

ABERDEENSHIRE COUNCIL

GARIOCH AREA COMMITTEE

COUNCIL CHAMBER, GORDON HOUSE, INVERURIE

ON 17 SEPTEMBER 2019

Present: Councillors F Hood (Chair), D Aitchison, N Baillie, L Berry, M Ewenson, M Ford (for items 1 to 7), V Harper, R McKail, A McKelvie, G Reid, I Walker and J Whyte

Apologies: Councillors S Leslie, D Lonchay and H Smith

Officers: M-J Cardno (Garioch Area Manager), A Overton, (Senior Solicitor), B Strachan (Senior Planner), T O'Connor (Principal Engineer), Douglas Rennie (Business Development Executive), Alistair Reid (Team Manager) and Alison Cumming (Area Committee Officer).

In Attendance: Willie Chisholm (Scottish Fire and Rescue Service) and Kevin Bonarius (Garioch Sports Centre)

1. DECLARATIONS OF MEMBERS' INTERESTS

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

Item 9 – Councillor Whyte as her husband is a Trustee in the operational arm of the organisation. Councillor Whyte left the Council Chamber whilst the item was considered.

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.

3. MINUTE OF MEETING OF 27 AUGUST 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. MINUTE OF SPECIAL MEETING OF 3 SEPTEMBER 2019

In accordance with Standing Order 7.1.1, the Committee **agreed** that the Minute was a correct record of proceedings subject to the addition of "...it is the perception of the SDP that..." after "Westhill as..." to Issue 5 Spatial Strategy last sentence of first paragraph text and recommendation 7. The Minute was duly signed and the amendments initialled by the Councillor presiding over the meeting.

The Chair thanked Officers for their work in compiling the minute.

5. SCOTTISH FIRE AND RESCUE SERVICE – GARIOCH AREA PERFORMANCE REPORT FOR QUARTER 11ST APRIL – 30TH JUNE 2019

A joint report by the Director of Business Services and Local Senior Officer (Aberdeenshire and Moray), Scottish Fire and Rescue was circulated presenting the performance information for the first quarter of 2019/20.

The Station Manager gave the Committee an overview of the performance information and highlighted current priorities and initiatives being undertaken by the Service. The Committee welcomed the positive report and sought clarification regarding some of the information provided.

The Committee **agreed** to note the attached performance report relating to the period and thank the Officers for the work that they do in Garioch.

6. 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/2018/2802	Display of advertisements (on building) at site east of Unit 1, Kingshill Commercial Park East, Venture Drive, Westhill	Grant
	APP/2018/2803	Display of advertisements (totem) on site at Straik Road, Westhill	Grant
	APP/2019/1865	Installation of 4 freestanding digital illuminated signs, 3 banner signs, 12 directional signs and 1 illuminated Play Land Logo on site at Straik Road, Westhill	Grant
B.	APP/2019/1184	Extension to holiday caravan park: removal of Condition 4 of Planning Permission Ref. APP/2011/1082 at Hillhead Caravan Park, Kintore, Aberdeenshire, AB51 0YX	Refuse

7. ABERDEENSHIRE COUNCIL ROAD INSPECTION POLICY UPDATE REPORT

A report by the Director of Infrastructure Services was circulated providing the Committee with an update following the implementation of the Roads Inspection Policy in 2018.

Members welcomed the report and received clarification about a number of issues.

The Committee **agreed** to note that the year one review of the policy in line with Council's Policy Framework procedures has been completed.

8. ECONOMIC ACTIVITY IN GARIOCH – APRIL 2018 TO MARCH 2019

A report by the Director of Infrastructure Services was circulated updating the Committee on work undertaken by Economic Development in the past financial year.

Members sought clarification on a number of the initiatives detailed. The Business Development Executive provided responses and undertook to report back informally in relation to queries about initiatives for assisting unemployed residents, the number of business start ups not done through Business Gateway and the broadband speed being experienced by households in Garioch.

The Committee **agreed** to:-

1. note the content of the report;
2. request that links be provided where documents are being referred to in future reports.

9. DISPOSAL OF STRATHBURN PARK TO GARIOCH SPORTS AND COMMUNITY CENTRE HOLDINGS (SC047471), PRINCIPAL OFFICE, AXIS BUSINESS CENTRE, THAINSTONE, INVERURIE, ABERDEENSHIRE

As indicated under item 1, Councillor Whyte declared an interest and left the Council Chamber whilst the item was considered.

A report by the Director of Education and Children's Services was circulated providing the Committee with detailed information about the disposal of Strathburn Park to Garioch Sports and Community Centre Holdings and their plans for this area.

The Area Manager explained that the disposal was originally identified as an Asset Transfer, but the Council had considered it appropriate to release the asset to the community outwith this process. She explained that the maximum the group was able to draw down from the Land Fund was £475,000 and that Officers considered that the community benefit derived from the project meant it was appropriate to allow the group a 5% discount from the £500,000 market value. She stressed that the market value was based on having no tenant and the group currently had a 99-year lease in place. She explained that the proposals would see the provision of a centre of tennis excellence.

Members were supportive of the project, but were keen to ensure that their endorsement of the business plan did not commit the Council to any funding requirements identified. They were assured that this was the case and that if the group was unable to achieve the £475,000 from the Land Fund that any further decision would be referred to Committee.

The Committee **agreed** -

1. to endorse the business plan and associated information provided by Garioch Sports and Community Centre Holdings as providing a sound basis for the future management of the site as outlined in Appendix I, whilst noting that endorsing the business plan would not commit the Council to any funding towards the project;.
2. that Garioch Sports and Community Centre Holdings (SC047471) is an appropriate body to dispose this asset to; and
3. that full ownership of the site as outlined in Appendix II be transferred at the sum of £475,000 and instruct officers to conclude negotiations in a timely manner.

Councillor Presiding over meeting

Print Name

Signature

Date

GARIOCH AREA COMMITTEE

17 SEPTEMBER 2019

APPENDIX A

PLANNING APPLICATIONS FOR DETERMINATION

A. Reference No: APP/2018/2802

Advertisement Consent for display of advertisements (on building) at site to the east of Unit 1, Kingshill Commercial Park East, Venture Drive, Arnhall Business Park, Westhill

Reference No: APP/2018/2803

Advertisement Consent for display of advertisements (totem) at site at Straik Road, Westhill

Reference No: APP/2019/1865

Advertisement Consent for installation of 4 freestanding digital illuminated signs, 3 banner signs, 12 directional signs and 1 illuminated Play Land Logo at site at Straik Road, Westhill

Applicant: McDonalds Restaurants Ltd

Agent: Planware Ltd

The Senior Planner explained that the application was being reported to Committee as the Head of Planning and Environment had agreed to give up his delegated powers to determine the applications. He confirmed that the report was made up of 3 separate applications each of which covered separate elements of advertisements throughout the site. He confirmed that following the approval of permission for the main restaurant application, further negotiation had taken place with the applicant regarding reducing the height of the totem and this had secured a revised proposal of 8 metres instead of 12 metres. He confirmed that this was in line with the Starbucks totem height nearby. He confirmed that the Roads Service had raised no objections and that the proposals were not considered to detract from the character and amenity of the surrounding area

Thereafter, the Committee **agreed** to grant Advertisement Consent unconditionally for applications APP/2018/2802, APP/2018/2803 and APP/2019/1865.

Reason for Decisions

The advertisements would comply with Policy P1 Layout, siting and design of the Aberdeenshire Local Development Plan and the 1984 Advertisement Regulations. As such, the application is recommended for approval.

B. Reference No: APP/2019/1184

Full Planning Permission for extension to holiday caravan park: removal of condition 4 of planning permission Ref. APP/2011/1082 at Hillhead Caravan Park, Kintore, Aberdeenshire, AB51 0YX

Applicant: Mrs Helen Sutherland

Agent: Theresa Hunt, Burness Paull, Union Plaza, 1 Union Wynd, Aberdeen, AB10 1DQ

The Chair indicated that there had been a number of requests to speak. The Committee **agreed** to hear from the parties concerned.

The Senior Planner explained that the application is for the removal of a condition that was attached to the approval for the extension of the caravan park. He explained that this condition was in place to ensure that the caravans were used solely for holiday accommodation and not occupied on a permanent basis or as a principal residence. He confirmed that it also required the closure of the entire site for a period of two weeks each year.

The Senior Planner confirmed that the extension was approved for 20 caravans, but that only 18 caravans were currently sited. He explained that the proposed removal of the condition failed to comply with 3 policies; H4 as caravans are not deemed suitable for permanent accommodation, B3 as the proposal would see the loss of holiday accommodation and R2 as the proposal would result in the development of 18 houses in the countryside.

The Senior Planner explained that it had been established through enforcement investigations that 4 units were immune from enforcement action as evidence had been provided that these had been used as residential homes for more than four years. He confirmed that of the remaining 14 units, 4 were being used as holiday accommodation under the ownership of the applicant and the remaining 10 units were occupied in breach of condition 4. He confirmed that support for the application would require provision of developer obligations and appropriate licences to be granted. He said that the applicant had made a number of assertions within the supporting statement which were contested by the Planning Service and he confirmed that approval for the application would result in an undesirable precedent being set for similar development elsewhere in Aberdeenshire. He brought the Committee's attention to the Equalities Impact Assessment which was provided along with the report which identified the impact on residents who were elderly or disabled, but highlighted the need to consider the weight that should be given to this against the Planning Policies. He also confirmed that should the Committee be minded to support the application it would require to be referred to Infrastructure Services Committee for further consideration.

Members sought clarification about whether the fact that the permission had not been implemented correctly (18 units instead of 20) caused any issues. The Senior Planner explained that the implementation of less units had resulted in more generous sites and as they were not dwellinghouses micro siting of these was expected. Members asked whether any correspondence had taken place regarding the closure of the site each year. The Senior Planner confirmed that correspondence had been received in 2013 regarding the two week closure, but he was not aware that there had been further contact made after that.

The Chair invited Theresa Hunt, applicant's agent to address the Committee. Ms Hunt contended that the proposals were a unique set of circumstances and would not set an undesirable precedent for other similar development. She said that giving planning permission would preserve the status quo and would not result in the loss of tourist accommodation as it is currently being used for residential use.

Members sought clarification from Ms Hunt about the status of the development on site and what they had consent for. Ms Hunt confirmed that they were consented as holiday accommodation. Members asked why the applicant did not enforce the closure of the site

each year. Ms Hunt indicated that she assumed that the residents contacted the Council directly about the closure. Members asked why she considered that approval would not result in similar applications elsewhere. Ms Hunt said that the application was about regularisation of the current situation. She explained that as the 4 holiday units were scattered throughout the site, the application was for all of the units on site. The Chair thanked Ms Hunt and she returned to the public benches.

The Chair invited Maureen Anderson, a resident of the site and supporter of the application, to address the Committee. Ms Anderson explained the position that residents found themselves in and the financial and other implications for them of the application being refused. She explained the standard of accommodation provided and suggested that it was appropriate for residential use. She confirmed that the properties were sold to residents as permanent residences, but confirmed that they did not have this in writing. The Committee sought some clarification regarding the purchase of the properties and highlighted that the majority of the issues raised by Ms Anderson were not planning issues and could not be taken into account by the Committee. The Chair thanked Ms Anderson and she returned to the public benches. The Chair invited Dr Paul Davison to address the Committee. Dr Davison pointed out that some of these properties were still on sale as permanent residences on the internet that day in contravention of condition 4 and the listing did not give any indication that they did not have planning permission. There were no questions and the Chair thanked Dr Davison, who returned to the public benches.

The Senior Planner clarified that although the assertion was made that the Council no longer applied occupancy conditions, this was not correct. Similar conditions are still applied to sites granted for tourist accommodation and it was considered right to do so. He confirmed that residents had not made contact regarding closure of the site and any owner going away would not constitute the site being closed. He accepted that the caravans were substantial static caravans, but clarified that they were still considered to be caravans in the legislation.

Members sought further clarification about the description for caravans and the result of approval of the application being the development of 18 houses in the countryside.

Members expressed sympathy for the situation that residents found themselves in, but they highlighted the precedent that approving the application would set. They suggested that residents may wish to inform Trading Standards Officers about the marketing of their properties and that they might need to take advice about their legal position in respect to the owner. They welcomed confirmation from the Area Manager that Officers were looking at how the Council could assist the residents, but stressed that granting planning permission as applied for was not the right approach to deal with the issue that has arisen.

The Committee **agreed** to refuse Full Planning Permission for the following reasons:-:

1. The removal of condition 4 would constitute an unacceptable departure to Policy H4: Residential Caravans of the Aberdeenshire Local Development Plan 2017. Mobile units are not deemed suitable accommodation for permanent use as a principal residence and the policy explicitly states that extensions to residential caravan sites or new residential sites will not generally be supported.
2. The removal of condition 4 would constitute an unacceptable departure to Policy B3: Tourist Facilities of the Aberdeenshire Local Development Plan 2017. The proposal would constitute an unacceptable loss of approved tourist accommodation. No justification has been provided for the loss of the tourist accommodation, no marketing has taken place and it has not been demonstrated that the accommodation for tourist use is no longer viable.
3. The removal of condition 4 would constitute an unacceptable departure to Policy R2: Housing and employment development elsewhere in the countryside of the

Aberdeenshire Local Development Plan 2017. The creation of 18 permanent residences is in excess of small-scale development.