timescale identified by the Transport Assessment to the satisfaction of the Council, as Planning Authority in consultation with Transport Scotland.

Reason - To ensure that the scale of development beyond Phase 1A is supported by a Transport Assessment, and to ensure that the scale and operation of the proposed development sub-phases beyond Phase 1A do not adversely affect the safe and efficient operation of the A96 trunk road network.

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. PLANNING APPLICATION 21/01487/APP

Ward 4 – Fochabers Lhanbryde

Amend house design approved under ref 15/00244/APP on Plot 8 Ordiequish Fields Ordiequish Road Fochabers Moray for Bob Milton Properties Ltd.

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted for an application for planning permission for a new house type on a development previously approved by Committee decision under application reference 15/00244/APP (for the erection of 49 dwelling houses on R1 Ordiequish Road, Fochabers).

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation, as the application proposes a new house type on a development previously approved by Committee decision under application reference 15/00244/APP (for the erection of 49 dwelling houses on R1 Ordiequish Road, Fochabers).

Mr Smith, Principal Planning Officer advised a further condition should be included to cover the installation of fibre broadband to the property in line with Policy PP3 – Infrastructure and Services, part vii of the Moray Local Development Plan 2020 which had been omitted from the application. He further advised that the applicant has agreed to this condition.

Following discussion during which officers responded to various queries the Committee agreed to grant planning permission in respect of Planning Application 21/01487/APP subject to the following conditions and reasons:

1. The development hereby granted for Plot 8 forms part of a development granted planning permission under formal decision notice 15/00244/APP dated

26 November 2015, and the conditions attached thereto are hereby re-iterated insofar as they relate to the development hereby granted.

Reason: To ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area for the respective reason given for the conditions.

2. No development works shall commence on the dwelling house until details (written proposals and/or plans) have been submitted to and approved in writing by the Council, as Planning Authority to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the proposed EV charging point location. Thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the first occupation of the dwelling house.

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.

3. Three car parking spaces shall be provided within the site prior to the occupation or completion of the dwelling house, 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.

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.6m in height and fronting onto the prospective public road shall be within 2.4m of the edge of the carriageway.

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

5. New boundary walls/fences shall be set back from the edge of the public carriageway at a distance of 2.0m.

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

6. The garage shall only be used for domestic purposes incidental to and ancillary to the use of the dwelling house as such.

Reason: In order to ensure that the garage is used for domestic purposes only.

7. Notwithstanding the submitted details, there shall be no window openings (including roof light openings) on the west side elevation or the west roof slope of the domestic garage hereby approved as part of Plot 8. This restriction shall apply throughout the lifetime of the development unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: In order to ensure an acceptable form of development and to protect residential amenity of neighbouring occupiers.

8. No development works shall commence on the dwelling house until details (plans and elevations including material specification) have been submitted to and approved in writing by the Council, as Planning Authority showing the precise location and design of the 600mm boundary wall to be provided on the north and east boundaries, and any other proposed boundary treatment along the south and west boundaries. Thereafter the development must be carried out in accordance with the agreed details.

Reason: In order to provide details currently lacking and in order to ensure an acceptable form of development.

9. No development shall commence until details regarding the installation of fibre broadband connection to the dwellinghouse hereby approved (to be provided prior to occupation) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure the dwellinghouse hereby approved is served by appropriate high speed internet connections, in accordance with policy PP3 – Infrastructure and Services, part vii of the Moray Local Development Plan 2020.

6. PROPOSAL OF APPLICATION NOTICE 21/01750/PAN

INSTALLATION OF A BATTERY ENERGY STORAGE SYSTEM (BESS) INCLUDING SITING OF BATTERY CONTAINERS, POWER CONVERSION UNITS AND TRANSFORMERS, A SUBSTATION, HARDSTANDING AREA, FENCING VEHICULAR ACCESS, GRID CONNECTION AND ANCILLARY WORKS ON LAND AT DRUM FARM, KEITH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 4 November 2021 on behalf of Renewable Energy Systems Ltd.

During her introduction, Ms Lisa MacDonald, Senior Planning Officer advised the Committee that the proposal relates to a proposal for a battery energy storage scheme which will include inverters and transformers, grid connection container and compound with fencing, drainage and other associated development and is located to the south east of the substation on Westerton Road, Keith. The site is on the eastern edge of Keith and is bounded by fields to the north, south and west. The site is accessed by tracks running to the north and west which are core paths. Vehicular access is proposed from the U35H to the north of the site and west of Drum Farm. The development is within the Countryside Around Town (CAT) around Keith as identified in the Moray Local Development Plan 2020. Mill Wood SSSI is approximately 1km to the east of the site.

The submission states that the development would have a capacity of up to 49.99 MW therefore under the current hierarchy regulations the proposal would comprise a major development for planning purposes. She further advised that the proposal will be

subject to PAN and pre-application consultation procedures with the local community and that the applicant has already engaged with the Keith and Strathilsa Community Councils and will be holding on line public events which are acceptable in terms of the current emergency regulations that are in place for PAN events.

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

7. PROPOSAL OF APPLICATION NOTICE 21/01817/PAN

REDEVELOPMENT INCLUDING A NEW SAWMILL, LOG SORTING LINE ALONG WITH TIMBER YARD AT JAMES JONES AND SONS LTD, GARMOUTH ROAD, MOSSTODLOCH

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 18 November 2021 on behalf of James Jones and Sons Ltd.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee that the proposal relates to an extension to, and re-development of, an existing sawmill site at Garmouth Road, Mosstodloch and the proposed site lies to the immediate north of the existing, long established sawmill site and outwith the settlement boundary of Mosstodloch as designated in the 2020 Adopted Moray Local Development Plan. He further advised that the proposed development will comprise new sawmill, log sorting line and timber storage yard; and new access from B9015 road, widening of this road and provision of new shared cycle/foot way alongside. Office and weighbridge facilities are also proposed. Surface water to be drained and treated through three levels of treatment including solids interceptors, SUDS ponds Swales and wetland area with high level overflow proposed to the River Spey for extreme weather events. Landscaped bunding/screening and planting is proposed around the perimeter of the proposed development.

As the proposal would be a major development in terms of the current Hierarchy Regulations (development site which exceeds 2 hectares) and would constitute a major development for planning purposes, the proposal will be subject to PAN and pre-application consultation procedures with the local community.

Councillor Brown sought clarification on whether any comment should be made in relation to the high level overflow proposed to the River Spey for extreme weather events or whether this should be left to SEPA to comment upon.

In response Mr MacPherson, Principal Planning Officer advised that whilst the purpose of the report was to glean any feedback from Elected Members to the applicant and in response to the question raised by Councillor Brown any future application that comes forward would require to have a very detailed drainage and impact assessment with an explanation on how they would intend to deal with surface water. He further advised that there would also have to be built into the proposal a significant freeboard or excessive capacity built into the systems to account for flood events and climate change. In regard to the issue relating to any overflow into the River Spey, any application would be subject to consultation with SEPA who would give it very thorough consideration. In light of the observation by Councillor Brown he advised that feedback could be provided to the applicant that we would wish any application to fully explain how the River Spey would be protected from an overflow from the development if it were required with evidence of how that would work and how it would

be managed sensitively.

Following consideration the Committee agreed to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:

- In regard to drainage indicate the need to fully explain how the River Spey would be protected from an overflow from the development if it were required with evidence of how that would work and how it would be managed sensitively.