

**ABERDEENSHIRE COUNCIL****WOODHILL HOUSE, ABERDEEN, 26 JANUARY, 2017**

**Present:** Councillors W A Agnew, D R Aitchison, Amanda J Allan, Anne M Allan, P J Argyle, P W Bellarby, A A Bews, G Blackett, C C Buchan, G W Carr, R A Cassie, E H Chapman, R J Christie, C Clark, G J Clark, K L Clark, L Clark, R Cowling, J B Cox, A J C Cullinane, I Davidson, J B Dick, A C Duncan, A Evison, M A Findlater, M A Ford, A Gardiner, J N Gifford, A S Grant, A Hendry, F C P Hood, W Howatson, M F Ingleby, J Ingram, P K Johnston, J J Latham, S M Lonchay, C R McKail, F McRae, R J Merson, I J Mollison, C H Nelson, G L Owen, G E Petrie, L Pirie, S W Pratt, E A Robertson, M J Roy, W A C Shand, N J Smith, S W Smith, D Stewart, M M Stewart, B H Stuart, I S Tait, I W Taylor, R G Thomson, B A Topping, H W Vernal, I M Walker, M Watt and J Webster.

**Apologies:** Councillors A S Buchan, T Malone, A K Norrie, P Oddie and H Partridge.

**Officers:** Director of Business Services, Director of Education and Children's Services, Director of Infrastructure Services, Chief Officer (Health and Social Care Partnership), Head of Finance, Head of Legal and Governance, Head of Planning and Building Standards, Head of Property and Facilities Management, Head of Lifelong Learning and Leisure.

**CHAIR**

Councillor H W Vernal, Provost of the Council, presided.

**HOLOCAUST MEMORIAL DAY**

Prior to consideration of the business of the meeting, the Provost invited Councillor Cassie to speak on Holocaust Memorial Day, which was marked annually on 27 January in the UK and a number of other countries. This year's theme was 'How can life go on?', and a short film had been created to challenge everyone to think about how we could support those who faced hostility today and create a safer society together. The Council would be showing its support for the work the HMD Trust did and encouraged everyone in Aberdeenshire to view this year's video and share it on their social media accounts.

**COUNCILLOR KATRINA FARQUHAR**

The Provost referred to former Councillor Katrina Farquhar, who had recently resigned from the Council, and advised that she had written to him asking that he pass on her thanks to all those who had sent her messages of goodwill and best wishes.

**NEW YEAR'S HONOURS**

The Provost referred to nine people from the North East of Scotland who had been honoured in the New Year's Honours List and congratulated Dame Evelyn Glennie CH, Dame Katherine Grainger CBE, James Muirhead MBE, Professor Jonathan Paul Stephens MBE, Alistair Strachan MBE, Wilma Walker MBE, Gail McKeitch BEM, Elizabeth Smith BEM and Gordon Ritchie MRVO.

**1. DECLARATION OF MEMBERS' INTERESTS**

The Provost asked members if they had any interests to declare in terms of the Councillors' Code of Conduct. No interests were intimated.

## 2. RESOLUTIONS

### A. PUBLIC SECTOR EQUALITY DUTY

In making decisions on the following items of business, the Council **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 their decision.

### B. EXEMPT INFORMATION

The Council **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 Item 13 below so as to avoid disclosure of exempt information of the class described in paragraph 9 of Part 1 of Schedule 7A of the Act.

## 3. MINUTES

The following Minutes of Meetings were considered and, in regard to delegated matters, were **approved** as correct records, and in relation to non-delegated matters the recommendations were **approved**.

- (1) Aberdeenshire Council on 24 November, 2016.
- (2) Formartine Area Committee on 25 October, 2016.
- (3) Kincardine and Mearns Area Committee on 25 October, 2016.
- (4) Local Review Body on 28 October, 2016.
- (5) Banff and Buchan Area Committee on 1 November, 2016.
- (6) Marr Area Committee on 1 November, 2016.
- (7) Scrutiny and Audit Committee on 3 November, 2016.
- (8) Buchan Area Committee on 8 November, 2016.
- (9) Garioch Area Committee on 8 November, 2016.
- (10) Social Work and Housing Committee on 10 November, 2016.
- (11) Formartine Area Committee on 15 November, 2016.
- (12) Kincardine and Mearns Area Committee on 15 November, 2016.
- (13) Policy and Resources Committee on 17 November, 2016.

- (14) Appeals Committee on 18 November, 2016.
- (15) Banff and Buchan Area Committee on 22 November, 2016.
- (16) Marr Area Committee on 22 November, 2016.
- (17) Local Review Body on 25 November, 2016.
- (18) Buchan Area Committee on 29 November, 2016.
- (19) Garioch Area Committee on 29 November, 2016.
- (20) Infrastructure Services Committee on 1 December, 2016.
- (21) Infrastructure Services Committee (Special) on 1 December, 2016.
- (22) Education, Learning and Leisure Committee on 8 December, 2016.
- (23) Appeals Committee on 12 December, 2016.
- (24) Scrutiny and Audit Committee on 15 December, 2016.

### **3A. NOTICE OF MOTION TAKEN AS A MATTER OF URGENCY**

From Councillor Tait:-

“Council will request the Scottish Government to apply the recent Rates rises on a phased transitional basis in order to avoid damage to businesses and employment within Aberdeenshire and absorb the shortfall over the transitional period so that it is not passed on to Councils.”

Councillor Tait spoke to his motion which was seconded by Councillor Watt.

As an amendment, Councillor Gifford moved that:-

“The Council notes with real concern the impact that the Business Rates Revaluation will have on Aberdeenshire businesses.

The Council instructs the Co-Leaders to write to the Finance Secretary Derek McKay MSP to highlight this impact and to:

1. Demand that he suspends the planned increases until the ongoing Barclay Review is completed and actioned,
2. Demand that the Barclay Review includes a re-valuation of all NE businesses in order to take into account local market conditions, and
3. Press the case for transitional arrangements for Aberdeenshire businesses in order to mitigate the impact of future increases.”

In speaking to his amendment, Councillor Gifford proposed that it would be possible to combine the motion and the amendment with some minor adjustments to the wording. Councillor Tait, with the agreement of his seconder, agreed to the following combined wording.

“Council, as a minimum, will request the Scottish Government to apply the recent Rates rises on a phased transitional basis in order to avoid damage to businesses and employment within Aberdeenshire and absorb the shortfall over the transitional period so that it is not passed on to Councils.

The Council notes with real concern the impact that the Business Rates Revaluation will have on Aberdeenshire businesses.

The Council instructs the Co-Leaders to write to the Finance Secretary Derek McKay MSP to highlight this impact and to:

1. Request that he suspends the planned increases until the ongoing Barclay Review is completed and actioned,
2. Request that the Barclay Review includes, if it is possible to do so, a re-valuation of all NE businesses in order to take into account local market conditions and, if not, to ask the Minister to instruct such a re-valuation, and
3. Press the case for transitional arrangements for Aberdeenshire businesses in order to mitigate the impact of future increases.”

As an amendment, Councillor S W Smith, seconded by Councillor Evison, moved that:-

“Council notes with concern the reported impact of the current Business Rates Revaluation.

The Council notes that it must remain mindful of the impact of the current revaluation on its own finances and limited financial scope to intervene.

The Council instructs officers to conduct an analysis of changes to the business rates roll across Aberdeenshire with a view to:

1. Identifying the scale of any changes, and to identify any geographical areas or business sectors within Aberdeenshire which appear to be particularly affected.
2. Instructing the Co-Leaders to share the outcome of this analysis with the Scottish Government, and to request any appropriate mitigation measures in response.”

During the ensuing debate, Councillor S W Smith, with the agreement of his seconder, agreed to amend the wording of 2 to read “Instructing the Co-Leaders to share the outcome of this analysis with the Scottish Government, and to request any appropriate mitigation measures, including transitional relief or suspension, in response”.

After a full debate and an adjournment to see whether it was possible to reach a consensus across the Council, the members of the Council voted:-

for the motion	(31)	Councillors Agnew, Argyle, Bellarby, Carr, Chapman, C Clark, K L Clark, Cowling, Cullinane, Davidson, Findlater, Gardiner, Gifford, Hood, Howatson, Ingleby, Latham, McKail, Mollison, Nelson, Owen, Robertson, Roy, N J Smith, D Stewart, M M Stewart, Tait, Taylor, Walker, Watt and Webster.
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for the amendment	(31)	Councillors Aitchison, A J Allan, A M Allan, Bews, Blackett, C C Buchan, Cassie, Christie, G J Clark, L Clark, Cox, Dick, Duncan, Evison,
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Ford, Grant, Hendry, Ingram, Johnston, Lonchay, McRae, Merson, Petrie, Pirie, Pratt, Shand, S W Smith, B H Stuart, Thomson, Topping and Vernal.

There being an equality of votes, the Provost exercised his casting vote in favour of the amendment and declared **the amendment carried** as follows:-

“Council notes with concern the reported impact of the current Business Rates Revaluation.

The Council notes that it must remain mindful of the impact of the current revaluation on its own finances and limited financial scope to intervene.

The Council instructs officers to conduct an analysis of changes to the business rates roll across Aberdeenshire with a view to:

1. Identifying the scale of any changes, and to identify any geographical areas or business sectors within Aberdeenshire which appear to be particularly affected.
2. Instructing the Co-Leaders to share the outcome of this analysis with the Scottish Government, and to request any appropriate mitigation measures, including transitional relief or suspension, in response.”

#### 4. APPOINTMENT OF COMMITTEES, CHAIRS AND VICE CHAIRS

With reference to the Minute of Meeting of 24 November, 2016 (Item 8, Page 656) a report dated 16 January, 2017, by the Director of Business Services had been circulated requesting the Council to appoint the Chairs and Vice Chairs of the four new Policy Committees and the Audit Committee, and to appoint members (and substitute members where required) to these Committees, having regard to the political proportionality of the Council.

The Council **agreed**:-

- (1) to appoint the following Chairs and Vice Chairs of the four new Policy Committees and the Audit Committee:-

<b>Committee</b>	<b>Chair</b>	<b>Vice Chair</b>
Business Services	Councillor Thomson	Councillor S W Smith
Communities	Councillor A M Allan	Councillor Christie
Education and Children's Services	Councillor Evison	Councillor C C Buchan
Infrastructure Services	Councillor Aitchison	Councillor G J Clark
Audit	Councillor Owen	Councillor Cassie

- (2) to appoint members and substitute members to the four new Policy Committees using the current standard model for a 14 member committee of 7 (Alliance), 6 (Partnership), plus one other place allocated amongst the other councillors, and to appoint members and substitute members to the new Audit Committee using the current standard model for a 12 member committee of 6 (Alliance), 5 (Partnership), plus one other place allocated amongst the other councillors, with names to be submitted to the Director of Business Services within seven calendar days.

## **5. APPOINTMENTS TO VACANCIES ON GRAMPIAN VALUATION JOINT BOARD AND STRATEGIC DEVELOPMENT PLANNING AUTHORITY**

With reference to the Minute of Meeting of 24 November, 2016 (Item 5, Page 654), a report dated 27 December, 2016, by the Director of Business Services had been circulated requesting the Council to appoint a replacement member on the Grampian Valuation Joint Board and a replacement substitute member on the Strategic Development Planning Authority to fill the vacancies previously held by Councillor Gray.

The Council **agreed**:-

- (1) to appoint Councillor C C Buchan to fill the vacancy on the Grampian Valuation Joint Board,
- (2) to appoint Councillor Duncan to fill the consequential vacancy for a substitute member on the Grampian Valuation Joint Board, and
- (3) to appoint Councillor B H Stuart to fill the vacancy for a substitute member on the Strategic Development Planning Authority.

## **6. APPOINTMENT OF HEALTH AND SOCIAL CARE PARTNERSHIP POSTS AS COUNCIL OFFICERS**

With reference to the Minute of Meeting of 21 January, 2016 (Item 5, Page 997), a report dated 21 December, 2016, by the Chief Officer, Aberdeenshire Health and Social Care Partnership, had been circulated requesting the Council to appoint Health and Social Care Partnership posts as Council Officers. The report stated that these management posts could be filled either by employees of the Council or by employees of NHS Grampian. Although employees of the Council were automatically Officers of the Council, employees of the NHS were not. It was necessary to ensure that all those appointed to these roles were appointed as Officers of the Council, regardless of their employer, to enable NHS Grampian postholders to authorise spend from council budgets under direction from the Integration Joint Board in the same way as their council colleague equivalents in accordance with Financial Regulations.

The Council **agreed**:-

- (1) that the people appointed to the posts detailed in Appendix 1 of the report, being the management structure of the Aberdeenshire Health and Social Care Partnership, be appointed as Officers of the Council, and
- (2) that officers provide a briefing note with details of the management structure, the associated costs of the structure and any training that might be required with regard to the Financial Regulations and procurement policies of the Council.

## **7. THE WORK OF THE NEW AUDIT COMMITTEE AND TRANSITIONAL ARRANGEMENTS**

With reference to the Minute of Meeting of the Scrutiny and Audit Committee of 15 December, 2016 (Item 9, Page 927), a report dated 13 December, 2016, by the Director of Business Services had been circulated requesting the Council to approve arrangements to deal with the topics still outstanding from the Scrutiny and Audit Committee's agreed programme of scrutiny work for 2016, which would not be fully completed by the date of implementation of the new Scheme of Governance.

The Council **agreed**:-

- (1) to note that the Scrutiny and Audit Committee's agreed programme of scrutiny work for 2016 would not be fully completed by the date of implementation of the new Scheme of Governance on 27 January, 2017,
- (2) that reports on the outstanding scrutiny topics as detailed in paragraph 2.7 of the report be received by the Audit Committee at its meeting on 15 February, 2017,
- (3) that update reports on the investigations detailed in paragraph 2.9 of the report, previously approved by Aberdeenshire Council, be received by the Audit Committee, and
- (4) to delegate the following powers to the Audit Committee:-
  - (a) to consider reports on the scrutiny topics set out in paragraph 2.7 of the report at its meeting on 15 February, 2017, and either dismiss the topic from future work or recommend to the appropriate Area or Policy Committee that it consider the findings of the Scrutiny and Audit Committee/Audit Committee as part of its own scrutiny activity, and
  - (b) to monitor the implementation of the recommendations for the investigations set out in paragraph 2.9 of the report, to make follow-up recommendations if required, and to agree dismissal of those investigations.

## **8. ABERDEENSHIRE SOUTH DIVISIONAL LICENSING BOARD**

With reference to the Minute of Meeting of 17 May, 2012 (Item 8, Page 21), a report dated 5 January, 2017, by the Director of Business Services had been circulated advising of the resignation of Councillor Farquhar and requesting the Council to decide whether to elect a Member to the South Divisional Licensing Board for the purposes of the Licensing (Scotland) Act 2005, or to resolve that the number of members on the South Divisional Licensing Board should be temporarily reduced to seven for the remainder of the duration of this Council.

The Council **agreed** to resolve that the number of members on the South Divisional Licensing Board be temporarily reduced to seven for the remainder of the duration of this Council.

## **9. SCRUTINY AND AUDIT COMMITTEE REPORT ON FREEDOM OF INFORMATION**

With reference to the Minute of Meeting of the Scrutiny and Audit Committee of 1 July, 2016 (Item 7, Page 227), a report dated 9 January, 2017, by the Director of Business Services had been circulated detailing the management response to the conclusions and recommendations arising from the Scrutiny and Audit Committee's report on the Freedom of Information investigation.

Councillor Owen, Chair of the Scrutiny and Audit Committee, introduced the report and commented on the main findings of the investigation.

The Council **agreed** to approve the recommendations and management response to the Scrutiny and Audit Committee report on Freedom of Information, a summary of which was set out in Appendix 1 of the report.

**COUNCILLOR TOM MALONE**

The Provost referred to the announcement by Councillor Tom Malone that he was resigning from the Council with effect from the end of January due to ill-health. The Provost stated his presence in the Council would be missed and offered Councillor Malone the very best wishes of the Council for the future. Councillors N J Smith, Gifford and Thomson, on behalf of their groups, associated themselves with these remarks.

**10. OFFICE SPACE STRATEGY ASSESSMENT STUDY**

With reference to the Minute of Meeting of 24 November, 2016 (Item 3(24), Page 651), a report dated 12 January, 2017, by the Director of Business Services had been circulated presenting the interim recommendations of the Office Space Strategy Working Group which had been established to examine the strategic appraisal of office space for the effective delivery of council services across Aberdeenshire, whilst acknowledging the existing workSPACE Strategy and the Council's budgetary challenges. The report stated that the Working Group had met on two occasions and provided detailed information on the issues which had been considered in relation to workSPACE, consolidation options, Gordon House and Woodhill House, the potential for a Public Sector Hub in Inverurie, economic benefits, the potential to create office space in other settlements, dispersal of staff and the identified risks.

Councillor Thomson, seconded by Councillor Gifford, moved approval of all the recommendations as detailed in the report, namely that the Council:-

- (1) approve the Revised Business Case for Option 2, namely:
  - (a) a new Council office at Harlaw, Inverurie, to house the functions of Gordon House and Woodhill House,
  - (b) explore options to consolidate existing offices in Ellon into a new office in Ellon,
  - (c) explore options to refurbish and expand Viewmount/Carlton House, Stonehaven,
  - (d) instruct Officers to negotiate to acquire Harlaw Park (Locos Ground), Inverurie, in order to provide an option to facilitate a Public Sector Hub,
  - (e) in principle, to relocate Colony Park if needed as part of the proposals, and
  - (f) instruct Officers to provide a Masterplan for the Harlaw site,
- (2) instruct Officers to progress to Gateway Stage 2 to develop the proposed Harlaw option,
- (3) instruct Officers as part of the Gateway Stage 2 process to collaborate with Public Sector partners for potential re-location opportunities for the proposed Inverurie facility, provided that it did not delay the process, and report on the preferred option for the future use of Woodhill House,
- (4) instruct Officers to continue to expand the Worksmart principles for increased flexibility of deployment across Aberdeenshire to maximise productivity from staffing resources,
- (5) instruct Officers to continue to explore opportunities to make the best use of Council properties which would maximise the economic and social benefits, and

- (6) establish a Member/Officer Working Group to oversee the progress of the project, to continue beyond the May elections.

During the ensuing debate, Councillor Thomson, with the agreement of his seconder, agreed to add an additional recommendation (7) to instruct Officers to bring forward a timetable, to be considered by the Working Group, to demonstrate a staged implementation plan, scrutiny and reporting mechanisms for each part of the process.

As an amendment, Councillor Tait, seconded by Councillor Agnew, moved that the Council take no action to move the Council headquarters to Inverurie, in effect rejecting all the recommendations in the report except those relating to exploring options to consolidate existing offices in Ellon into a new office in Ellon and exploring options to refurbish and expand Viewmount/Carlton House, Stonehaven.

After a full debate, the members of the Council voted:-

for the motion	(50)	Councillors Aitchison, A J Allan, A M Allan, Argyle, Bellarby, Blackett, C C Buchan, Cassie, Chapman, Christie, C Clark, G J Clark, K L Clark, L Clark, Cowling, Cullinane, Davidson, Duncan, Evison, Findlater, Ford, Gifford, Grant, Hendry, Hood, Howatson, Ingleby, Ingram, Johnston, Latham, Lonchay, McKail, McRae, Merson, Owen, Petrie, Pirie, Pratt, Robertson, Shand, N J Smith, S W Smith, M M Stewart, B H Stuart, Taylor, Thomson, Topping, Vernal, Walker and Webster.
for the amendment	(4)	Councillors Agnew, Carr, Nelson and Tait.
declined to vote	(2)	Councillors Mollison and D Stewart.
absent from the vote	(6)	Councillors Bews, Cox, Dick, Gardiner, Roy and Watt.

The **motion was carried** and the Council **agreed**:-

- (1) to approve the Revised Business Case for Option 2, namely:
- (a) a new Council office at Harlaw, Inverurie, to house the functions of Gordon House and Woodhill House,
  - (b) explore options to consolidate existing offices in Ellon into a new office in Ellon,
  - (c) explore options to refurbish and expand Viewmount/Carlton House, Stonehaven,
  - (d) instruct Officers to negotiate to acquire Harlaw Park (Locos Ground), Inverurie, in order to provide an option to facilitate a Public Sector Hub,
  - (e) in principle, to relocate Colony Park if needed as part of the proposals, and
  - (f) instruct Officers to provide a Masterplan for the Harlaw site,
- (2) to instruct Officers to progress to Gateway Stage 2 to develop the proposed Harlaw option,

- (3) to instruct Officers as part of the Gateway Stage 2 process to collaborate with Public Sector partners for potential re-location opportunities for the proposed Inverurie facility, provided that it did not delay the process, and report on the preferred option for the future use of Woodhill House,
- (4) to instruct Officers to continue to expand the Worksmart principles for increased flexibility of deployment across Aberdeenshire to maximise productivity from staffing resources,
- (5) to instruct Officers to continue to explore opportunities to make the best use of Council properties which would maximise the economic and social benefits,
- (6) to establish a Member/Officer Working Group to oversee the progress of the project, to continue beyond the May elections, and
- (7) to instruct Officers to bring forward a timetable, to be considered by the Working Group, to demonstrate a staged implementation plan, scrutiny and reporting mechanisms for each part of the process.

#### **11. ABERDEENSHIRE SPORT AND CULTURE TRUST - DEVELOPING A FULL BUSINESS CASE**

With reference to the Minute of Meeting of 24 November, 2016 (Item 10, Page 659), a report dated 14 December, 2016, by the Director of Education and Children's Services had been circulated providing further information on the proposal to consider an alternative service delivery model for sport and cultural services. The report provided further information about the controls and influence the Council would have over the services, in particular the accountability to elected members, the results of consulting the public about the principle of delivering services through a company and the workplan and costings for developing a Full Business Case, and highlighted some of the key issues which would be addressed as part of the next stage.

During discussion, there was a request for more detailed information to be provided as part of the Full Business Case about the condition of the assets that would be involved and the experience of other councils in Scotland which had already adopted this model, as well as information about what consultation had taken place with the other trusts operating within the Council area so that they would understand what impact the alternative service delivery model might have on them and give them the opportunity to join the Council model.

Thereafter, the Council **agreed**:-

- (1) to note the information regarding the available mechanisms for ensuring strong strategic alignment and democratic accountability,
- (2) to note the result of the public consultation,
- (3) to agree that officers should move to develop a Full Business Case for delivering sport and cultural services by establishing a charitable company limited by guarantee with Aberdeenshire Council as its sole member,
- (4) to agree that the Head of Legal and Governance be appointed as the interim director of the company,
- (5) to agree the key activities in developing the Full Business Case set out in paragraphs 2.10 - 2.11 of the report, and

- (6) to agree the cost of additional capacity and expertise to develop the Full Business Case.

**12. FULL PLANNING PERMISSION FOR PART RETROSPECTIVE FORMATION OF 7 PITCH CARAVAN PARK FOR GYPSIES/TRAVELLERS, (EACH PITCH COMPRISING PERMANENT MOBILE HOME STANCE/CHALET STANCE, ANCILLARY/TOURING STANCES, UTILITY BUILDING, PARKING AND ASSOCIATED INFRASTRUCTURE), LANDSCAPED BUNDS AND ACCESS ROAD AT SITE AT QUARRY WOOD, KEMNAY (REFERENCE NO. APP/2015/0541)**

With reference to the Minute of Meeting of the Garioch Area Committee of 20 December, 2016 (Item 6A), a report dated 28 December, 2016, by the Director of Infrastructure Services had been circulated requesting consideration of an application for Full Planning Permission for the part retrospective formation of a 7 pitch caravan park for gypsies/travellers, (each pitch comprising a permanent mobile home stance/chalet stance, ancillary/touring stances, utility building, parking and associated infrastructure), landscaped bunds and an access road at a site at Quarry Wood, Kemnay.

The report explained that this was a planning application which, in the opinion of the Director of Infrastructure Services, was considered to be of regional or national significance, and was referred to Council under the provisions of Section A17 of the Scheme of Delegation which reserved authority to the Full Council to determine planning applications in such circumstances.

The Head of Planning and Building Standards introduced the application and stated that the key considerations were the principle of this development with reference to the primary policy requirement, need and equalities, impact on residential amenity, impact on landscape character and visual impact, loss of trees and ancient woodland, and technical matters such as access, flooding and drainage, contaminated land and waste management. The primary policy in the determination of the principle of the development in this case had to be Policy 7 (Other special housing needs) and SG SHN3 (Gypsies/travellers) and not Policy 3 (Development in the countryside) and SG Rural development1 (Housing and business development in the countryside). SG SHN3 provided two criteria related to 'need' for the proposal and five sub-criteria that required to be met. As a private site, the developer did not have to prove a housing need in the same way as any other private housing applicant. They would however have to prove that the development of the site was appropriate and met the policies of the development plan. The proposal was considered to be acceptable and the officer recommendation was to grant full planning permission subject to conditions. The Garioch Area Committee had agreed to refer the application to Full Council with no specific view, but noted a number of concerns relating to the need for the provision to be proven, no distinction being made between travellers and the settled community in terms of planning policy, provision of replacement trees and shrubs, clarity about the exact scale of the development and the maximum number of caravans that would be on site and proper management of the site.

The Provost advised that requests to address the Council had been received from the applicants' agent and objectors, and the Council agreed to hear the deputations prior to the determination of the application.

Mr Alan Seath on behalf of the applicants addressed the Council in support of the application, which was intended for 15 adults and 15 children from one extended family. He commented that the principle of development on the site had been established and that there was no available site in the area for gypsies/travellers. The application would contribute to a reduction in unauthorised encampments in the area and elsewhere in Aberdeenshire. Following discussion with the Scottish Environmental Protection Agency (SEPA), the flood risk had been

resolved and SEPA were also satisfied with the drainage on the site and had withdrawn their objection to the application. Scottish Natural Heritage and Forestry Commission Scotland had been consulted in relation to the suggestion that there was ancient woodland on the site, and any trees lopped and topped had been done in accordance with requirements. He concluded that the application was in accordance with the development plan, the site was safe and suitable for its current use, it met a need and demand in the area and there was no reason to refuse the application.

Following questions from members about the number of people expected to be living on the site, the SEPA exemptions, the potential use of touring caravans, the purpose of the standpipes on the site and any plans to improve the bunding around the site, Mr Seath withdrew to the public benches.

Mr Alistair McKinlay and Sir Archibald Grant addressed the Council as objectors to the application. Mr McKinlay stated that he was speaking on behalf of the six neighbours who shared the same post code as Quarry Wood - AB51 5LU. He referred to the wholesale felling of trees and huge bonfires and stated that, to date, more than 160 trees had been felled. Approval of the application would be detrimental to the neighbouring properties. Compensatory planting far from the site was not reinstating the loss of local woodland. He asked whether the site was suitable to house potentially 80-100 people with sewage being a major concern. He urged the Council to reduce the size of the proposed development to what was presently on site. Sir Archibald stated that he was speaking on behalf of the Kemnay Community Council and the Cluny, Midmar and Monymusk Community Council. He stated that the applicant should only have been able to apply for planning permission after the enforcement conditions had been complied with. Officers should be defending the local development plan and not recommending departures from it. He suggested that there could be a population of 147 people for the site as a whole, and each person had to have access to 180 litres of clean drinking water per day, which could mean a total daily requirement of 26,460 litres of water. There were also problems in relation to discharge of effluent and the potential for the ditch to be an open sewer at certain times of the year. The number of stances should be limited to 3 in total and be for residential use only without any commercial vehicles, plant and equipment being stored on the site.

Following a question from a member about the loss of trees and ancient woodland and trees lost in strong winter winds, Mr McKinlay and Sir Archibald withdrew to the public benches.

Thereafter, Councillor Lonchay, seconded by Councillor Grant, moved that the Council refuse full planning permission as the application did not accord with a sufficient range of Council policies as detailed below.

As an amendment, Councillor Ford, seconded by Councillor Johnston, moved that the Council delegate authority to the Head of Planning and Building Standards to grant full planning permission, subject to the conditions set out in section 10.1 of the report, and with the additional requirement that officers negotiate with the applicants in terms of extending the distance between the buildings proposed in pitches 2 and 3 and the adjacent dwellinghouses, and between pitches 4 and 6 and the boundary of the site, in order to lessen the impact on the amenity of neighbours and to lessen the visibility of the site from the wider countryside.

The members of the Council voted:-

for the motion	(27)	Councillors A J Allan, Argyle, C C Buchan, Carr, Chapman, Christie, C Clark, L Clark, Cowling, Duncan, Findlater, Gifford, Grant, Hendry, Hood, Howatson, Ingleby, Ingram, Latham, Lonchay, McKail, McRae, Merson, Pirie, M M Stewart, Vernal and Webster.
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for the amendment	(24)	Councillors Aitchison, A M Allan, Bellarby, Cassie, G J Clark, K L Clark, Cullinane, Davidson, Dick, Evison, Ford, Johnston, Mollison, Owen, Petrie, Pratt, Robertson, Shand, N J Smith, S W Smith, D Stewart, Taylor, Thomson and Walker.
absent from the vote	(11)	Councillors Agnew, Bews, Blackett, Cox, Gardiner, Nelson, Roy, B H Stuart, Tait, Topping and Watt.

The **motion was carried** and the Council **agreed** to REFUSE Full Planning Permission for the following reasons:-

- (1) That the nature of the employment use on the site is unknown and despite the ability to review and monitor this, the proposal is contrary to Policy 1 (Business development) and SG Bus3 (Working from home) of the Aberdeenshire Local Development Plan 2012,
- (2) That the proposal is not a small scale development and is therefore contrary to Policy 3 (Development in the countryside) and SG Rural Development1 (Housing and business development in the countryside) of the Aberdeenshire Local Development Plan 2012. In addition, in respect of small scale development in the countryside, the proposal also fails to comply with Policy R2 Housing and business development elsewhere in the countryside of the Proposed Aberdeenshire Local Development Plan 2017,
- (3) That the applicant has not sufficiently demonstrated a need for the proposal, nor that the proposed development would not appreciably detract from the character or appearance of the area and would not significantly detract from the amenity currently enjoyed by residents in the area, contrary to Policy 7 (Other Special Housing Needs) and SG SHN3 (Gypsies/Travellers) of the Aberdeenshire Local Development Plan 2012. In addition, in respect of need and impact on character and amenity, the proposal also fails to comply with Policy H5 (Gypsies and travellers) of the Proposed Aberdeenshire Local Development Plan 2017,
- (4) That waste material has already been deposited showing a disregard for the site, the proposal is contrary to Policy 8 (Layout, siting and design of new development) and SG LSD10 (Contaminated land) of the Aberdeenshire Local Development Plan 2012. In addition, in respect of contamination, the proposal also fails to comply with Policy P4 (Hazardous developments and contaminated land) of the Proposed Aberdeenshire Local Development Plan 2017,
- (5) That there is potential for contamination of the water environment from soakaways installed to serve the site, the proposal is contrary to Policy 9 (Developer contributions) and SG Developer Contributions3 (Water and waste water drainage infrastructure) of the Aberdeenshire Local Development Plan 2012. In addition, in respect of waste water infrastructure, the proposal also fails to comply with Policy RD1 (Providing suitable services) of the Proposed Aberdeenshire Local Development Plan 2017, and
- (6) That the scale of tree removal has been unacceptable and the proposed compensatory planting is not to a sufficient standard, the proposal is contrary to Policy 14 (Safeguarding of resources and areas of search) and SG Safeguarding3 (Protection and conservation of trees and woodland) of the Aberdeenshire Local Development Plan 2012. In addition, in respect of the impact on woodland, the proposal also fails to

comply with Policy PR1 (Protecting important resources) of the Proposed Aberdeenshire Local Development Plan 2017.

**13. LAND ADJACENT TO CASKIEBEN FARM, KINELLAR EARMARKED FOR REPLACEMENT PRIMARY SCHOOL - WITHDRAWAL/DISCHARGE OF COMPULSORY PURCHASE ORDER**

With reference to the Minute of Meeting of 25 April, 2013 (Item 16, Page 2012), a report by the Director of Infrastructure Services had been circulated providing an update on the proposal to provide a replacement primary school at Kinellar. The report stated that, as a result of a change in circumstances, the previously approved Compulsory Purchase Order was no longer required and could no longer be justified.

The Council **agreed** to withdraw the Compulsory Purchase Order to acquire the area of land adjacent to Caskieben Farm, Kinellar, shown on the plan attached as Appendix A of the report, for the provision of a replacement primary school at Kinellar.