

MORAY COUNCIL

MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE

26 MARCH 2019

COUNCIL CHAMBERS, ELGIN

PRESENT

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

APOLOGIES

Apologies for absence were intimated on behalf of Councillors Edwards and Macrae.

IN ATTENDANCE

The Head of Development Services, the Development Management and Building Standards Manager, Mr MacPherson, Principal Planning Officer, Mr Smith, Principal Planning Officer, Mr Templeton, Principal Planning Officer, the Senior Planning Officer (Development Planning and Facilitation), Mr Killeen, Engineer (Transport Development), Legal Services Manager as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the meeting.

1. DECLARATION OF GROUP DECISIONS AND MEMBERS INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, the following declarations were made:

- Councillor A McLean declared a personal interest in item 8 on the agenda "Planning Application 18/01117/APP - Erect 12 dwellinghouses and associated roads and landscaping at OPP4 St Leonards Road, Forbes, Moray" as the Applicant's Agent is a close family friend;
- Councillor Divers declared a personal interest in item 7 on the agenda "Planning Application 18/01536/APP - Partial remix of existing consent (ref: 16/00083/APP) to provide 30 affordable homes at R1 Stynie Road, Stynie Road, Mosstodloch, Moray" as his son is employed by the Developer.

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 other declarations of Member's interests in respect of any item on the agenda.

2. EXEMPT INFORMATION

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business

appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
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3. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE DATED 29 JANUARY 2019

Under reference to paragraph 12 of the minute of the meeting of the Planning and Regulatory Services Committee dated 29 January 2019 in relation to the Development Plan Scheme 2019 – Moray Local Development Plan 2020, Councillor Feaver asked that the minute include the timetable for the preparation of the Local Development Plan 2020 and information on the weight given to the policies and designations as the proposed plan emerges.

In response the Chair advised that the Clerk would review the webcast and amend the minute accordingly if required.

Thereafter, the minute of the meeting of the Planning and Regulatory Services Committee dated 29 January 2019 was approved.

4. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

5. PLANNING APPLICATION 18/01561/APP

Ward 1: Speyside Glenlivet

Retrospective change of use from agricultural to use for exercising dogs to provide a secure dog walking field at a Site at Rabbit Rock, Craigellachie, Moray for Mr Roger Hull

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted in respect of an application for a retrospective change of use from agricultural to use for exercising dogs to provide a secure dog walking field at a Site at Rabbit Rock, Craigellachie, Moray for Mr Roger Hull.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application falls within the category of “major development” where the overall area of the proposed site exceeds 2 hectares. The report also advised that Members of the Committee visited the site of the application on 22 March 2019.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 18/01561/APP as recommended subject to the following conditions and reasons:

1. Within three months of the date of decision, a detailed landscape plan (drawn to scale) is to be submitted to and approved by the Planning Authority. This Landscape plan shall show details of the numbers, species, position, planting distances and sizes of all planting to be undertaken along the western boundary of the site.

Thereafter all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding season following the issue of decision. 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 the interest of residential amenity and to aid integration of the development with the surrounding landscape.

6. PLANNING APPLICATION 18/01536/APP

Ward 4: Fochabers Lhanbryde

Partial remix of existing consent (ref: 16/00083/APP) to provide 30 affordable homes R1 Stynie Road, Stynie Road, Mosstodloch, Moray for Springfield Properties PLC

Councillor Divers, having declared a personal interest in this item, left the meeting at this juncture and took no part in the discussion.

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted in respect of an application for a partial remix of existing consent (ref: 16/00083/APP) to provide 30 affordable homes R1 Stynie Road, Stynie Road, Mosstodloch, Moray for Springfield Properties PLC.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a departure from the Moray Local Development Plan (MLDP) 2015 and is on a housing site designated for 50 or more dwellings within the MLDP 2015. The report also advised that Members of the Committee visited the site of the application on 22 March 2019.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 18/01536/APP subject to:

- (i) the completion of a legal agreement in order to incorporate developer obligations relating to healthcare provision; and
- (ii) the following conditions and reasons:
 1. Prior to the commencement of any works, a full site Construction Environmental Management Plan, including a dedicated pollution prevention section, shall be submitted to and approved in writing by the Council, as Planning Authority, in consultation with SEPA; and thereafter all work shall be carried out in accordance with the approved plan.

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

2. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Planning Landscaping Layout drawing number MS01 PL03 Rev N and Landscape Management Plan MS01_SL_PL-05, and show and clarify the following:
 - a) details of the numbers, species, position, planting distances and sizes (standard sizes) of all planting to be undertaken; and
 - b) the arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken together with the arrangements for the long-term maintenance of all proposed landscaping arrangements.

Thereafter, the landscaping arrangements shall be carried out in accordance with the approved scheme details. 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 remove any ambiguity regarding the terms of the landscape scheme, and to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area. (Note: This is required because although the current drawing MS01_PL03 Rev N contains a Planting Schedule this does not identify which trees are semi mature, heavy standard avenue trees, heavy standard trees or multi stemmed trees on the landscape layout itself. For further advice refer to informative advice below).

3. No work shall commence until scaled drawings of the proposed pumping station have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

Reason – To ensure a satisfactory form of development and as these details are currently lacking from the application.

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

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

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

5. Prior to the commencement of development a construction phase surface water management plan shall be submitted to and agreed in writing with the Planning Authority. The plan shall include measures to prevent increased flood risk to neighbouring properties and measures to ensure heavily silted surface water does not enter the River Spey catchment. Thereafter the development shall be carried out in accordance with the agreed details.

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

6. Notwithstanding the details submitted on the site layout plan (Drawing MS01_PL01 Rev K), these are not accepted. Prior to commencement of construction the following details shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
 - a) Details (Plan 1:500 min) showing the full extent of the roads intended for adoption to be provided as part of the application/Phase 1 of the development (including roads and verges currently shown out with the red line boundary in front of plots 18-43).
 - b) Parking to plots 15 and 16 shall be set back 2 metres from the edge of the road.
 - c) The road width between plots 16 and 25 shall be widened to 5.5m and the narrowing at the north eastern corner of plot 16 shall be removed.
 - d) The proposed footway connection on the eastern side of plot 16 shall be provided with a raised kerb on its eastern side and a dropped kerb crossing on both sides of the road in front of plot 25.

Reason - To ensure acceptable:-

- a) Provision of information currently lacking from the submission to ensure adequate development infrastructure that does not create any hazard to road users in the interests of road safety.
 - b) Parking provision.
 - c) Development infrastructure that does not create any hazard to road users in the interests of road safety.
 - d) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.
7. Prior to the commencement of construction the following shall be submitted for approval by the Planning Authority in consultation with the Roads Authority:
 - a) A Construction Traffic Management Plan which includes details of any temporary site access arrangements, site compounds, lay down areas and site parking (Plan scale 1:500 min), proposals to safeguard non-motorised road users;

- b) Details (Plan(s) scale 1:500 min) showing the provision of off-site infrastructure for non-motorised users which comprises the following items including signage and road markings:
- (i) A new 3.0m wide cycleway (approx. 360 metres in length) along the eastern side of the U18E Stynie Road between the northern site access and the back of the bellmouth on the north side of the junction at Mossmill Park (Point A as shown on sketch 10/01267/MC/01 Rev A);
 - (ii) A new 2.0m wide footway (approx 35 metres in length) along the western side of the U18E Stynie Road between a point opposite the site frontage at the southern site boundary to the back of the bellmouth at the car park for Speymouth Hall;
 - (iii) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority between the site boundary and the footway to Speymouth Hall;
 - (iv) Widening of the existing footway (Approx 55 metres in length) along the eastern side of the U18E Stynie Road to provide a continuous 3.0m wide cycleway from the new 3.0m wide cycleway detailed in item i) above (Point A) and Findlay Road (Point B) as shown on sketch 10/01267/MC/01 Rev A;
 - (v) A pedestrian crossing point, including dropped kerbs and tactile paving, on both sides of the U18E Stynie Road at a point to be agreed with the Roads Authority approximately 10 metres to the north of Glebe Road; and
 - (vi) Provision of cycle route signage to the Moray Council standards and specification from the development to the B9015 (Main Street).
- c) Details (Plan scale 1:1000 min) for the widening of the U18E Stynie Road to 5.5 metres along the full extent of the site frontage (approx. 250 metres) onto Stynie Road, to the Moray Council standards and specification, including the extension of street lighting and road drainage.
- d) Details (Plan(s) scale 1:500 min) of a 4.5m x 120m visibility splay in both directions at the northern access and a 4.5m x 90m visibility splay in both directions at the southern access.

The approved Construction Traffic Management Plan must be complied with at all times. The works identified in b) and c) above shall be completed in accordance with the approved details prior to the commencement of the 5th house or flat.

Reason - To ensure acceptable:-

- a) Development that does not create any hazard to road users in the interests of road safety.
- b) Infrastructure for non-motorised road users, ensuring the provision of routes to schools and local facilities and a sustainable development.

- c) Infrastructure at the development access and to cater for additional traffic generated by the development.
 - d) To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.
8. No work shall commence until details and a scaled plan (1:1000) have been submitted showing the exact route of the new pedestrian footpath linking the site to Mossmill Park and the timing for its implementation. Thereafter the footpath shall be implemented in accordance with the approved details and completed prior to commencement of works to construct plot 25.

Reason - To ensure connectivity between the development and the adjacent housing, in accordance with Designing Streets policy.

9. Parking provision shall be provided and maintained for use in accordance with the approved site layout plan (Drawing No. MS01_PL01 Rev K) unless otherwise agreed in writing with Moray Council Transportation.

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

10. The visibility splays at the northern and southern site access junctions as detailed in the approved drawings (Condition 7(d) refers) are to be maintained clear of any obstructions at all times. All boundary fences shall be set back behind the visibility splay which will become part of the adopted public road.

Reason - To ensure acceptable access and visibility in the interest of road safety for the proposed development and other road users.

11. New boundary walls/fences/planting shall be set back from the edge of the prospective public carriageway at a distance of 2.0m. No fences, walls, planting or obstructions in or along the front/rear of service verges.

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

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

Reason - To enable drivers of vehicles leaving driveways to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

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

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

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

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

15. Unless otherwise agreed in writing with the planning authority, the equipped play area and surrounding area of open space shall be provided in accordance with the approved plans prior to the commencement of the 20th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan MS01_SL_PL-05 for the lifetime of the development.

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

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 (or any order revoking and re-enacting that order) no windows shall be installed on the south facing (side) elevations of the house on plot 1 or flats on plots 7-10.

Reason - In order to preserve the privacy levels of the neighbouring existing houses.

17. For the avoidance of doubt, the approved position of flats on plots 7-14 is as shown on the approved site layout drawing no. MS01_PL01.

Reason – To avoid any ambiguity between the site plan and the position of the flats shown on some supporting layout plans relating to drainage and levels details.

18. All surface water drainage infrastructure within the development shall be implemented in accordance with the details contained in the approved 'Drainage Strategy Report' and associated drainage drawings MS01_ENG-635, MS01-ENG-206, MS01-ENG-625, MS01-ENG-205, MS01-ENG-630, MS01-ENG-207 and MS01-ENG-640. Unless otherwise agreed in writing with the planning authority, this drainage infrastructure will be completed prior to the first occupation of any housing unit in the development and thereafter maintained for the lifetime of the development in accordance with the approved 'Drainage Strategy Report'.

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

19. Prior to the commencement of development a manufacturers specification for the Air Source Heat Pumps including noise output levels shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter the development shall be implemented in accordance with these details.

Reason – To ensure a satisfactory form of development which protects

residential amenity against noise disturbance, and as these details are currently lacking from the application.

7. PLANNING APPLICATION 18/01117/APP

Ward 8: Forbes

Erect 12 dwellinghouses and associated roads and landscaping at OPP4 St Leonards Road, Forbes, Moray for Mr Ray McDonald

Councillor Divers re-joined the meeting at this juncture.

Councillor A McLean, having declared a personal interest in this item, left the meeting at this juncture and took no part in the discussion.

A report by the Appointed Officer recommended that, for reasons detailed in the report, planning permission be granted in respect of an application to erect 12 dwellinghouses and associated roads and landscaping at OPP4 St Leonards Road, Forbes, Moray for Mr Ray McDonald.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application falls within the category of “major development” as defined within the approved delegation scheme, where the overall area of the proposed site exceeds 2 hectares. The report also advised that Members of the Committee visited the site of the application on 22 March 2019.

During discussion, clarification was sought as to whether the application was being determined using the Moray Local Development Plan (MLDP) 2015 or the proposed MLDP 2020.

In response, the Legal Adviser advised that whilst the MLDP 2020 was agreed as the settled view of the Council at the meeting of this Committee on 18 December 2018, at this point the MLDP 2020 holds very little weight and that Officers and the Committee must determine planning applications based on the adopted MLDP 2015 and relevant material considerations until such time as the MLDP 2015 is replaced by the MLDP 2020. This was noted.

With regard to the provision of affordable housing, Councillor Coy raised concern that that the Developer proposed to make a payment towards affordable housing out with the development site as she was of the view that the Council’s preference was to integrate affordable housing within development sites.

In response, the Appointed Officer advised that, in small development sites, it was often impractical to provide affordable housing within the development site and that, in these circumstances, it was deemed acceptable for Developers to make a payment towards larger, off site affordable housing.

Councillor Divers left the meeting at this juncture.

During discussion surrounding the required pedestrian/cycle connection from the development to St Leonards Road, it was queried whether the Developer owned the land required to build this connection.

In response, the Appointed Officer advised that the Applicant had identified the pedestrian/cycle connection within his submitted plan and that connection from the site to St Leonards Road would lead through land owned by the Council and that the Transportation Service had not raised any potential issues.

The Legal Adviser further advised that, any additional work required to be undertaken to build the pedestrian/cycle connection and agreement with any relevant land owner would be considered as a separate matter however it would still be appropriate to impose a condition regarding connectivity to St Leonards Road to that effect.

Further concern was expressed in relation to drainage as the development site was situated in an area that had experienced significant drainage problems as the sewers in St Leonards Road could not cope with foul drainage at times of heavy rain and whilst it was noted that Scottish Water had not raised any objection and stated that there was capacity within the sewers, confirmation was sought that the sewers could cope with the additional sewage from the development.

In response, the Appointed Officer confirmed that the assurance sought from the Committee was not available at the time of discussion however reiterated that Scottish Water had not objected to the proposal.

Councillor Feaver was of the opinion that the development did not follow the Scottish Government's Control of Woodland Removal Policy and would not be permitted if considered in conjunction with the proposed MLDP 2020. The proposal also contravened the MLDP 2015 policies E4, ER2, E2 and E3 as the MLDP 2015 specifically says that "Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value". Councillor Feaver further stated that the loss of ancient woodland as a result of the development is contrary to the Council's Corporate Plan which emphasises the need to maintain and promote Moray's landscape and biodiversity. Councillor Feaver shared the concern of other members of the Committee in terms of the issues raised regarding affordable housing and capacity of the sewage system therefore, taking into consideration all of the above, moved that the planning application be refused. This was seconded by Councillor Taylor.

In response, the Legal Adviser advised that, as previously stated, the application had to be determined in conjunction with the MLDP 2015 therefore any reference in Councillor Feaver's motion to the MLDP 2020 plan should be disregarded. This was noted.

Councillor R McLean was of the view that the application complied with MLDP 2015 policies in terms of low density housing and noted that the Applicant had worked with the Appointed Officer to comply with all that had been asked of him and moved that the Committee agree to grant planning permission in respect of Planning Application 18/01117/APP, as recommended. On failing to find a seconder, Councillor R McLean's motion fell.

There being no-one otherwise minded, the Committee agreed to refuse planning permission in respect of Planning Application 18/01117/APP as the proposal contravenes both national and local planning policy as it:

- does not follow the Scottish Government's Control of Woodland Removal Policy;
- contravenes Moray Local Development Plan 2015 policies E4; ER2; E2; and E3 as the MLDP 2015 specifically says that "Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value";
- does not demonstrate how the loss of this area of ancient woodland and its unique biodiversity can be reconciled with the Council's Corporate Plan, which emphasises the need to maintain and promote Moray's landscape and biodiversity;
- does not fully address the sewage/pipework issues; and
- does not fully address affordable housing policy as an exception.

8. 18/01591/S36 - ERECT 48 WIND TURBINES WITH BLADE TIP HEIGHT BETWEEN 136 AND 176 METRES WITH INSTALLED CAPACITY IN EXCESS OF 50MW AT CLASH GOUR WIND FARM, MORAY

Councillor A McLean re-joined the meeting at this juncture.

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to consider the consultation received from the Energy Consents Unit of the Scottish Government in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm. This Section of the Electricity Act relates to consenting onshore electricity generation.

Councillor A McLean agreed with the view of the Appointed Officer in that the proposed windfarm development, by virtue of the size and location of the turbines, would have a detrimental impact upon the landscape and tourism industry of Moray. He accepted that the Council was a consultee and the decision would rest with the Energy Consents Unit (ECU) however sought clarification as to whether the recommendation in the report was enough to clearly state that the Council objected to any windfarm development in that area however should the ECU grant planning permission for the windfarm development, the Council's preferred option would be that the height of the wind turbines not exceed 149.5 metres (Scenario B put forward by the Developer).

In response, the Legal Adviser advised that, even if the Council objected to the proposal, they would still be consulted on conditions to be attached to the consent and advised that the Committee could object to the proposal as it is contrary to the MLDP 2015 policies outlined within the report with a caveat that, should the application be approved by the ECU, the Council's preference would be that the turbines not exceed 149.5 metres in height.

On hearing the advice from the Legal Adviser, Councillor A McLean moved the recommendations as printed within the report with a caveat that, should the application be approved by the ECU, the Council's preference would be that the turbines not exceed 149.5 metres in height. This was seconded by Councillor Laing.

Councillor Feaver was content that the recommendations to object to the proposal detailed within the report were sufficient as the Legal Adviser had advised that the Council would be consulted on any conditions to be imposed should consent be

given to the development and moved an amendment in those terms. This was seconded by Councillor R McLean.

Councillor Coy, having visited the proposed development site and considered the grounds for objection agreed with the opinion of the Appointed Officer that the larger wind turbines at 176 metres would be detrimental to the landscape due to their size however was of the opinion that the smaller wind turbines at 149.5 meters did comply with MLDP (2015) policies PP1 sustainable economic growth, ED7 rural business proposals, ER1 renewable energy proposals, E7 areas of great landscape value and impact upon the wider landscape, IMP1 developer requirements, Moray Onshore Wind Energy 2017 policy guidance and the Moray Wind Energy Landscape Capacity Study 2017. She was of the view that the smaller wind turbines would not create a windfarm landscape or provide unacceptable cumulative views and moved that the Committee object to the 176 metre wind turbines however agree to the 149.5 metre wind turbines. This was seconded by Councillor Taylor.

The Head of Development Services advised that, should Councillor Coy's amendment be successful, he would ask that the Committee agree that delegated authority be given to officers to draft the conditions supporting the smaller turbines. This was noted.

Prior to continuing with the debate, the Chair sought the agreement of the Committee to Suspend Standing Order 74 to allow the meeting to continue beyond 12.45 pm. This was unanimously agreed.

Thereafter, in terms of Standing Order 62(c) following summing up by relevant members at the appropriate points, there being more than one amendment proposed against the motion, the Clerk advised that the second amendment proposed by Councillor Coy would be taken against the first amendment proposed by Councillor Feaver and thereafter the successful amendment would be taken against the motion proposed by Councillor A McLean.

On a division between the second and first amendments there voted:

For the first Amendment (7):	Councillors Feaver, R McLean, A McLean, Alexander, Cowe, Cowie and Laing.
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For the second Amendment (3):	Councillors Coy, Taylor and Bremner
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Abstentions (0):	Nil
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The Clerk confirmed that, in accordance with Standing Order 62 (c), the first amendment would now be taken against the motion.

On a division between the first amendment and the motion there voted:

For the Motion (3):	Councillors A McLean, Laing and Bremner
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For the First Amendment (5):	Councillors Feaver, R McLean, Alexander, Cowe and Cowie.
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Abstentions (2):	Councillors Coy and Taylor
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Accordingly, the first amendment became the finding of the Committee and it was agreed:

- i) to note the contents of the report, as set out in Appendix 1 of the report, including the conclusions regarding the planning merits of the development which take into account the Moray Local Development Plan 2015 and all material considerations including the presence of existing neighbouring windfarms;
- ii) to respond to the consultation request from the Scottish Government, lodging an objection to the proposed development on the basis of the recommendations set out in Appendix 1 of the report, in particular in terms of the considered unacceptable significant landscape and visual impacts that would arise from the position and height of proposed turbines on the site (including cumulative impact) and the impact on tourism and recreational interests;
- iii) that in the event of approval and prior to determination, the Council request it be consulted on proposed conditions to be attached to any consent.

9. 19/00105/PAN - PROPOSAL OF APPLICATION NOTICE - AFFORDABLE HOUSING, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE AT BAIN AVENUE, ELGIN

Under reference to paragraph 4 of the Minute of this Committee dated 11 November 2014, a report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee that a Proposal of Application Notice (PAN) was submitted on 31 January 2019 by Springfield Properties PLC relating to a proposal for affordable housing, landscaping and associated infrastructure on parkland at Bain Avenue, Elgin.

Prior to discussion, the Legal Adviser advised that, as Councillor Divers could not be present for the discussion, his comments would be emailed to the Planning Officer following the meeting. This was noted.

During discussion concern was raised that the proposed development was on a designated ENV site that was widely used by children and young people and should be left open for the amenity of nearby residents.

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

Thereafter, the Committee agreed:

- (i) to note the terms of the report and asked that the developer note that the proposed development is on a designated ENV site and should be left open for the amenity of nearby residents;
- (ii) to note that, as Councillor Divers could not be present for the discussion, his comments would be emailed to the Planning Officer following the meeting; and

- (iii) 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.

ADJOURNMENT OF MEETING

In terms of Standing Order 25, the Meeting agreed to adjourn at 13.15 pm for lunch and reconvene at 2.00 pm.

RESUMPTION OF MEETING

PRESENT

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

APOLOGIES

Apologies were intimated on behalf of Councillors Edwards and Macrae

IN ATTENDANCE

The Manager (Development Management), Mr Templeton, Principal Planning Officer, the Senior Planning Officer, Development Planning and Facilitation), Legal Services Manager as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the meeting.

10. PLACEMAKING

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to note the steps taken in promoting better Placemaking in Moray and approve a revised Quality Audit 2 to replace the existing Quality Audit on adoption of the new Local Development Plan.

Following consideration, the Committee agreed:

- (i) to note the steps being taken to promote better Placemaking in Moray;
- (ii) to note the role of good Placemaking in preventative planning and in supporting Scotland's public health challenges;
- (iii) the content of the Quality Audit 2 as set out in Appendix 1 of the report;
- (iv) that Quality Audit 2 replace the current Quality Audit on adoption of the new Local Development Plan, with delegated authority given to the Head of Development Services to make any changes to the Audit as a result of the Local Development Plan Examination;
- (v) that Quality Audit 2 is applied to relevant applications submitted after adoption of the new Local Development Plan;

- (vi) that Quality Audits are a material consideration in the development management process when the new Local Development Plan is adopted and that Quality Audits form part of the report of Handling and Committee Reports, as appropriate; and
- (vii) that training for elected members be organised on Placemaking and Quality Auditing.

11. COMPENSATORY PLANTING

A report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Committee to agree a draft list of sites suitable for compensatory planting, to carry out public consultation on the list and to identify any additional planting sites.

Following consideration, the Committee agreed:

- (i) to note the draft list of sites suitable for compensatory planting, as set out in Appendix 1 to the report;
- (ii) that public consultation is carried out on the draft list of sites and to identify additional planting sites;
- (iii) that reports will be submitted to future meetings of this Committee to approve a finalised list of suitable sites for compensatory planting and a priority system for implementation; and
- (iv) that a policy guidance note on the implementation of the compensatory planting policy is produced.

12. VALIDATION OF PLANNING APPLICATIONS (SECOND PHASE) & CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLANS

Under reference to paragraph 7 of the Minute of this Committee dated 5 December 2017, a report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the progress implementing the Committee decision on National Standards for the validation and determination of planning applications and other related consents and how further improvements can be made. The report further advised that work is proposed to streamline how Construction Environmental Management Plans (CEMP's) are to be covered by planning conditions and reduce duplication of information being requested by internal and external consultees.

Following consideration, the Committee agreed to:

- (i) validation checks on planning applications continuing to be more robust and that the requirements for validation be extended as set out in paragraph 4.1 of the report;
- (ii) note that average validation rates over the last 12 months on day one of receipt is 38% rising to 91% after 28 days (a slight increase from 2017);

- (iii) Officers holding a further workshop with local agents/developers with a focus on ensuring that the requirements set out in the recently adopted Supplementary Guidance for flooding and surface water are understood to assist with reducing average timescale for the determination of planning applications; and
- (iv) note that officers are working with officers from Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), and Flood Risk Management (FRM) to coordinate the requirements for Construction Environmental Management Plans (CEMP's), streamlining resources and are looking to produce best practice guidance for use locally in the best interests of the environment, aiding developers working practices and reducing the need for multiple planning conditions.

13. HANDLING OF SECTION 36 CONSULTATIONS, ATTENDANCE AT PUBLIC LOCAL INQUIRIES AND ASSOCIATED COSTS

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed the Committee of the procedures in the dealing with Section 36 applications and the associated costs for Moray Council with handling these consultations as a Planning Authority.

Following consideration, the Committee agreed:

- (i) to note the contents of the report and procedures in handling Section 36 applications and their associated costs;
- (ii) to note the methods of responding to these applications and the staff resources being drawn from Legal Services, Development Management, Development Plans, Environmental Health, Transportation, Moray Council's Landscape Advisor and the requirement for input from Moray Council's legal advisors to carry out an advocacy role at a Public Local Inquiry (PLI); and
- (iii) that the Head of Development Services send a request to the Scottish Government seeking a grant to assist with the handling of these consultations that have been submitted prior to the amendment of the Electricity (Applications for Consent) Regulations 1990 being implemented (anticipated to be May 2019) where such applications are to be determined after May 2019 to fill the gap between the existing and proposed fee structure.

14. CONFIRMATION OF STOPPING-UP OF SECTION OF FOOTWAY ON BURDSHAUGH, FORRES

A report by the Head of Legal and Democratic Services asked that the Committee confirm, as an unopposed Order, "The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018.

Following consideration, the Committee agreed to confirm as an unopposed Order, "The Moray Council (Section of Footway on Burdshaugh, Forres-Stopping-Up Order) 2018" and instruct the Head of Legal and Democratic Services to make the Order.

15. QUESTION TIME

There were no questions raised.

16. LAND ADVERSELY AFFECTING THE AMENITY OF THE NEIGHBOURHOOD ON LAND IN DUFFTOWN [PARA 13]

A report by the Corporate Director (Economic Development, Planning and Infrastructure) sought approval to serve an Amenity Notice requiring proper maintenance of land in respect of the untidy state of the area of land at Corsemaul Drive, Dufftown (hereinafter referred to as “the site”) which is having an adverse effect on the amenity of the neighbourhood and take direct action if compliance is not achieved.

During discussion it was noted that the site was quite uneven and it was queried whether the Notice could include the levelling of the site. In response, the Manager (Development Management) agreed to add to the Amenity Notice that the site should be levelled.

Thereafter, the Committee agreed:

- (i) to the serving of an Amenity Notice requiring the owner of the site in Dufftown to comply with the terms of the Notice by removing all items as detailed in Appendix 1 of the report and to the levelling of the site, (which will form a Schedule to the Notice);
- (ii) to authorise Officers to take direct action to remove all items described in the Amenity Notice at (i) above in the event of noncompliance and to recover any costs incurred; and
- (iii) that a cap be placed on the cost of direct action up to £3,000.