

ABERDEENSHIRE COUNCIL
FORMARTINE AREA COMMITTEE

THE KIRK CENTRE, STATION ROAD, ELLON, 2 JULY 2019

- Present:** Councillors I Davidson (Chair), K Adam, A Duncan, A Forsyth, A Hassan, P Johnston, G Owen, A Stirling, I Taylor, R Thomson
- Apologies:** Councillors J Gifford, A Kloppert
- Officers:** A Roe (Acting Area Manager, Formartine), K Balina (Committee Officer, Formartine), F Stewart (Senior Solicitor, Legal & Governance), A Davidson (Senior Planner, Planning and Building Standards, Infrastructure Services), C Matheson (Principal Architect, Property & Facilities), T Buchan – via skype (Facilities Manager, Property & Facilities)

1. DECLARATION OF MEMBERS' INTERESTS

The Chair asked Members if they had any interests to declare in terms of the Councillors' Code of Conduct.

Item 4A Councillor Owen **declared an interest**, in relation to the planning application by virtue of being a Director of Formartine Partnership. She felt her interest was clear and substantial and indicated that she would not take part in the debate and would leave the meeting during the discussion.

Item 4B Councillor Davidson **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing her to remain and participate in the discussion of the item.

Councillor Adam **declared an interest** in the matter as a friend of the applicant; having applied the objective test, she indicated that she would leave the meeting and take no part in the consideration of the item.

Councillor Duncan **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing him to remain and participate in the discussion of the item.

Councillor Forsyth **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing him to remain and participate in the discussion of the item.

Councillor Hassan **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing him to remain and participate in the discussion of the item.

Councillor Owen **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing her to remain and participate in the discussion of the item.

Councillor Stirling **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing her to remain and participate in the discussion of the item.

Councillor Taylor **declared an interest** in the matter as a colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing him to remain and participate in the discussion of the item.

Councillor Thomson **declared an interest** in the matter as a Group Leader and colleague of the applicant, however, having applied the objective test, had determined that the interest was remote and insignificant, allowing him to remain and participate in the discussion of the item.

Item 4C Councillor Johnston **declared an interest** in the matter as a colleague of a landowner; having applied the objective test, he indicated that he would leave the meeting and take no part in the consideration of the item.

Item 8 Councillor Owen **declared an interest** by virtue of being a director of The Formartine Partnership and advised that she would leave the meeting and take no part in the consideration of the item.

Item 9 Councillor Hassan **declared an interest** by virtue of being a member of Balmedie Leisure Centre Committee; having applied the objective test, he indicated that he would leave the meeting and take no part in the consideration of the item.

Councillor Johnston **declared an interest** by virtue of being a Director/Trustee of Belhelvie Community Trust; having applied the objective test, he indicated that he would leave the meeting and take no part in the consideration of the item.

2. STATEMENT ON EQUALITIES

Resolutions – consider and, if so decided, adopt the following resolution:

(a) Public Sector Equality Duty

In line with the Council's legal duty under section 149 of the Equality Act 2010 the Committee **agree** in making decisions on the attached reports Members shall have due regard to the need to:-

- (i) eliminate discrimination, harassment and victimisation;
- (ii) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and

- (iii) foster good relations between those who share a protected characteristic and persons who do not share it.

(b) Exempt Information

The Committee **agreed** in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, to exclude the public from the meeting during consideration of Items 12, 13 and 14 of the business on the grounds that they involve the likely disclosure of exempt information of the class described in Paragraphs 8 and 10 of Part 1 of Schedule 7A of the Act.

Item No	Paragraph No.
12	8 and 10
13	8
14	8 and 10

3. MINUTE OF MEETING 11 JUNE 2019

The Committee had before them, and approved as a correct record, the minute of the meeting of 11 June, 2019.

4. PLANNING APPLICATIONS FOR DETERMINATION

The following planning applications were considered along with any representations received in each case and were dealt with as recorded in Appendix A.

Application No	Description	Decision
A APP/2017/2857	Full Planning Permission for Installation of Wind Turbine (Hub Height 59m, Total Height 99.91m) With Access Track and Hardstanding, Land at Cardinghill, Ellon	Refuse
B APP/2019/1104	Full Planning Permission for Change of Use from 2 Flats (Sui Generis) to form Dwellinghouse (Class 9), 1 and 2 Foresters Terrace, Ellon	Grant
C APP/2019/0843	Full Planning Permission for Erection of Building for (Class 6) Storage and Distribution with Ancillary Office And Retail Element at Land at Former Allathan Quarry, Udney, Ellon	Defer

5. LOCAL REVIEW BODY DECISION - LRB 435 - APP/2018/0626 - SITE ADJACENT TO BRUNTSMIDDY COTTAGES, TURRIFF, ABERDEENSHIRE, AB53 5PN

There had been circulated and was **noted** an Appeal Decision Notice dated 5 June 2019, advising that the Local Review Body approved Full Planning Permission.

The salient points to be acknowledged by the Committee and the Service had been outlined with the information provided to the Members.

**6. LOCAL REVIEW BODY DECISION - LRB 443 - APP/2018/2531 -
BEECHFIELD, BRIDGEND TERRACE, TURRIFF, ABERDEENSHIRE,
AB53 4ES**

There had been circulated and was **noted** an Appeal Decision Notice dated 5 June 2019, advising that the Local Review Body dismissed the appeal and refused Planning Permission in Principle in accordance with the Appointed Officer's decision.

The salient points to be acknowledged by the Committee and the Service had been outlined with the information provided to the Members.

**7. LOCAL REVIEW BODY DECISION - LRB 449 - APP/2018/2816 -
OFFICE / STORE, LAND AT 3 GARDEN PLACE, CORNFIELD ROAD,
TURRIFF, ABERDEENSHIRE, AB53 4SR**

There had been circulated and was **noted** an Appeal Decision Notice dated 5 June 2019, advising that the Local Review Body Reporter agreed to grant Full Planning Permission subject to conditions, as specified in paragraph 4.0 of Review Decision Notice.

The salient points to be acknowledged by the Committee and the Service had been outlined with the information provided to the Members.

8. AREA COMMITTEE BUDGET 2018-2019

There had been circulated a report dated 17 June, 2019 by the Director of Business Services which detailed the general spending of the Area Committee Budget 2018/2019.

With reference to Item 1 of the Minute, Cllr Owen declared an interest and left the meeting during this item.

During the discussion, the Members welcomed the Tidy Village Scheme Report and commended local communities for their work. They also sought clarification on the impact of awards granted through Area Committee Budget. It was **confirmed** that the impact of awards briefing note would be circulated to the Members in July, 2019.

After considering the information provided, the Committee:-

- (1) **noted** the feedback received in relation to the projects funded in during the 2019-2020 session, and
- (2) requested an impact of awards briefing note.

9. AREA COMMITTEE BUDGET 2019-2020 – FUNDING APPLICATIONS

With reference to Item 1 of the Minute, Councillors Hassan and Johnston declared an interest and left the meeting during this item.

Balmedie Leisure Centre Association (SCIO)

An application had been received from the Balmedie Leisure Centre Association (SCIO), seeking a contribution towards maintaining a piece of land and play area expansion behind the Balmedie Leisure Centre.

After consideration of the information provided, the Committee **agreed** to award **£5,000**.

Belhelvie Community Trust

An application had been received from the Belhelvie Community Trust, seeking a contribution towards the recruitment of external consultant with research expertise to conduct a review of community provision within Belhelvie Parish.

After consideration of the information provided, the Committee **agreed** to award **£4,000**.

10. STATEMENT OF OUTSTANDING BUSINESS

The Committee had before them and **noted** a report by the Formartine Area Manager, updating on matters that had previously been discussed by the Committee but remained to be resolved.

11. ACT2 (ABERDEENSHIRE CHARITIES TRUST) APPLICATION

There had been circulated a report dated 19 June, 2019 by the Director of Business Services which detailed application that had been received for ACT2 (Aberdeenshire Charities Trust) funding.

The Committee **agreed** to:-

- (1) **award** £1000 from ACT2 (Ward 7: The prevention or relief of poverty) to the Garioch Community Kitchen.

12. TURRIFF ACADEMY – FABRIC & INTERNAL ENHANCEMENTS CONTRACT 18521 (EXEMPT UNDER PARAGRAPHS 8 AND 10 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973)

There had been circulated a report dated 12 June, 2019, which detailed the Turriff Academy – Enhancement contract.

Following discussion, the Committee:-

- (1) **noted** the Supplementary Work Plan as detailed in Appendix 1 of the report,

- (2) **approved** the item on the Supplementary Work Plan identified as falling within the remit of the Committee and noted that the Directorate Work Plans approved by Business Services Committee on 18 April 2019 and Education & Children's Services Committee on 21 March 2019 would be updated accordingly,
- (3) acknowledged the scope of work outlined within Appendix B of the report,
- (4) acknowledged completion of the Gateway Stage 1 of the project outlined within Appendix C of the report,
- (5) **approved** the Business Case for the project at Appendix D of the report, and
- (6) **agreed** not to reserve the award of the final contract.

13. SUPPLEMENTARY WORK PLAN 2019/20 FOR BUSINESS SERVICES DIRECTORATE -PROCUREMENT APPROVAL - UDNY GREEN SCHOOL - TOILET REFURBISHMENT (EXEMPT UNDER PARAGRAPH 8 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973)

There had been circulated a report dated 11 June, 2019, which detailed the Turriff Academy – Enhancement contract.

After the consideration of the information provided the Committee: -

- (1) **noted** the Directorate Supplementary Work Plan as detailed in Appendix 1 of the report,
- (2) **approved** the item on the Supplementary Work Plan identified as falling within the remit of the Committee and noted that the Directorate Work Plan approved by Business Services Committee on 18 April 2019 would be updated as detailed in the Supplementary Work Plan, and
- (3) **agreed** not to reserve approval of the Business case.

14. BALMEDIE PRIMARY SCHOOL – ELECTRICAL SYSTEM UPGRADE (EXEMPT UNDER PARAGRAPHS 8 AND 10 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973)

There had been circulated a report dated 13 June, 2019, which detailed the Balmedie Primary School – electrical system upgrade. The Formartine Area Committee considered the proposal for the upgrade of electrical systems at Balmedie Primary School at its meeting on 26 March 2019 and **agreed** at that time to reserve the Business Case for approval.

After consideration of the information provided, the Committee:-

- (1) **approved** the procurement Business Case for Balmedie Primary School electrical upgrade project, and
- (2) **noted** that the Head of Property and Facilities Managements had the delegated powers to award the contract.

APPENDIX A

4A. Reference No: APP/2017/2857

Full Planning Permission for Installation of Wind Turbine (Hub Height 59m, Total Height 99.91m) With Access Track and Hardstanding at Land at Cardinghill, Ellon

Applicant: Cardinghill Renewables Ltd
Agent: Farm Energy Consulting Ltd

There had been circulated a report dated 12 June 2019, by the Director of Infrastructure Services which sought consideration of an application for full planning permission for installation of wind turbine with access track and hardstanding at land at Cardinghill.

With reference to Item 1 of the Minute, Cllr Owen declared an interest and left the meeting during this item.

The planning application APP/2017/2857 had been referred to the Formartine Area Committee for consideration de novo by the Monitoring Officer in terms of Paragraph 7.2.b of the Council's Standing Orders. The application was considered by the Formartine Area Committee at their meeting on 21 May 2019 and, due to an administrative error, the applicant had not been given an opportunity to speak to their application.

In order to reconsider the application within 6 months of the decision taken on 21 May 2019, the Councillors **agreed**, by voting, to suspend Standing Orders in terms of Standing Order 8.

The Committee noted that a request to speak had been received in respect of the application, but that Mr David Smith was neither present nor represented at the meeting. The Committee deferred the application until the end of the planning items on the agenda to allow time for Mr Smith to attend the Committee, at which time, the Committee noted that Mr Smith was still not present or represented at the hearing and agreed to continue to determine the application de novo in his absence.

The Senior Planner introduced the application which had been referred for refusal for the following reason: -

The applicant has failed to demonstrate suitable mitigation measures in order to resolve the outstanding concerns raised with respect of the Military Aviation consultees regarding air safety. The proposal therefore may have a detrimental impact on air traffic control systems which is contrary to Policy C2 Renewable Energy of the Aberdeenshire Local Development Plan 2017.

The Senior Planner confirmed that the Ministry of Defence had still objections to the proposal. The applicant was advised to reduce the height of the turbine to 89m or submit a technical mitigation report demonstrating a suitable means of mitigation but had failed to demonstrate suitable mitigation measures. They also didn't agree to reduce the height of the turbine.

During the discussion, the Members were reminded that the application had received a delegated grant for full planning permission at the meeting of the Formartine Area Committee on 20 November 2018 subject to the following conditions, as detailed in section 1.4 of the report:

1. “detailed assessment of the proposed mitigation measures to be submitted to the Planning Service for consultation with MoD and the removal of their objection within a 6 month period”;
2. “written confirmation being received by the Planning Authority from National Grid, NATS and Aberdeen International Airport indicating the withdrawal of their objections subject to the mitigation proposed by the applicant (including the payment of any sum in relation to radar blanking)”;
- and
3. “that the turbine can be programmed to deal with any potential issues caused by shadow flicker”.

It was **confirmed** that the application was referred back to the Committee due to the end of the agreed deferral period and the lack of progress on the matters delegated. Councillor Johnston called into question whether the 6 months period was a long enough period to meet the requirements of Ministry of Defence.

After discussion of information provided, Councillor Johnston seconded by Councillor Taylor **moved** that the application be **approved** on the basis of a delegated grant subject to the conditions set out at Section 1.4 of the report by reason of a further six months being a reasonable amount of time for the applicant to negotiate with the Ministry of Defence. As an amendment Councillor Thomson seconded by Councillor Forsyth **moved** that the application be **refused** in line with the recommendations within the report.

The Members voted as follows:

For the Motion	2	Councillors Johnston, Taylor
For the Amendment	7	Councillors Adam, Davidson, Duncan, Forsyth, Hassan, Stirling, Thomson

Therefore the **amendment** was carried that the application be **refused** in line with the recommendations within the report.

4B. Reference No: APP/2019/1104

Full Planning Permission for Change of Use from 2 Flats (Sui Generis) to form Dwellinghouse (Class 9) at 1 and 2 Foresters Terrace, Ellon, Aberdeenshire, AB41 9DF

Applicant: Ms A. Kloppert
Agent: Michael Slessor

There had been circulated a report dated 21 June 2019, by the Director of Infrastructure Services which sought consideration of an application for full planning permission for change of use from two flats (Sui Generis) to form Dwellinghouse (Class 9).

With reference to Item 1 of the Minute, Cllr Adam declared an interest and left the meeting during this item.

The Senior Planner introduced the application which had been referred for approval. The main issues for consideration were whether the proposal would respect the character of the existing building and the surrounding area and whether the change of use would have any impact on the amenity of neighbouring residents.

After consideration of information provided, the Committee **agreed to grant** the full planning permission.

4C. Reference No: APP/2019/0843

Full Planning Permission for Erection of Building for (Class 6) Storage and Distribution with Ancillary Office and Retail Element at Land at Former Allathan Quarry, Udney, Ellon

Applicant: Whisky Hammer Ltd.
Agent: Angela Slater

There had been circulated a report dated 18 June 2019, by the Director of Infrastructure Services which sought consideration of an application for full planning permission for erection of building for (class 6) storage and distribution with ancillary office and retail area, on the land at the former Allathan Quarry in Udney.

With reference to Item 1 of the Minute, Cllr Johnston declared an interest and left the meeting during this item.

The Senior Planner confirmed that the planning application didn't comply with a Local Development Plan and incorrect information was supplied in an original report.

The Senior Planner introduced the application which was recommended for refusal for the following reason: -

The site of the development cannot be considered brownfield land as the site has naturalised and proposed development therefore fails to meet Policy R2 Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017.

Having heard that a request to speak had been received, the Committee **agreed to** hear from Mr Daniel Milne and Mr David Murray of David Murray associates Chartered Architects. Mr Murray was not present.

Mr Milne said that the applicant was looking for a new space to expand their business. They would like to open a tourist shop and separate whisky tasting room next to the office space and a warehouse. Design of the building was chosen to reflect the character of the surrounding area. He highlighted the recent approval of a separate planning application on another part of the site.

Councillors discussed the information provided and sought clarification on the planning application approved on the neighbouring site; whether the site was naturalised and can be considered brownfield land; whether the site could be used for agricultural purpose; when the site stopped being used as a roads depot.

Mr David Murray joined the meeting and Committee agreed to hear from him.

Mr Murray said that the design and technical aspects of the project are unique. He also added that a part of the site had been naturalised even when it was used as a quarry. He described their business model as unique and fitting well with the aspiration of the local community. He also mentioned that the application complied with the policy P3 in terms of tourism and economic development.

After consideration of information provided, the Committee **agreed to defer** consideration of the application pending:

- (1) a site visit to assess whether the site was brownfield or not, and
- (2) to allow additional information to be brought before the Committee on:
 - (a) previous ownership and use of the site,
 - (b) when the site ceased to be used as a roads depot,
 - (c) further explanation of the material weight given to the 'Imagine Udney' Community Action Plan, and
 - (d) whether any restoration works were carried out at the quarry.