

ABERDEENSHIRE COUNCIL

GARIOCH AREA COMMITTEE

COUNCIL CHAMBER, GORDON HOUSE, INVERURIE

ON 27 AUGUST 2019

Present: Councillors F Hood (Chair), D Aitchison (for item 1-7), N Baillie, L Berry, M Ewenson, M Ford (for item 1-11), V Harper, D Lonchay, R McKail, A McKelvie, G Reid (for item 1-part of 8), H Smith and J Whyte (for item 1-7 and part of 12-15)

Apologies: Councillors Leslie and Walker

Officers: M-J Cardno (Garioch Area Manager), A Overton, (Senior Solicitor), B Strachan (Senior Planner), G Steel (Principal Engineer), A Wood (Partnership Manager), J Matthew (Location Manager), J Shaw (Mental Health & Learning Disability Manager), P Berry (Location Manager), V Grant (Planner), H Wilkinson (Planner), A Sheridan (Waste Team Manager), J Cranna (Team Leader, Finance), G Aitken (Team Leader, Housing) P Whalley (Early Years Estate Manager), M Robertson (Commercial Development Manager) and Alison Cumming (Area Committee Officer).

1. DECLARATIONS OF MEMBERS' INTERESTS

In accordance with the Councillors' Code of Conduct the following interests were declared:-

Item 10 – Councillors Baillie and Whyte indicated that they had attended meetings of the Ury Riverside Park SCIO and provided support for the group, but said that having applied the objective test they concluded that they had no interest to declare.

2. RESOLUTIONS

2A. EQUALITIES

In making decisions on the following items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act, 2010:-

1. to have due regard to the need to:-
 - (a) eliminate discrimination, harassment and victimisation;
 - (b) advance equality of opportunity between those who share a protected characteristic and persons who do not share it; and
 - (c) foster good relations between those who share a protected characteristic and persons who do not share it.
2. where an Equality Impact Assessment was provided, to consider its contents and take those into account when reaching its decision.

2B. EXEMPT ITEMS

The Committee **agreed** that, under Sections 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the

meeting for certain items of business on account of the likely disclosure of exempt information of the classes described in the relevant Paragraphs of Part 1 of Schedule 7A of the Act.

Item No.	Paragraph No.
14	9
15	8

3. MINUTE OF MEETING OF 25 JUNE 2019

In accordance with Standing Order 7.1.1, the Committee **agreed** that the Minute was a correct record of proceedings. The Minute was duly signed by the Councillor presiding over the meeting.

4. ABERDEENSHIRE HEALTH & SOCIAL CARE PARTNERSHIP PERFORMANCE AND OUTCOMES FRAMEWORK – QUARTER 4 REPORTING JANUARY TO MARCH 2019

A report by the Partnership Manager, Central was circulated presenting performance information for the Health and Social Care Partnership for the period January to March 2019.

Members welcomed the report and sought clarification regarding alcohol services, the publicity for initiatives and the work of the Transitions Social Worker. They welcomed the stronger partnership working that was now evident, but stressed the importance of information on outcomes rather than timescales met.

The Committee **agreed** to:

1. note the content of the IJB Performance Q4 Report;
2. request that information be provided on how health initiatives are publicised.

5. PLANNING APPLICATIONS FOR DETERMINATION

The following planning applications were considered along with any valid representations received and were dealt with as recorded in **Appendix A** to this Minute.

A	APP/2019/1329	Full Planning Permission for Change of Use from Industrial (Use Class 5) to Gym (Use Class 11) at Units 3 and 4, Craigeearn Business Park, Kintore, Aberdeenshire, AB51 0TH	Grant
B.	APP/2019/1034	Full Planning Permission for Change of Use from Open Space to Private Garden at 15 Scotsmill View, Blackburn, Aberdeenshire, AB21 0FZ	Grant
C.	APP/2018/2800	Full Planning Permission for Erection of Single Storey Restaurant with Drive-thru, Play Area and Associated Works (Sui Generis) at Site at Straik Road, Westhill, Aberdeenshire	Grant
D.	APP/2019/0962	Full Planning Permission for Erection of Dwellinghouse at Land at Upper Mains of Disblair, Newmachar	Refer to ISC

6. LOCAL REVIEW BODY APPEAL DECISIONS

A. CLOVENSTONE LODGE, KINTORE

A decision notice from the Local Review Body was circulated detailing the outcome of an appeal against refusal of planning permission for the erection of a dwellinghouse at land adjacent to Clovenstone Lodge, Kintore.

The Committee **agreed** to note the decision of the Local Review Body to agree with the officer determination and refuse full planning permission for the erection of a dwellinghouse at land adjacent to Clovenstone Lodge, Kintore.

B. DRUMNICOL, MEIKLE WARTLE, INVERURIE

A decision notice from the Local Review Body was circulated detailing the outcome of an appeal against refusal of planning permission for the erection of a dwellinghouse at site adjacent to Drumnicol, Meikle Wartle, Inverurie.

The Committee **agreed** to note the decision of the Local Review Body to reverse the decision of the planning officer and grant planning permission in principle for the erection of a dwellinghouse at site adjacent to Drumnicol, Meikle Wartle, Inverurie subject to conditions.

C. ORCHARDFOLD, UPPER TACK, NEWMACHAR

A decision notice from the Local Review Body was circulated detailing the outcome of an appeal against refusal of planning permission for the erection of a dwellinghouse at site adjacent to Orchardfold, Upper Tack, Newmachar.

The Committee **agreed** to note the decision of the Local Review Body to agree with the officer determination and refuse planning permission in principle for the erection of a dwellinghouse at site adjacent to Orchardfold, Upper Tack, Newmachar.

D. SUNSIDE OF TAYNE, KIRKTON OF RAYNE, INVERURIE

A decision notice from the Local Review Body was circulated detailing the outcome of an appeal against refusal of planning permission for alterations and extension to a dwellinghouse at Sunside of Rayne, Kirkton of Rayne, Inverurie.

The Committee **agreed** to note the decision of the Local Review Body to agree with the officer determination and refuse full planning permission for alterations and extension to a dwellinghouse at Sunside of Rayne, Kirkton of Rayne, Inverurie.

7. WASTE MANAGEMENT - LITTER PREVENTION ACTION PLAN AND ASSOCIATED STREET CLEANSING POLICY AND PROCEDURES

A report by the Director of Infrastructure Services was circulated presenting the draft litter prevention plan and associated street cleansing

Members welcomed the development of the policy and procedures, but stressed the need to ensure that what the Council would and wouldn't be doing was clearly stated so that expectations were in line with available resources. Members discussed the proposals at some length and identified a number of comments to Infrastructure Services Committee.

The Committee **agreed** to:-

1. note and welcome the introduction of a Litter Prevention Action Plan and associated street Cleansing Policy and Procedures; and
2. forward the following comments to Infrastructure Services Committee:-
 - a) The ambition for a litter free Scotland is to be welcomed. Committee welcomes a formalised procedure but the Council needs to ensure there is an honesty about the resources required to achieve this ambition and therefore what the Council can practicably deliver.
 - b) A focus is required on partnership working including educational interventions to promote personal responsibility to ensure prevention.
 - c) The Council needs to be mindful of unintended consequences of policy decisions, e.g. the potential for an increase in fly tipping from decisions about services available at recycling centres. It is therefore important that the litter prevention policy is linked to the waste policy.
 - d) The Council should undertake further work required with businesses to reduce waste produced e.g. fast food packaging.
 - e) Committee recognises that there is a policy stance which needs to be taken in terms of the duty on the Council as far as “practicable” (stated within the legislation) but more needs to be done in order to manage public expectations in terms of service standards which can reasonably expected given the multiple resource constraints.
 - f) A far greater emphasis is required on enforcement activity under paragraph 2.1 in the draft policy.

8. UNIVERSAL CREDIT UPDATE

A report by the Director of Infrastructure Services was circulated presenting the Committee with updated information relating to the roll out of Universal Credit in Aberdeenshire

Members welcomed the update provided and discussed at some length some of the issues behind the arrears. They were keen to continue to monitor the situation and sought a further update as an informal session early in 2020.

The Committee **agreed** to:

1. note the work that is being carried out by Aberdeenshire Council to support customers in receipt of Universal Credit; and
2. request that a seminar (including an update report) be arranged for early 2020;
3. request that further detail be provided in relation to rent arrears;
4. welcome the provision of a guidance note to detail the terminology relating to Universal Credit.

9. RISK MANAGEMENT POLICY AND PROCEDURES

A report by the Director of Business Services was circulated presenting the Risk Management Policy and Procedures and seeking comments to Business Services Committee on these documents.

The Committee **agreed** to note the Risk Management Policy and Procedures.

10. CONFIDENT GOVERNANCE - NOMINATION URY RIVERSIDE PARK SCIO

As indicated in item 1, Councillors Baillie and Whyte indicated that they had an interest, but continue to take a part in considering the item.

A report by the Director of Business Services was circulated seeking the nomination of a Councillor to serve on the Ury Riverside Park SCIO in an observer role.

The Committee **agreed** to nominate Councillor Marion Ewenson to the Ury Riverside Park SCIO in an observer capacity.

11. AREA COMMITTEE BUDGET 2019/20

A report by the Director of Education and Children's Services was circulated updating the Committee on the status of the budget and presenting three proposals for consideration.

Some concerns were raised about the level of funding that should be allocated to the Kintore Station Art Project.

Councillor Ford, seconded by Councillor Harper, moved that the Committee grant:-

1. £11,250 to Garioch Sports Trust towards the development of a regional tennis centre;
2. £20,000 to Kintore Railway Station Art Project for the provision of public art at the new station; and
3. £8,683.52 to Ashdale Hall Management Committee towards the upgrading of heating in the Hall.

As an amendment, Councillor Lonchay, seconded by Councillor Ewenson, moved that the Committee grant:-

1. £11,250 to Garioch Sports Trust towards the development of a regional tennis centre;
2. £5,000 to Kintore Railway Station Art Project for the provision of public art at the new station; and
3. £8,683.52 to Ashdale Hall Management Committee towards the upgrading of heating in the Hall.

The Committee voted:-

For the motion (7) Councillors Baillie, Berry, Ford, Harper, McKail, McKelvie and Smith

For the amendment (3) Councillor Hood, Ewenson and Lonchay

Councillor Whyte declined to vote.

Councillor Reid was absent from the division.

Therefore, the motion was carried and the Committee **agreed** to:

1. note the current position with the Garioch Area Committee Budget and agree to further promote the Area Initiatives Fund; and
2. grant: £11,250 to Garioch Sports Trust towards the development of a regional tennis centre;
3. grant £20,000 to Kintore Railway Station Art Project for the provision of public art at the new station; and
4. grant £8,683.52 to Ashdale Hall Management Committee towards the upgrading of heating in the Hall.

12. AREA INITIATIVES FUND 2019/20

A report by the Director of Education and Children's Services was circulated asking the Committee to consider an application from North East Preservation Trust.

The Committee **agreed** to grant £1,750 to the North East Preservation Trust towards the repair of the Eliza Fraser Mausoleum.

13. STATEMENT OF OUTSTANDING BUSINESS

A report by the Director of Education and Children's Services was circulated presenting the outstanding business for Garioch Area Committee as at August 2019.

The Area Committee Officer provided an update to Members on item 8 indicating that the timescale would be confirmed once funding was secured from Sustrans.

The Committee **agreed** to:-

1. note the items of outstanding business as at August 2019;
2. remove items 5 and 6.

14. ESTATES NON-OPERATIONAL PORTFOLIO DEVELOPMENT

A report by the Director of Business Services was circulated providing an update on the current Estates non-operational property portfolio and seeking approval for the projects relating to Garioch.

The Committee **agreed** to:-

1. note the Estates Non-Operational Portfolio Development;
2. approve the Garioch Area projects within the Supplementary Work Plan, as noted in Appendix 1 to the report, and note that these items will be added to the Directorate Work Plan; and
3. approve the Business Cases for Garioch projects as noted in Appendices 2, 3, and 4 to the report.

15. SUPPLEMENTARY ANNUAL WORK PLAN FOR EDUCATION AND CHILDREN'S SERVICES DIRECTORATE – PROCUREMENT APPROVAL

A report by the Director of Education and Children's Services was circulated seeking approval for works in Garioch to progress through the procurement process.

The Committee **agreed** to:

1. note the Directorate Work Plan as detailed in Appendix 1 to the report;
2. approve the item on the Work Plan identified as falling within the remit of the Committee;
3. approve the Business Case in Appendix 2 to the report; and
4. reserve the award of the contract.

Councillor Presiding over meeting

Print Name

Signature

Date

GARIOCH AREA COMMITTEE

27 AUGUST 2019

APPENDIX A

PLANNING APPLICATIONS FOR DETERMINATION

A. Reference No: APP/2019/1329

Full Planning Permission for change of use from industrial (Use Class 5) to gym (Use Class 11) at units 3 and 4, Craigearn Business Park, Kintore, Aberdeenshire, AB51 0TH

Applicant: Garioch Gymnastics Club
Agent: Portico Design

The Chair intimated that there was a request to speak from the applicant. The Committee initially agreed the request to speak, but upon hearing from the Planning Officer considered the application to be straightforward and moved direct to determination without hearing from any parties to the application.

The Planner explained that the application was a departure from the Local Development Plan by virtue of the proposed use by the gymnastics club not falling into the employment use classes allocated for that site. However, she explained that the agent had provided supporting information to confirm that the site had been widely marketed without success and pointed out the positive health benefits that could be gained from the activities proposed. The Planner confirmed that the operating hours would be 8am to 10pm seven days a week. She explained that the parking provision exceeded the level required by Roads Development and said that the key times that the facility would be used would tend to be out with normal business hours.

Members clarified the parking arrangements and indicated that the last sentence of the reason for departure should be removed.

Thereafter, the Committee **agreed:-**

- a) that the reason for departing from the Aberdeenshire Local Development Plan 2017 is that the proposal is considered to be an acceptable departure to Policy B1: Employment and business land of the Aberdeenshire Local Development Plan 2017. The proposal would constitute a modest loss of employment land and utilises an existing vacant building. It is also considered the proposed gymnastics centre provides a facility to the local community. The building is capable of being reverted into industrial use in the future and there are other employment land opportunities within the settlement.
- b) to grant Full Planning Permission subject to the following conditions:-
 1. The use of the building hereby approved shall not be brought into use unless a Travel Plan for that building has been submitted to and approved in writing by the planning authority. The Travel Plan shall encourage more sustainable means of travel and shall include mode share targets. It shall identify measures to be implemented, the system of management monitoring review, reporting and duration of the incorporated measures designed to encourage modes other than the private car. The use of the building shall not be brought into use unless the measures set out in its respective approved Travel Plan have been implemented in full.

Reason: In the interests of encouraging a more sustainable means of travel to and from the proposed development.

2. The use hereby approved shall not operate out with the hours of 08:00 and 22:00 hours Monday to Sunday.

Reason: In order to protect the amenity of nearby and adjoining residents.

3. The noise level due to the operation of the premises when measured at 1 metre from any window, door or other ventilation opening serving any adjacent residential property, shall not exceed 38 dB LAeq (1 hour).

Reason: To ensure that noise from the development does not result in undue loss of amenity for surrounding properties.

B. Reference No: APP/2019/1034

Full Planning Permission for change of use from open space to private garden at 15 Scotsmill View, Blackburn.

Applicant: Mrs Hronn Johannsdottir
Agent: Katrina Denholm Architect

The Committee agreed:-

- a) that the reason for departing from the Aberdeenshire Local Development Plan 2017 is that the proposed development is considered an appropriate departure from Policy PR1: Protecting important resources of the Aberdeenshire Local Development Plan 2017, as the loss of an area of protected public open space has been sufficiently justified for drainage improvement. It is appropriately designed and scaled and would have no adverse impacts on the surrounding amenity, and all technical matters have been resolved in compliance with all relevant policies of the Aberdeenshire Local Development Plan 2017; and
- b) to grant full Planning Permission.

C. Reference No: APP/2018/2800

Full Planning Permission for erection of single storey restaurant with drive-thru, play area and associated works (sui generis) at site at Straik Road, Westhill.

Applicant: McDonalds Restaurants Ltd
Agent: Planware Ltd

The Senior Planner explained that the application was a departure from the Local Development Plan, had attracted more than 6 objections and had also been the subject of an objection from the Community Council. He confirmed that the application was for a new drive through and restaurant within the settlement boundary, but on a site that was allocated for employment use. He confirmed that the applicant had undertaken the sequential test and confirmed that there was only two vacant units in the town centre and neither of these would be suitable for this proposal. He indicated that the site would be accessed by a new road that would be formed to join the recently formed road, which linked to the A944.

The Senior Planner explained that the design was similar to many other of the company restaurants and featured a range of materials to respect the location including timber batons and natural stone elements. He explained that landscaping was proposed to minimise the

impact of the development and to stop pedestrian access from locations other than the main proposed access. The Senior Planner confirmed that Transportation had concerns regarding the lack of specific access for deliveries and the operating hours had been amended to allow deliveries to take place when the restaurant will be closed. He said that the use was not incompatible with the surrounding uses and confirmed that the Planning Service was recommending the application as a departure from the Local Development Plan.

Members asked whether separate applications had been received for advertisement consent and whether these included a totem pole sign. The Senior Planner confirmed that there was a number of applications, including a proposal for totem element, which had not attracted valid objections and were likely to be considered under delegated powers.

Members sought clarification about pedestrian access and it was confirmed that a hedge and post and wire fence were to be erected on the perimeter of the site to make pedestrian access the same as vehicular with crossings within the site.

Some Members were content to accept the proposals given the similar application recently granted nearby. They suggested that to refuse would be unreasonable and would likely be overturned on appeal. They were content with the design and welcomed the natural elements. They pointed out that the design was no worse than the industrial buildings in the same location.

However, other members contested the need for the restaurant on this site and indicated that its location would have a detrimental impact on the town centre. They pointed out the applications already granted for similar facilities at Kingswells and contended that there was overprovision in this location. The Senior Planner confirmed that the planning system did not take into account issues around competition or perceived over-provision. Members highlighted the allocation for the site and questioned whether this site would ever have been specifically allocated for this use, particularly given the prominent location at the entrance to the town. They pointed out that the facility was not well located for sustainable transportation and drive through facilities often resulted in littering throughout the countryside.

Councillor McKail, seconded by Councillor Lonchay, moved that the Committee agree the reason for departure and grant the application subject to the conditions detailed in the report.

As an amendment, Councillor Ford, seconded by Councillor Berry, moved that the application be refused on the grounds that the application is:-

- a) contrary to Policy B1
- b) contrary to the Town Centre First Principle in that it would impact on the viability of Westhill Town Centre;
- c) it is not conveniently accessible by sustainable transport; and
- d) the proposals are of an inappropriate design

The Committee voted:-

For the motion (9) Councillors Hood, Aitchison, Baillie, Harper, Lonchay, McKail, Reid, Smith and Whyte

For the amendment (4) Councillors Berry, Ewenson, Ford and McKelvie

Therefore the motion was carried and the Committee **agreed**:-

- a) that the reason for departing from the Aberdeenshire Local Development Plan 2017 is that the proposed development involves a relatively modest area of employment land that has been subject to marketing for a period of time and which cannot be

accommodated in Westhill Town Centre. The restaurant and drive-thru will generate jobs and will be complementary to the existing mix of uses on the wider business park. On this occasion, it is considered acceptable to justify departing from Policy B1 Employment and business land; and

b) to grant Full Planning Permission subject to the following conditions:-

1. No works in connection with the development hereby approved shall commence unless drawings of appropriate gas protection measures designed in accordance with British Standard 8485:2015 'Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings' have been submitted to and approved in writing by the planning authority.

The building hereby approved shall not be brought into use unless:

- a) the approved gas protection measures have been incorporated into the construction of the proposed [development/building] in accordance with the details shown on the approved drawings and in accordance with British Standard 8485:2015 (Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings); and
- b) the gas protection measures have been inspected and validated in accordance with CIRIA C735 (Good practice on the testing and verification of protection systems for buildings against hazardous ground gases) and a validation report detailing the findings of the inspection has been submitted to and approved in writing by the planning authority.

Reason: In order to ensure that adequate gas protection measures are provided in the interests of public safety.

2. The building hereby approved shall be erected unless an Energy Statement applicable to that building has been submitted to and approved in writing by the planning authority. The Energy Statement shall include the following items:

- a) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development;
- b) Calculations using the SAP or SBEM methods, which demonstrate that the reduction in carbon dioxide emissions rates for the development, arising from the measures proposed, will enable the development to comply with Policy C1 of the Aberdeenshire Local Development Plan 2017. The development shall not be occupied unless it has been constructed in full accordance with the approved details in the Energy Statement. The carbon reduction measures shall be retained in place and fully operational thereafter.

Reason: To ensure this development complies with the on-site carbon reductions required in Scottish Planning Policy and Policy C1 of the Aberdeenshire Local Development Plan 2017.

3. The premises shall not be brought into use unless details of an odour control system to be installed in the premises have been submitted to and approved in writing by the planning authority. The design of the proposed system shall have regard to the DEFRA document 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems'. The premises shall not operate

unless the odour control system has been installed in accordance with the approved details and its operation has been demonstrated to the planning authority. Once provided, the approved odour control system shall be permanently retained thereafter.

Reason: To ensure that odour from the development does not result in undue loss of amenity for surrounding properties.

4. That the surface water drainage shall be provided in accordance with the approved plans and drainage assessment (Glanville, December 2018) and should not be brought into use unless the approved drainage system has been implemented in this form. Following provision of the drainage system it shall thereafter be maintained by the developers or their successors in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and maintained, in the interests of the amenity of the area.

5. The development hereby approved shall not be brought into use unless all soft and hard landscaping proposals (including post and wire fencing within boundary hedging) have been carried out in accordance with the approved planting scheme and management programme. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Once provided, all hard landscaping works shall thereafter be permanently retained.

Reason: To ensure the implementation and management of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

6. The development hereby approved shall not be brought into use unless all roads, footpaths, vehicle parking and turning areas, and cycle racks serving the development, have been provided and completed to the current Aberdeenshire Council road construction standards and in accordance with the approved details. Once provided, all roads, 44 carparking spaces, footpaths and turning areas shall thereafter be permanently retained as such.

Reason: To ensure the provision of a means of access and turning space to an adequate standard in the interests of road safety.

7. The development hereby approved shall not be brought into use unless a litter collection policy and plan for the development has been submitted to and approved in writing by the planning authority. All the measures identified in the approved policy and plan shall be in place and fully operational before the premises are open to members of the public. Thereafter, the premises shall not operate other than in complete accordance with the approved litter collection policy and plan.

Reason: In the interests of the amenities of the surrounding area.

8. Noise level due to the operation of the ventilation plant when measured at 1m from any window, door or other ventilation opening serving any adjacent property shall not exceed 38 dB LAeq (1 hour).

Reason: To ensure that noise from the development does not result in undue loss of amenity for surrounding properties.

9. That all deliveries be completed (meaning that all delivery vehicles enter and exit the site) as per the approved Delivery and Servicing Management Plan (Rev A), by ADL Traffic and Highways Engineering Ltd, dated June 2019. For the avoidance of doubt, this shall be out with the hours of operation of the facility specified in condition 10 of this permission unless otherwise approved in writing in advance by the planning authority.

Reason: In the interests of road traffic, pedestrian and cyclist safety.

10. The development hereby approved shall not operate (i.e. be open to the public) out with the hours of 06:00 hours to 00:00hours.

Reason: In the interests of road traffic, pedestrian and cyclist safety

In accordance with section 5.2.6 of the Council's Standing Orders, Councillors Berry, Ewenson, Ford and McKelvie entered their dissent against the decision taken.

The Committee requested that the Head of Planning and Building Standards choose not to exercise his delegated power in the determination of pending advertisement consent applications for the same site.

D. Reference No: APP/2019/0962

Full Planning Permission for erection of dwellinghouse at land at Upper Mains of Disblair, Newmachar

Applicant: Mr Brian Anderson
Agent: MAC Architects

The Chair indicated that a request to speak had been received from an objector. The Committee **agreed** to hear from this party.

The Planner explained that the application was for the erection of a dwellinghouse on an unallocated site in the countryside. She confirmed that the site, 2km from Newmachar had no formal access but was located 50 metres from a track. She confirmed that the site was currently overgrown, but that on inspection of the site previous development was evident in respect of the outline of the footprint of a building and it was therefore considered that the site had not been naturalised and could be considered brownfield.

Members sought clarification regarding the definition of brownfield. It was confirmed that the site could be overgrown but needed to have evidence of the former use of the site still in place. She confirmed that the footprint of the previous buildings were evident on site in this case and that the footprint corresponded with historic information about the site.

The Chair invited Ms Marjory Harper, an objector to the application, to address the Committee. Ms Harper highlighted concerns regarding scale and design, questioned the degree of remains evident on site and stressed the need to contain the development within the same curtilage. She pointed out that the proposal encroached on agricultural land, was on a prominent site breaching the horizon and was not in keeping with the surrounding area.

Following clarification of access arrangements, the Chair thanked Ms Harper and she returned to the public benches.

Some Members were concerned by the proposals and indicated that there was unlikely to have been anything on site for a significant period of time. They considered the site to be naturalised as a result and also highlighted the loss of trees, the prominence of the site in the landscape and the loss of agricultural land.

However, other Members accepted the view of the Planning Service that the site was brownfield and were content to approve the application.

Councillor Ford, seconded by Councillor McKail, moved that the application be refused on the grounds that :-

- a) the application is contrary to Policy P2 as the site is naturalised;
- b) the proposed building is much larger and would result in the loss of agricultural land;
- c) the proposals would result in the loss of trees; and
- d) the site is very prominent in the landscape.

The application was therefore not considered to comply with Policies P1, P2 and PR1

As an amendment, Councillor Whyte, seconded by Councillor Hood, moved a delegated grant subject to the delegated matters and conditions detailed in the report.

The Committee voted:-

For the motion (6) Councillors Berry, Ewenson, Ford, McKail, McKelvie and Smith

For the amendment (6) Councillors Hood, Aitchison, Baillie, Harper, Reid, and Whyte

Councillor Lonchay declined to vote.

There being an equality of votes, the Chair was invited to exercise his casting vote. The Chair indicated that he did not wish to use his casting vote and sought legal advice as to how to progress. The Senior Solicitor indicated that if the committee could not determine the matter then, as the Council has a statutory requirement to determine the application, it would require to be referred to Infrastructure Services Committee for final determination.

The Committee **agreed** to refer the application to Infrastructure Services Committee for further determination.