

## **MORAY COUNCIL**

### **MINUTE OF THE SPECIAL MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE**

**26 JUNE 2023**

**COUNCIL CHAMBERS, ELGIN**

#### **PRESENT**

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

#### **APOLOGIES**

Apologies were intimated on behalf of Councillor Fernandes

#### **IN ATTENDANCE**

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Mrs D Anderson, Senior Engineer (Transportation), Mr A Miller, Senior Planning Officer, Miss K Donnachie, Planning Officer, Mr D Westmacott, Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer 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, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

Councillor Dunbar declared an interest in Item 4 "Planning Application 22/00981/APP" and stated that she would remove herself from the chamber and take no part in the debate of this item.

Councillor Ross declared an interest in Item 7 "Consultation on Section 36 Proposals – Clashindarroch Wind Farm Extension" and stated that he would leave the chamber and take no part in the debate of this item as he had:

- made comments in the press against more development in the Upper Deveron Valley on the grounds of the cumulative impact;
- attended meetings of the Cabrach Trust and the Upper Deveron Protest Group; and
- signed an open letter to Aberdeenshire and Moray Councils expressing concerns against the overdevelopment of wind farms in the Upper Deveron Valley.

There were no further 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.

<b>Paragraph No. of Minute</b>	<b>Paragraph No. of Schedule 7A</b>
9	13
Information, which if disclosed to the public, would reveal that the Authority proposes, for the purposes of consultation, make an order or direction under any enactment which might allow an individual or organisation to defeat the purpose of the order	

## 3. PLANNING APPLICATION 22/00981/APP

Councillor Dunbar, having declared an interest in this item, left the meeting at this juncture and took no part in the debate.

### **Ward 4 – Fochabers Lhanbryde**

#### **Site redevelopment including new sawmill log storage/processing yard rounding line buildings office and associated infrastructure at site at Garmouth Road, Mosstodloch, Moray for James Jones & Sons Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a site redevelopment including new sawmill log storage/processing yard rounding line buildings office and associated infrastructure at site at Garmouth Road, Mosstodloch, Moray for James Jones & Sons Ltd.

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

Following consideration, Councillor Cowe moved that the Committee agree to grant planning permission in respect of Planning Application 22/00981/APP, as recommended, subject to the conditions detailed within the report. This was seconded by Councillor Macrae.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 22/00981/APP, as recommended, subject to:

(i) the completion of an appropriate legal agreement to secure developer obligations in relation to footway improvements:

(ii) the following conditions and reasons:

1. No development shall commence until photographic evidence has been submitted to the local planning authority from a qualified tree surgeon that all trees have been protected in accordance with the approved Tree Protection and Removal plan and tree surveys. The trees shall be protected throughout the duration of the construction works and retained thereafter throughout the lifetime of the development hereby approved unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To ensure that the development is integrated into the surrounding landscape/townscape and that features of value to the local area are retained.

2. No development shall commence on the erection of the office building until full details of the foul drainage arrangements have been submitted to and approved in writing by the Council as Planning Authority. The development shall thereafter be completed in accordance with the approved details.

**Reason:** To ensure that the development is satisfactorily serviced and that there are no adverse effects on the natural and built environment and amenity.

3. No development shall commence until an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the Council as planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. 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 work.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use until a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Council as planning authority. The PERD shall thereafter be carried out in accordance with the approved detail.

The above works should be undertaken as a trial trenching evaluation of 7-10% of the total proposed development site as well as an archaeological watching brief over ground breaking works associated with the formation of the discharge pipe towards the River Spey.

These works to be undertaken by a suitably qualified archaeological contractor.

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

4. No development shall commence until a detailed Biodiversity Plan has been submitted to and approved in writing by the Council as Planning Authority. This

plan shall show the siting and details of all proposed insect and bird boxes, and details of ongoing monitoring of biodiversity enhancements. The development shall thereafter proceed in accordance with the approved details.

**Reason:** To ensure that biodiversity is enhanced.

5. No development shall commence until a detailed Decarbonisation Strategy has been submitted to and approved in writing by the Council as Planning Authority. This plan shall expand on the principles contained in the indicative Decarbonisation Strategy and shall include (a) measures to improve the efficiency of the operation of the development (including, but not limited to industrial processes and building operations) in order to reduce potential carbon emissions; (b) commitment to annually review operations, improve efficiencies where practicable and further reduce carbon emissions throughout the lifetime of the development, should new technology/methodologies allow and (c) details of the carbon saving calculations and timescales for implementation of actions in the indicative strategy. The strategy and actions shall thereafter be implemented in accordance with the approved details and timescales, unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** To ensure carbon emissions are minimised during the operation of the development, in accordance with National Planning Framework Policy 26 – Business and Industry.

6. No development shall commence until a Community Wealth Building Plan has been submitted to and approved in writing by the Council as Planning Authority. This plan shall include measures, targets and monitoring for the following areas as appropriate (a) improving community resilience, reducing inequalities and maximising local job creation (b) increasing spending within communities and ensuring the maximum use of local supply chains and services (c) creation of new firms and (d) enabling community ownership of buildings and infrastructure  
The measures and monitoring shall thereafter be implemented in accordance with the plan unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** To support a new strategic approach to economic development that helps to build a wellbeing economy in accordance with National Planning Framework Policy 25 – Community Wealth Building.

7. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The plan shall include:
  - a) measures to minimise construction related noise (including vibration), dust and artificial lighting on nearby residential properties and ecology,
  - b) a waste management strategy for the construction stage to cover:
    - i. identification of the likely waste sources associated with the construction of the development;

- ii. proposed waste management requirements, including provisions to maximise waste reduction and waste separation at source; and
- iii. proposed waste management and storage strategy, which shall include details of measures to minimise cross-contamination of materials, storage of waste (including measures to ensure waste is secure from wind/weather);
- c) a scheme for surface water management to prevent run-off from the site during construction works;
- d) Soil management plan including measures to ensure soil disturbance is minimised during construction;
- e) Construction Method Statement;
- f) Measures to ensure that any felling or vegetation clearance works happen outside of the nesting bird season (typically March – August, inclusive).

The above measures shall be accompanied by information for the timing of their provision. Thereafter the development shall be carried out in accordance with the approved details unless otherwise agreed with the Council, as Planning Authority, in writing.

**Reason:** In order to ensure environmental impacts are suitably managed and minimised during the construction phase and in order that environmental emissions are considered and managed at the construction phase, in order to protect the amenity of local residents.

8. The development hereby approved shall be operated in accordance with the approved Operational Plan drawing number AA6913/P/106 Revision A, Site Masterplan and Noise Impact Assessment, including removal of the existing log line unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To protect local residents from noise nuisance.

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

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

10. The development hereby approved shall not be brought into operation/use until the arrangements for the disposal of surface water have been implemented in accordance with the approved plans/ Surface Water Drainage Strategy and certification from an appropriately qualified person confirming that the drainage arrangements have been implemented in accordance with the approved plans and strategy has been submitted to and approved in writing by the Council as Planning Authority. The drainage systems shall thereafter be maintained in accordance with the approved details including the maintenance details set out in the approved Landscape Notes throughout the lifetime of the development hereby approved.

**Reason:** To ensure that the development is appropriately serviced and that surface water is dealt with in a sustainable manner.

11. All landscaping works shall be implanted in accordance with the approved plans, landscape notes and biodiversity plan in the first planting season following completion or occupation (whichever is the sooner) of the development hereby approved. Tree planting shall take place only when the soil is sufficiently damp but not waterlogged. The landscaping shall be maintained thereafter in accordance with the approved details throughout the lifetime of the development hereby approved. After planting the trees will be inspected regularly and sufficient watering will be undertaken to fully hydrate the trees as necessary. 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 otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** 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 and to create a good landscape setting for the development.

12. The development hereby approved shall be constructed in accordance with the approved plans and site sections.

**Reason:** To ensure that the development is appropriate to the surrounding area and is integrated into the surrounding landscape.

13. The boundary fence around the site shall be constructed and coloured green in accordance with the approved plans.

**Reason:** To ensure that the development is appropriate to the surrounding area and is integrated into the surrounding landscape.

14. The noise emissions associated with the development (inclusive of existing sawmill operations) during daytime hours (0700 to 2300 hours) shall not exceed the predicted sound levels stated in table 6, page 11 of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled "Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4." For the avoidance of doubt the sound levels shall be determined as the free field equivalent continuous sound pressure level determined (by measurement or calculation) over a reference period of one hour and measured in accordance with BS 7445 -1 2018 – Description and measurement of environmental noise. The location of dwellings is marked as Figure 1, page 4 and as "Receivers" with Eastings and Northings in Table 2 numbered 8, 10, 11, 12 and 14 of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled "Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4".

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

15. During the time period of 2300 to 0600 hours, the site attributed noise associated with the development (inclusive of existing sawmill operations) shall not exceed 37 dB (A) at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission.

For the avoidance of doubt the sound levels shall be determined (by measurement and or calculation) as the free field equivalent continuous sound pressure level determined over a reference period of 15 minutes and measured in accordance with BS 7445 -1 2018 – Description and Measurement of Environmental Noise.

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

16. During the time period of 0600 to 0700 hours, the site attributed noise associated with the development (inclusive of existing sawmill operations) shall not exceed 42 dB(A) at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt the sound levels shall be determined (by measurement and or calculation) as the free field equivalent continuous sound pressure level determined over a reference period of 15 minutes and measured in accordance with BS 7445 -1 2018 – Description and Measurement of Environmental Noise.

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

17. The log sorting line and associated loading and unloading of the line shall only be permitted between 0600 and 2300 hours and the log sorting line shall be constructed in accordance with the approved plans unless otherwise agreed in writing with the Council as Planning Authority.

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

18. Sawmill operations within the designated sawmill building and the closed production buildings shall be permitted between 0600 and 0200 hours.

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

19. No development shall commence on site until a scheme of mitigation has been submitted to and approved in writing by the Council as Planning Authority detailing measures to implement a 10 dB(A) noise reduction to sound power levels at the south east corner of the Processing Shed of the existing sawmill, as detailed in table 1 and located in figure 1, item 6 of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled “Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4”. The agreed scheme of mitigation shall be implemented prior to the commencement of sawmilling operations at the approved development and be thereafter maintained throughout the lifetime of the development.

**Reason:** To protect local residents from noise nuisance due to the use of the development in addition with the existing sawmill operations.

20. Throughout the lifetime of the development hereby approved, the dust extraction system of the existing sawmill operations shall have silencers maintained to achieve a 10 dB(A) noise reduction in accordance with the agreed details in Appendix C “Information on Mitigation Measures”(pages 38-43) of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled “Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4”.

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

21. Unless otherwise agreed in writing with the Planning Authority, a 4m high earth bank with a surface density of at least 10kg/m<sup>2</sup> shall be provided on the north and east boundary of the development as detailed in Figure 3, Appendix B (page 34 and titled “Existing Sound Map”) of the approved Noise Impact Assessment supporting document by FEC Acoustics’ dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled “Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4”, and located in drawing No. AA6913/LP/10, Revision K and titled “Proposed Site Landscape Proposals”.

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

22. No development shall commence until details (in terms of material, design, and surface density ) of the proposed 4 metre high acoustic barrier on the east boundary of the existing sawmill , as detailed and located in Figure 3, Appendix B of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled “Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch , Fochabers, Morayshire, Version 4.”, and marked on drawing No. AA6913/LP/10 Revision K, and titled “Proposed Site Landscape Proposals” has been submitted to and approved in writing by the Council as Planning Authority.

The barrier shall thereafter be installed and maintained throughout the lifetime of the development.

**Reason:** To protect local residents from noise nuisance due to the use of the development in addition with the existing sawmill operations.

23. No development shall commence until a scheme of mitigation has been submitted to and approved in writing by the Council as Planning Authority detailing measures to implement a 5 dB(A) noise reduction to the log sorter, as identified in table 5 and illustrated in figure 3 of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled “Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4.” and the indicative plan AA 6913/P303 titled “Log sorting line covered areas”. The agreed scheme of mitigation shall be

implemented prior to the commencement of sawmilling operations at the approved development and be thereafter maintained throughout the lifetime of the development. These details shall reflect the requirement for any enclosures to be of muted colours and finishes.

**Reason:** To protect local residents from noise nuisance due to the use of the development and to ensure that the development is appropriate to the surrounding area and is integrated into the surrounding landscape.

24. Unless otherwise agreed in writing with the Planning Authority, a 4m high barrier of stacked timber logs shall be located and maintained north of the log line similarly to or at the locations identified in figure 3 and marked in green as item 8 in page 9 of the approved Noise Impact Assessment supporting document by FEC Acoustics, dated 10<sup>th</sup> February 2023, for James Jones & Sons Ltd and titled "Noise Impact Assessment for proposed expansion of the James Jones timber yard at Mosstodloch, Fochabers, Morayshire, Version 4".

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

25. No development shall commence until details of the final chosen design of operational site lighting have been submitted to and approved in writing by the Council as Planning Authority. These details to ensure during the operational phase that the lighting levels do not exceed that stated in Section 3 and the related Appendices in the supporting document by LightSIM Limited, dated 16<sup>th</sup> June 2022 - Issue 03 and titled "James Jones Sawmill, Mosstodloch, Moray. External Lighting Assessment for Planning Application ref 21/01290/PEMAJ". Thereafter, the agreed lighting details shall be maintained throughout the lifetime of the development.

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

26. Prior to completion of the development or any part of the development becoming operational, the works to widen Garmouth Road to 7.3m and provide a 3 metre wide cyclepath on its west side shall be completed in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

**Reason:** To ensure acceptable infrastructure is provided on the route to/from the development in the interests of road safety and the provision of infrastructure to support the use of low carbon transport.

27. Prior to the completion or occupation of the development (whichever is soonest) a 2 metre wide grass verge shall be provided in accordance with the approved details as shown on drawing AA6913/P/400 Rev F, any fences or other features shall be removed or set back behind the verge and any planting shall be removed or cut back and maintained behind the verge.

**Reason:** In the interests of road safety for the proposed development and other road users.

28. Notwithstanding the details for the visibility splays submitted on drawing AA6913/P/400 Rev F (which are not accepted as they do not show the land to the north within control of the applicant and do not show walls fences and planting set back behind the visibility splay.) no work shall commence until;

- i) a detailed drawing (scale 1:1000 min which shall also include details to demonstrate control of the land) showing the visibility splay 4.5 metres by 215 metres to the north, and 4.5 metres by 120 metres to the south, showing boundary walls/fences/hedges set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
- ii) the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
- iii) thereafter, the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

**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.

29. Notwithstanding the information contained in the submitted Construction Traffic Management Plan no works shall commence on site until a detailed Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme;
- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access and traffic management measures;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

Thereafter, unless otherwise agreed in writing by the Planning Authority 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.

30. Notwithstanding the details submitted for the proposed car parking (which are not acceptable as they do not include disabled parking provision) details shall be submitted to demonstrate the provision of:

- 39 standard spaces (minimum);
- 2 disabled parking spaces;
- 10 cycle spaces (secure and weatherproof).

Thereafter the parking and cycle spaces shall be provided in accordance with the approved details prior to completion or the development becoming

operational (whichever is soonest), and shall be maintained and available for that purpose unless otherwise agreed in writing by the Planning Authority.

**Reason:** To ensure the permanent availability of the level of parking necessary for staff/visitors, the provision of infrastructure to support the use of low carbon transport and to ensure an acceptable development through the provision of details currently lacking.

31. Notwithstanding the details submitted, 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 4 Electric Vehicle (EV) charging units 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 charging units and infrastructure; and thereafter the EV charging infrastructure shall be provided in accordance with the approved drawing and details prior to the completion of the development.

**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.

32. Prior to completion or the development becoming operational (whichever is soonest), the first 20m of the site access onto the B9105 Garmouth Road, measured from the edge of the public road, shall be constructed to the Moray Council specification and surfaced with bituminous macadam.

**Reason:** To ensure an acceptable vehicular access is provided to the development in the interest of road safety.

33. 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.

Councillor Dunbar re-joined the meeting at this juncture.

#### **4. PLANNING APPLICATION 22/01255/HHCOMP**

##### **Ward 2 – Keith and Cullen**

##### **Application for High Hedge Notice at Kilmorack, Broomhill Road, Keith, Moray for Mr Colin Crocket**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, a High Hedge Notice be issued by the Council at Kilmorack, Broomhill Road, Keith, Moray for Mr Colin Crocket.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as it relates to an application for a High Hedge Notice.

Following consideration, given the application relates to a high hedge, and that the high hedge is having an adverse impact on the reasonable enjoyment of the applicant's property, the Committee agreed a High Hedge Notice should be issued by the Council.

1. The High Hedge Notice should instruct the hedge owner to reduce Portion 2 of the hedge, shown in red in Appendix 2 to the height of 2m and Portion 3 of the hedge also shown in red in Appendix 2 to the height of 3.5m and that these works are to be carried out within twelve weeks of the Notice taking effect.
2. In addition, the Notice should stipulate that Portion 2 of the hedge should be maintained on an annual basis to ensure that its height does not exceed 2.5m and Portion 3 of the hedge should be maintained on an annual basis to ensure that its height does not exceed 4m.
3. The initial reduction in height of the hedge must be conducted out with the bird nesting season which occurs within March, April, May, June, July and August. This exclusion period may be relaxed if a detailed nesting survey of the affected area confirming that nests are not present/in use is submitted to and agreed by the Moray Council prior to any lopping or pollarding being carried out.

## **5. PLANNING APPLICATION 22/01396/PPP**

### **Ward 6 – Elgin City North**

#### **Proposed 40 bed care home on Land to the rear of Eight Acres Hotel, Morriston Road, Elgin, Moray for Parklands Developments Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a proposed 40 bed care home on land to the rear of Eight Acres Hotel, Morriston Road, Elgin, Moray for Parklands Developments Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the gross floor space is in excess of 2000 square metres.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01396/PPP, as recommended, subject to the following conditions and reasons:

1. In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended:
  - (a) That in the case of any matter specified in conditions attached to the planning permission in principle, application for approval of matters specified in conditions must be made before:-
    - (i) that expiration of 3 years from the date of the grant of planning permission in principle; or
    - (ii) the expiration of 6 months from the date on which an earlier application for such approval for the same matters was refused; or
    - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest, and

- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
- (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
  - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.

If an application for approval of matters specified in conditions has not been made or the development has not begun within the specified dates this planning permission in principle shall lapse unless there is a specific condition attached to this permission which varies the stated timescales.

**Reason:** The time limit condition is in accordance with section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.

**Reason:** In order to ensure that the matters specified can be fully considered prior to the commencement of development.

3. The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 4-8 below.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

4. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes, as well as external lighting of the building, car park and grounds shall be submitted in accordance with condition no. 2 above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

5. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 2 above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

8. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 2 above.

**Reason:** As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

9. Prior to the commencement of development details of retention/diversion of a pathway through the northern part of the site connecting the existing access to the north of the hotel and the Quarry Wood to the west shall be submitted and approved in writing by the Council, as Planning Authority. Thereafter the path shall be provided prior to development commencing. Thereafter use of the pathway shall be maintained/provided for use during construction works and post completion unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** To ensure access rights for the public through the northern part of the site are retained.

10. As part of condition 5 in respect of the drainage of the site, all drainage shall be designed in accordance with the information contained in the approved Drainage Impact Assessment (by hga, reference number 3871 issue 1, dated 22 Sept 2022).

**Reason:** To ensure drainage is designed and provided in accordance with the detailed agreed in the approved Drainage Impact Assessment.

11. As part of condition 4 in respect of the design of the proposed care home, the building shall be no more than two storeys in height.

**Reason:** To ensure the design of the building is in keeping with the scale and character of development in the surrounding area.

12. The development shall be carried out in full accordance with the mitigation and recommendations contained in section 6 of the approved Preliminary Ecological Appraisal in respect of Flora, Amphibians and Reptiles, Birds, Bats and Other Mammals.

**Reason:** To ensure the development does not adversely impact on species that may be present on or adjacent to the site.

13. No development shall commence until a scheme of biodiversity enhancement (together with timescale for provision) in line with the recommendations contained in section 6.34 of the approved Preliminary Ecological Appraisal has been submitted to and approved in writing by the Council, as Planning Authority. Thereafter the measures shall be implemented in accordance with the approved details.

**Reason:** To ensure suitable biodiversity enhancement is provided as part of this proposal, in accordance with National Planning Framework 4 Policy 3 – Biodiversity.

14. No development shall commence until a statement, which demonstrates the proposal will be sited and designed to meet the following requirements has been submitted to and approved in writing by the Council, as Planning Authority:

- minimise lifecycle greenhouse gas emissions as far as possible; and
- adapt to current and future risks from climate change.

This statement shall address the requirements of the “Moray Council’s Carbon Guidance for Planning Applications and S36 and S37 consents” insofar as they are relevant to the proposal, and provide timescales for the full implementation of any measures specified.

Thereafter the development shall be implemented in full accordance with the approved details unless otherwise agreed with the Council, as Planning Authority.

**Reason:** To ensure compliance with National Planning Framework 4 Policy 2 – Climate Mitigation and Adaption.

15. No development shall commence until a Waste Management Plan shall be submitted to and approved in writing by the Council. The Waste Management Plan shall relate to the operation of the development hereby approved and include information on the following:

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

Thereafter, the Waste Management Plan shall be implemented in full accordance with the details hereby approved prior to the completion or first operation of development hereby approved (whichever is the soonest).

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

16. No development shall commence until a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Council, as Planning Authority in consultation with the Environmental Health Manager. The plan shall include:
- a) measures to minimise construction related noise, vibration, dust and artificial lighting on nearby residential properties and ecology, including the nearby Quarry Wood SSSI;
  - b) a waste management strategy that includes:
    - i. identification of the likely waste sources associated with the operation of the development;
    - ii. proposed waste management requirements, including provisions to maximise waste reduction and waste separation at source; and
    - iii. proposed waste management and storage strategy, which shall include details of measures to minimise cross-contamination of materials, storage of waste (including measures to ensure waste is secure from wind/weather), provision of access for collection of waste, and recycling and localised waste management facilities;
  - c) measures to ensure soil disturbance is minimised during construction;
  - d) protection measures for trees on and adjacent to the site to be provided during the course of works; and
  - e) a scheme for the layout and location of construction compound(s) including parking, fencing, plant and temporary buildings, as well as timing for provision and removal/reinstatement.

The above measures shall be accompanied by information for the timing of their provision. Thereafter the development shall be carried out in accordance with the details hereby approved unless otherwise agreed with the Council, as Planning Authority, in writing.

**Reason:** To ensure environmental impacts are suitably managed and maintained during the construction phase.

17. Prior to development commencing the tree protection measures as specified in Section 7.0 – 7.4 and shown in Appendix Five: Tree Protection Plan of the approved Arboricultural Report shall be provided in full and retained until completion of construction works. Thereafter post construction a survey shall be undertaken in accordance with section 7.5 of the approved Arboricultural Report and its findings reported to the Council, as Planning Authority along with timescale for implementation of any suggested mitigation/remedial works required to ensure tree health and site safety.

**Reason:** To ensure tree protection measures are provided in full accordance with the details approved as part of this application.

18. No development shall commence until a detailed drawing (scale 1:200) showing the type and specifications of the proposed EV charging units(s) to serve a minimum 3 spaces with a minimum power output of 22Kw (Rapid Charger). EV charging unit is to be connected to an appropriate electricity supply and should include details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit.

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to the development becoming operational or opened to the public and maintained for use thereafter unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

**Reason:** In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking from the submission.

19. As part of condition 5 in respect of parking layout, no development shall commence until a scheme of car parking (including disabled parking spaces) shall be provided at a rate as shown in drawing No. 133-200 F submitted on 28.03.2023. Thereafter, the parking spaces shall be provided in accordance with the approved details and be retained and available for use for the lifetime of the development, unless otherwise agreed in writing by the Council, as Planning Authority.

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

20. No development shall commence until details have been submitted and approved in writing by the Council, as Planning Authority (plans scale 1:200 min) showing the design and location for the provision of secure, covered and enclosed cycle parking for a minimum of 4 cycles. Thereafter the cycle parking shall be provided prior to the building being completed or becoming operational and shall be maintained and available for use thereafter for the lifetime of the building use unless otherwise agreed in writing by the Planning Authority.

**Reason:** In the interests of sustainable transport, the provision of cycle parking and the provision of details currently lacking from the submission.

21. 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.

22. The access to the site and vehicle circulation inside the development shall be developed to accommodate vehicle swept paths in accordance with the drawing submitted as Appendix 02 of the updated Transport Statement.

**Reason:** To ensure acceptable infrastructure at the development access.

23. Prior to the operation or completion of the care home, whichever is the sooner, a pedestrian access shall be provided on the southern boundary of the site connecting to the existing footway along the A96 as shown in the drawing No. 133-200 F submitted on 28.03.2023.

**Reason:** To minimise the walking distance for staff/visitors who may be arriving by public transport.

24. No development shall commence until a Community Wealth Building Plan has been submitted to and approved in writing by the Council as Planning Authority. This plan shall include measures, targets and monitoring for the following areas as appropriate
- (a) improving community resilience, reducing inequalities and maximising local job creation;
  - (b) increasing spending within communities and ensuring the maximum use of local supply chains and services;
  - (c) creation of new firms and;
  - (d) enabling community ownership of buildings and infrastructure.

The measures and monitoring shall thereafter be implemented in accordance with the plan unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** To support a new strategic approach to economic development that helps to build a wellbeing economy in accordance with National Planning Framework 4 Policy 25 – Community Wealth Building.

**6. CONSULTATION ON SECTION 36 PROPOSAL TO ERECT A WIND ENERGY DEVELOPMENT, 22 TURBINES UP TO 200M HIGH AT CABRACH, MORAY KNOWN AS CLASHINDARROCH EXTENSION FOR CLASHINDARROCH WIND FARM EXTENSION LIMITED**

Councillor Ross, having declared an interest in this item, left the meeting at this juncture and took no part in the debate.

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the consultation received from the Energy Consents Unit (ECU) of the Scottish Government in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) for a new windfarm extension. This Section of the Electricity Act relates to consenting onshore electricity generation.

The Chair stated that, in his opinion, the proposal was contrary to the following policies in National Planning Framework 4 (NPF4):

NPF policy 29 rural development

- b) proposals should be suitably scaled, sited and designed and in keeping with the character of the area.
- c) development proposals in remote rural areas should:
  - i) support local employment
  - iii) be suitable in terms of location, access, siting design and environmental impact

NPF policy 4 Natural places

Protect important and natural assets

- d) Open uplands with settled glens, though not a designated special landscape area, is close to Ben Rinnes which is a special landscape area, and borders the Cairngorms National Park.
  - i) has adverse effects on the integrity of the area and its qualities
  - ii) adverse effects are not clearly outweighed by economic benefits of local importance

### NPF policy 3 Biodiversity

This policy asks to demonstrate conclusively that the development proposal will conserve, restore and enhance biodiversity. With a 2,000 acre site and 22 large turbines, the destruction and displacement of species, peat and flora and fauna is inevitable and, even with some compensatory planting, surely irreplaceable.

### NPF policy 11 Energy

- c) proposal does not maximise net economic impact and local benefit
- e) ii) landscape and visual impacts are significant. These are not localised but will have a larger area-wide visual impact compounded by existing windfarms (xiii cumulative impacts). There has been no meaningful attempt at design mitigation or reduction of scale in any way by the Applicant.

### NPF policy 25 Community Wealth Building

Proposal does not maximise net economic impact as stated in the report

### Moray Wind Energy Landscape Sensitivity Study

This study was approved by this Committee, on the 14 March 2023, to inform responses to section 36 consultations and is based on guidance from Nature Scotland. Its strategic conclusions, reflecting local knowledge, are that:

- 1) Few upland areas remain which do not accommodate windfarm developments in Moray.
- 2) All the assessment units have a high sensitivity to turbines over 150m in height.
- 3) Assessment unit 14 in which this development proposal is in, concludes a high sensitivity to turbines over 150 m height and high-medium sensitivity to 100-150 in height.

In addition:

- 1) The proposed development of 22 turbines up to 200 m high, over 2,000 acres site would dominate the key scenic approach to the Cabrach at the A941 (noted on p295 of the Landscape Sensitivity Study (LSS)) proposed turbines and infrastructure being sited less than 2km from it.
- 2) The Buck 721 m (is a landmark hill, denoted as such in our LSS) and a popular tourist destination. From the summit, Dorenell Windfarm, Kildrummy and the existing Clashindarroch are visible but the turbine heights only average 109 meters. This new extension will dwarf the existing Clashindarroch in scale and massing.
- 3) A site visit demonstrated that the proposed development will be highly visible from the Cabrach village with the upper thirds of the turbines visible over the skyline.
- 4) Personal observation from popular core path SP30 at viewpoint Dead Wife's Hillock, in the Cabrach, the Tap O Noth (landmark Hill) will be obscured unless wind turbines 19 and 21 are re-sited.
- 5) North of Inverharroch Farm and going northeast along the unclassified road, (site visit) the turbines will be about a km from nearby farms and highly visible from over the ridge.

The Chair concluded by stating that, whilst he appreciated Officers' proposals to offer advice on mitigation, scaling down and conditioning substantial community and regional benefits, he remained of the view that the proposal was contrary to the policies noted above and all other policies noted in Appendix 1 of the report, and

moved that the Committee agree recommendation 2.1 ii) and iv). On failing to find a seconder, his motion fell.

Councillor Macrae welcomed the suggested conditions set out in Appendix 3 of the report and, given that the Council has declared a climate emergency, moved that the Committee agree recommendations i) and iv).

Councillor Van Der Horn raised concern in relation to the impact the proposal would have on deep peat and noted that recommendation 5 in the suggested response to the consultation set out in Appendix 1 of the report asked that consideration be given to removing or re-positioning turbines 16, 17 and 19 to avoid deep peat however asked that the word “consider” be removed and that the Committee recommend that wind turbines 16, 17 and 19 be removed or repositioned.

In response, Mr MacPherson advised that if the Committee agreed, the word “consider” could be removed. He further advised that suggested conditions provided by the Transportation Service had not been included in the report, this had been an oversight, however these had been circulated to the Committee prior to the meeting and advised that, should the Committee agree the conditions set out in Appendix 3, these would be included.

After considering Councillor Van Der Horn’s suggestion, Councillor Macrae agreed to amend his motion to include the removal of the word “consider” at recommendation 5 in the suggested response to the consultation set out in Appendix 1 including the conditions from the Transportation Service that had been accidentally omitted from the report.

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

- (i) note the contents of the report, as set out in Appendix 1-3, including the conclusions about the planning and wider merits of the development as set out in Section 5 of the report, where taking into account National Planning Framework 4, Moray Local Development Plan 2020 and all other material considerations, and agreed that Moray Council does not object to the Section 36 application, but raises significant concerns and suggests amendments/mitigation referred to in Appendix 1 subject to the removal of the word “consider” from recommendation number 5; and
- (ii) send (without prejudice to any concerns or objections) the draft conditions contained within Appendix 3 to the ECU seeking further involvement in the formulation of any final list of conditions and delegate authority to officers regarding conditions in the event of the Section 36 being approved, subject to the inclusion of the suggested conditions from the Transportation Service that had accidentally been omitted from the report.

Councillor Ross re-joined the meeting at this juncture.

## **7. VALIDATION REQUIREMENTS FOR THE DETERMINATION OF PLANNING APPLICATIONS AND OTHER CONSENTS**

Under reference to paragraph 7 of the Minute of the meeting of this Committee dated 5 December 2017, a report by the Depute Chief Executive (Economy, Environment

and Finance) asked the Committee to agree the revised standards of validation in the determination of planning applications following the adoption of National Planning Framework 4 (NPF) which now forms part of the statutory development plan.

Following consideration, the Committee agreed:

- i) that, for the purposes of Development Management, validation requirements will be enhanced to meet the requirements of National Planning Framework 4;
- ii) Moray's validation document for planning applications and other consents, attached at Appendix 1 to the report; and
- iii) to hold a workshop with local agents/developers to inform how the enhanced validation requirements are to be used for Development Management purposes.

## **8. TREE PRESERVATION ORDERS**

Under reference to paragraph 13 of the Minute of the meeting of this Committee dated 20 December 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to confirm the revocation of TPOs at Croft Road (Forres) and Fogwatt, without modification.

Following consideration, the Committee agreed to confirm, without modification:-

- (i) Moray Council (Croft Road, Forres) Revocation of Tree Preservation Order 2023; and
- (ii) Moray Council (Fogwatt) Revocation of Tree Preservation Order 2023.

## **9. LAND ADVERSELY AFFECTING AMENITY OF NEIGHBOURHOOD [PARA 13]**

A report by the Depute Chief Executive (Economy, Environment and Finance) sought approval to take direct action in respect of the untidy state of the area of land surrounding the Oldmills, Oldmills Road, Elgin ('the site') which is having an adverse effect on the amenity of the neighbourhood. The direct action will take the form of removing accumulated rubbish from the site in line with the Amenity Notice served.

Following consideration, the Committee agreed to grant delegated authority to the Head of Economic Growth and Development, in consultation with the Chair of the Committee, to take direct action to remove all items described in the Amenity Notice served on the 24 April 2023 in the event that the terms of the notice are not complied with by the owner of the site and to recover any costs incurred, as a result of direct action, as a civil debt.