

ABERDEENSHIRE COUNCIL

BANFF AND BUCHAN AREA COMMITTEE COUNCIL CHAMBER, COUNTY HALL, LOW STREET, BANFF 18 DECEMBER 2018

Present: Councillors A Kille (Chair) C C Buchan, R A Cassie, J B Cox, M A Findlater, D Mair, G Reynolds, M J Roy (for Items 1-10) and B A Topping

Officers: Mrs A Keith, Interim Area Manager, Miss F M Stewart, Senior Solicitor; Mr J Martin, Senior Planner; Ms A Murphy, Senior Planner; Mr J D Naismith, Principal Engineer (Transportation); Ms M Booth, Quality Improvement Manager (By Skype); Mrs L Will, Senior Environmental Health Officer; Miss J E Emery, Area Project Officer; Mr A Lawal - Asset Management Surveyor, Mr R McGregor, Strategic Transportation Officer, Mrs C Pert, Environment Planner and Mrs E M Farquhar, Area Committee Officer

1. DECLARATION OF MEMBERS' INTERESTS

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

Item 4 (4) Councillor Findlater **declared an interest** by virtue of the fact that he is a relation of the contractor and, having applied the objective test, concluded that he would leave the meeting and take no part in the item.

Item 9 Councillor Cox **declared an interest** by virtue of the fact that his daughter used to work for the applicant and, having applied the objective test, concluded that he would leave the meeting and take no part in the item.

2. RESOLUTION

A. STATEMENT OF 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 their decision.

B. EXEMPT INFORMATION

The Committee **agreed** under Section 50A (4) and (5) of the local Government (Scotland) Act 1973, as amended, that the public and media representatives be excluded from the meeting for Items 11 and 12 of the business on the grounds that these items involved the likely disclosure of exempt information of the class described in Paragraphs 8 and 9 of Part 1 of Schedule 7A of the Act.

3. MINUTE OF MEETING OF 27 NOVEMBER 2018

The minute of meeting of 27 November 2018 had been circulated.

In relation to Appendix A - Item 5A - Full Planning Application Reference No APP/2018/1903, the Committee **agreed** to the addition of comment made by Councillor Roy that the information received at the site visit was “flawed”.

Thereafter, Councillor Findlater, seconded by Councillor Roy **moved** that a further amendment be made in relation to the same Item at line 1 of Paragraph 2 of the amendment as follows:

Remove “the” and add “only a few”.

As an amendment, Councillor Topping, seconded by Councillor Cox **moved** that the minute, in relation to Paragraph 2 of the amendment remain unchanged.

Members of the Committee voted:

For the motion	3	Councillors Findlater, Kille and Roy
For the amendment	4	Councillors Buchan, Cox, Reynolds and Topping
No vote	2	Councillors Cassie and Mair

The Chairman **declared the amendment** carried in the following terms:

that the draft minute be amended as stated above.

4. LIST OF OUTSTANDING BUSINESS AT 18 DECEMBER 2018

A list of outstanding business at 18 December 2018 had been circulated.

The Committee **noted** the outstanding business list.

Thereafter, the Committee **agreed**:

1. **to suspend standing order 7.2** to enable it to re-visit a decision taken on 27 November 2017 in relation to Item 6A - Planning Application Reference No APP/2018/1930 - Listed Building consent for removal of dado Lincrusta type wall coverings to three walls in the Council Chamber, fourth wall to be retained and repaired, all walls to be painted white at The Faithlie Centre, 1 Saltoun Square and 1-5 Kirk Brae, Fraserburgh,
2. to approve the application on the following conditions:
 - 01 No works, including the removal of materials in connection with the development hereby approved shall commence unless a method statement for the safe removal of the Lincrusta Material, has been submitted to and approved in writing by the Planning Authority. Thereafter, the works shall be carried out in complete accordance with the approved method statement.

Reason: To ensure the safe removal of the building fabric in the interests of the character and appearance of the built environment.

- 02 No works in connection with the development hereby approved shall commence unless a photographic record of the existing Council Chamber room has been submitted to and approved in writing by the Planning Authority. All internal elevations of the Council Chamber room shall be recorded, with particular attention paid to photographing any unusual features, fixtures or finishes of the Chamber as existing. The photographs must be in a digital format and must be clearly marked with the planning reference number.

Reason: To ensure that a historic record of the building/room is retained.

3. that a briefing note be prepared for Members giving a detailed update on the progress and governance of the project, and
4. that the site visit, agreed at the last meeting, be arranged once a contractor has been appointed - to be conducted for information purposes only.

5. PLANNING APPLICATION FOR CONSIDERATION

The following planning application was considered and dealt with as recorded in Appendix A to this minute.

A	Reference No APP/2018/2109	Full Planning Permission for Erection of 2 Dwellinghouses at Site at Former Rose Innes Care Home, South Street, Aberchirder
B	Reference No APP/2018/2329	Approval of Matters Specified in Conditions for Condition a(a) Layout, Siting, Design and External Materials; (b) Detailed Levels Survey; (c) Disposal of Foul and Surface Water; (d) Car Parking/Vehicle Turning Area; (d) Landscaping Scheme; (f) Tree Protection and Management Plan; Condition 5 (Energy Statement of Planning Permission in Principle APP/2015/1645 Erection of 2 Dwellinghouses at Land Adjacent to Grieves Croft, Memsie, Fraserburgh
C	Reference No APP/2018/2462	Full Planning Permission for Erection of 5 Dwellinghouses (Amended Plot Layout and House Types to Planning Permission Reference APP/207/0478), Plots 35, 36, 37, 38 and 39 Westhaven, Cairnbulg

6. 2018 BASED SCHOOL ROLL FORECASTS

A report dated 05 December 2018 from the Director of Education and Children's Services had been circulated to as the Committee to comment to the Service on the based school roll forecasts for 2018.

The Committee:

1. **noted** the terms of the report, and
2. **agreed** to make the following comments for consideration by the Service:
 - The Committee was pleased with the reduction in temporary accommodation.

- The Committee was concerned about the capacity at Whitehills primary school, especially in relation to the new development at Ladysbridge village and asked that the figures be reassessed.

7. BANFF COMMON GOOD FUND - PORTFOLIO OF COMMON GOOD ASSETS IN BANFF

A report dated 28 November from the Director of Business Services had been circulated to advise the Committee on the review of assets relating to the Banff Common Good Fund.

The Committee thanked the Senior Solicitor, and her colleagues, for the excellent and labour-intensive piece of work in compiling the portfolio, and thanked Councillor Cox for persevering with this issue, and **agreed** to:

1. approve the terms of the Portfolio of Common Good Assets for the Banff Common Good Fund as detailed in the report,
2. authorise Officers to publish the Portfolio on the Council's website,
3. authorise officers to review the portfolio on an annual basis at the end of the Financial Year, liaise with Ward 1 Members on any revisals to the Portfolio and thereafter provide Members with a copy of the updated document and publish any updated Portfolio on the Council's website, and
4. that comments from the Community Council and the Banff Preservation Trust be sought and any appropriate comments incorporated into the portfolio when it is next reviewed.

8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR GRANT OF STREET TRADER'S LICENCE

A report dated 28 November 2018 from the Director of Business Services had been circulated to ask the Committee to consider an application for the grant of a Street Trader's Licence.

The Committee:

1. **noted** that the applicant was not present and agreed to hear the application in her absence, and
2. unanimously **agreed to refuse** the Licence in terms of Section 39(4) of the Civic Government (Scotland) Act 1982 on the basis that the applicant had failed to obtain the food safety compliance certificate in respect of the application.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR GRANT OF LATE HOURS CATERING LICENCE

A report dated 28 November 2018 from the Director of Business Services had been circulated to ask the Committee to consider an application for the grant of a Late Hours Catering Licence and the objection and representations made in respect thereof and determine whether the application should be granted or refused.

Neither the applicant, nor the objector, were present or represented at the meeting. The Committee **agreed** to hear the application in their absence.

The Committee **noted** the objection and representations made in respect of the application and heard the submissions from Environmental Health and Police representatives in respect of the application.

Thereafter, Councillor Findlater, seconded by Councillor Reynolds **moved** that consideration of this item be deferred until the meeting on 19 February 2019 as there were several elements of confusion within the application which needed to be resolved before a decision could be made.

As an amendment Councillor Topping, seconded by Councillor Roy **moved** that the application be granted with the following hours of operation:

Friday	23:00 - 01:30
Saturday	23:00 - 01:30
Sunday	23:00 - 00.00

Members of the Committee voted:

For the motion	5	Councillors Buchan, Cassie, Findlater, Mair and Reynolds
For the amendment	3	Councillors Kille, Roy and Topping

The Chairman **declared the motion carried** in the following terms:

that consideration of this item be deferred until the meeting on 19 February 2019 as there were several elements of confusion within the application which needed to be resolved before a decision could be made.

10. MACONOCHIE ROAD, FRASERBURGH (PART) - PROPOSAL TO RENAME AS "SOUTH ROAD"

06 December 2018 from the Director of Infrastructure Services had been circulated to ask the Committee to consider the proposed renaming of part of a road in Fraserburgh.

The Committee **agreed**:

1. the new street name for the southernmost part of Maconochie Road, Fraserburgh as "South Road", and
2. that the Head of Transportation carry out all necessary notifications and erect new street nameplates.

11. SALE OF FORMER NEW ABERDOUR SCHOOL, ELPHIN STREET, NEW ABERDOUR

A report dated December 2018 from the Director of Business Services had been circulated to ask the Committee to approve the sale of the former New Aberdour School.

Before any consideration of the report took place, the Committee **agreed** to hear Mr Bill Pitt, on behalf of New Aberdour, Tyrie and Pennan Community Council and Mr Wilson Irvine, representing the New Aberdour Community Hall Committee. As the Committee had agreed that this item be taken as exempt, neither of the speakers had access to the contents of the report and, once both speakers had addressed the Committee, they were asked to leave the room before the Committee commenced any discussion.

Thereafter, Councillor Findlater, seconded by Councillor Cassie **moved** that consideration of the item be deferred to enable further information to be sought from the developers.

As an amendment, Councillor Kille, seconded by Councillor Cox **moved** that the Committee agree the sale of the former New Aberdour School, details of which were contained in the report.

As a second amendment, Councillor Topping, seconded by Councillor Buchan **moved** that the former school should not be sold at this time and that help and support should continue to be given to the Community Hall Committee in relation to the upgrade of the hall.

On a division between the first and second amendment, Members of the Committee voted:

For the first amendment	4	Councillors Cox, Kille, Mair and Reynolds
For the second amendment	2	Councillors Buchan and Topping
No vote	2	Councillors Cassie and Findlater

The chairman **declared the motion carried** in the following terms:

that the Committee agree the sale of the former New Aberdour School, details of which were contained in the report.

Councillor Topping **entered his dissent** in terms of Standing Order

On a division between the motion and the winning amendment, Members voted:

For the motion	5	Councillors Cassie, Findlater, Mair, Reynolds and Topping
For the amendment	1	Councillor Kille
No vote	2	Councillors Buchan and Cox

The Chairman **declared the motion carried** in the following terms:

that consideration of the item be deferred to enable further information to be sought from the developers.

12. SUPPLEMENTARY DIRECTORATE WORK PLAN - PROCUREMENT APPROVAL

A report dated 06 December 2018 from the Director of Infrastructure Services had been circulated to ask the Committee to approve the addition of an item on a Supplementary Work Plan.

The Committee considered the Infrastructure Services Supplementary Work Plan as detailed in the report and:

1. **agreed** to approve the item on the Supplementary Work Plan,
2. **noted** that the item would be added to the Infrastructure Services Work Plan that was approved by Committee on 27 March 2018, and
3. **agreed** not to reserve approval of the business case for the item on the Supplementary Work Plan, and
4. **agreed** that the Chair, on behalf of the Area Committee, arrange for a press release to ensure that the public was made aware of the progress being made in relation to this item.

Councillor Presiding over meeting

Print Name

Signature

Date

DRAFT

APPENDIX A

PLANNING APPLICATION FOR CONSIDERATION

5A REFERENCE NO APP/2018/2109

FULL PLANNING PERMISSION FOR ERECTION OF 2 DWELLINGHOUSES AT SITE AT FORMER ROSE INNES CARE HOME, SOUTH STREET, ABERCHIRDER

Applicant: C/O Mr E Wilkinson
Agent: Mantell Ritchie

A report dated 03 November 2018 from the Director of Infrastructure Services had been circulated seeking determination of the above planning application by the Area Committee.

The Committee heard Mr Michael Ritchie, applicant's agent, in support of the application.

Thereafter, the Committee **agreed** to delegate the application to the Head of Planning and Building Standards to approve on appropriate conditions.

The Committee's reasons for departure from the valid Local Development Plan were that the proposed development would enhance the conservation area through partial development of a site which has lain derelict for many years, retaining most of the original boundary wall and addressing road safety issues.

5B REFERENCE NO APP/2018/2329

APPROVAL OF MATTERS SPECIFIED IN CONDITIONS FOR CONDITION 1(A) LAYOUT, SITING, DESIGN AND EXTERNAL MATERIALS; (B) DETAILED LEVELS SURVEY; (C) DISPOSAL OF FOUL AND SURFACE WATER; (D) CAR PARKING/VEHICLE TURNING AREA; (E) LANDSCAPING SCHEME; (F) TREE PROTECTION AND MANAGEMENT PLAN; CONDITION 5 (ENERGY STATEMENT) OF PLANNING PERMISSION IN PRINCIPLE APP/2015/1645 ERECTION OF 2 DWELLINGHOUSES AT LAND ADJACENT TO GRIEVES CROFT, MEMSIE, FRASERBURGH

Applicant: MLR Developments
Agent: Baxter Design Company

A report dated 03 December 2018 from the Director of Infrastructure Services had been circulated seeking determination of the above planning application by the Area Committee.

The Committee heard Mr Craig Fyvie, applicant's agent, in support of the application.

Thereafter, the Committee **agreed to approve** the application on the following conditions:

- 01 No other development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 120 metres in both directions along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of each approved new access in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other

means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

- 02 The dwellinghouses hereby approved shall not be occupied unless the lay-by, driveways, turning and parking areas have been provided and surfaced in accordance with the details shown on the approved plans. Once provided, all parking and turning areas shall thereafter be permanently retained as such.

Reason: To ensure the timely completion of the driveway to an adequate standard to prevent the carriage of loose driveway material on to the public road in the interests of road safety.

- 03 The dwellinghouses hereby approved shall not be occupied unless the refuse bin uplift store areas have been provided and surfaced in accordance with the details shown on the approved plan. Once provided, the refuse bin uplift store areas shall thereafter be permanently retained as such.

Reason: To ensure the provision of an appropriate means of servicing in the interests of road safety.

- 04 The development hereby approved shall not be occupied unless a 2m wide footway designed and constructed in accordance with the Council's Standards for Road Construction Consent and Adoption and with details to be submitted to and approved in writing by the Planning Authority has been provided in its entirety along the site frontage. Once provided, the footway shall thereafter be permanently retained as such.

Reason: To ensure safe access for pedestrians.

- 05 The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the Planning Authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

- 06 The dwellinghouses hereby approved shall not be occupied unless the proposed foul and surface water drainage system has been provided in accordance with the approved plans and drainage proposal detailed in the Site Investigation (Grampian Geotechnical Ltd June 2015 - Contract 2014-15). The foul and surface water drainage system shall be permanently retained thereafter in accordance with the approved maintenance scheme.

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

- 07 No works in connection with the development hereby approved shall commence unless the tree protection measures have been implemented in full in accordance with the approved tree protection plan. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

The approved tree protection measures shall be retained in situ until the development has been completed.

Reason: In order to ensure adequate protection for the trees and hedges on the site during the construction of development, and in the interests of the visual amenity of the area.

- 08 The compensatory tree planting shall be carried out in complete accordance with the approved scheme and any planting which, within a period of 5 years from the completion of the compensatory tree planting, 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.

Reason: In order to maintain woodland cover in accordance with the aims of local and national planning policies

The Committee's reasons for approval was that the application accords with the development plan and there are no material considerations which indicate that permission should be refused.

5C REFERENCE NO APP/2018/2462

FULL PLANNING PERMISSION FOR ERECTION OF 5 DWELLINGHOUSES (AMENDED PLOT LAYOUT AND HOUSE TYPES TO PLANNING PERMISSION REFERENCE APP/2017/0478) AT PLOTS 35, 36, 37, 38 AND 39, WESTHAVEN, CAIRNBULG, FRASERBURGH

Applicant: Claymore Homes

A report dated 30 November 2018 from the Director of Infrastructure Services had been circulated seeking determination of the above planning application by the Area Committee.

The Committee **agreed to approve** the application on the following conditions:

1. The vehicular driveway and parking area for 12 cars hereby approved shall not be brought into use unless both have been provided and surfaced in accordance with the details shown on the approved plans and the drop kerb footway crossing has been formed at the new access. The maximum gradient of the first 5 metres of each access shall not exceed 1:20 gradient and shall be internally drained and formed in such a way to prevent any flow of surface water either onto or from the public road. Once provided, all parking areas shall thereafter be permanently retained as such.

Reason: To ensure the timely completion of each driveway to an adequate standard to prevent the carriage of loose driveway material on to the public road in the interests of road safety.

2. No development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 25 metres in both directions along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved new driveway in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

3. The garages hereby approved shall be set back at least 6 metres from the rear of the footway.

Reason: To ensure the public footway is not obstructed in the interests of road safety.

4. No individual dwellinghouse hereby approved shall be erected unless an Energy Statement applicable to that dwellinghouse 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.

5. No dwellinghouse hereby approved shall be occupied unless the proposed surface water drainage system has been provided in accordance with the approved plans. The surface water drainage system shall be permanently retained thereafter in accordance with the approved maintenance scheme.

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

6. No works in connection with the development hereby approved shall commence unless a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- (a) Existing landscape features and vegetation to be retained;
- (b) Protection measures for the landscape features to be retained;
- (c) Existing and proposed finished levels;
- (d) The location of new trees, shrubs, hedges, grassed areas and water features;
- (e) A schedule of planting to comprise species, plant sizes and proposed numbers and density;
- (f) The location, design and materials of all hard landscaping works including walls, fences and gates; and
- (g) A programme for the implementation, completion and subsequent management of the proposed landscaping.

All soft and hard landscaping proposals shall be 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.

7. No works in connection with the development hereby approved shall commence unless samples/details/specification and colour of all the materials/roof/wall/windows/doors/garage doors/rainwater goods etc to be used in the external finish for the approved development have been submitted to and approved in writing by the Planning Authority. The development shall not be occupied unless the external finish has been applied in accordance with the approved details.

Reason: In the interests of the appearance of the development and the visual amenities of the area.

8. Prior to the completion of the first dwellinghouse hereby approved, a Residential Travel Plan shall be submitted for the written approval of the Planning Service in consultation with Transportation. 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. Once agreed, no dwellinghouse shall be occupied unless the measures set out in its 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 for residents.

9. Within 6 months of the occupation of the penultimate residential unit in each phase of this development granted under APP/2017/0478 or upon the expiry of a period of three years from the date of the first residential unit to be occupied in each phase of APP/2017/0478, whichever is the sooner, all roads, footpaths, parking and turning areas within and serving that phase of the development shall be completed to their final surface course specification in accordance with the Council's Standards for Road Construction Consent and Adoption. Once provided, all parking 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.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order amending, revoking or re-enacting that Order the existing garages shall not be altered in any way under the terms of Schedule 1 to that Order with the prior approval in writing of the Planning Authority.

Reason: To ensure the timely completion of the parking area to an adequate standard to prevent the carriage of loose driveway material on to the public road and to ensure the retention of adequate off-street parking facilities within the site, all in the interests of road safety.

The Committee's reason for departure from the Aberdeenshire Local Development Plan was that the proposal is considered to be an acceptable departure from Policy R1: Special Rural Areas and Policy R2: Housing and Employment Development Elsewhere in the Countryside as contained within the Aberdeenshire Local Development Plan 2017, in that the additional two units would have no undue impact on the character of the surrounding area.