ABERDEENSHIRE COUNCIL

BUCHAN AREA COMMITTEE

BUCHAN HOUSE, PETERHEAD, 3RD DECEMBER 2019

Present: Councillors N Smith (Chair), D Beagrie (Vice Chair), A Allan, A Buchan, M Buchan, S Calder, A Fakley, J Ingram, S Smith and I Sutherland

Apology: Councillor A Simpson

Officers: Amanda Roe, Interim Area Manager (Business Services); Amanda de Candia, Solicitor (Business Services); Sally Wood, Senior Planner (Infrastructure Services); Peter MacCallum, Roads Development Manager (Infrastructure Services) (via skype); Lee Watson, Principal Engineer (Infrastructure Services) (via skype); Alan Monk, Engineer/Technician (Infrastructure Services) (via skype); Hannah McSherry, Service Development Officer (Infrastructure Services) (via skype); Lynne Gravener, Strategic Policy Leader (Business Services); and Theresa Wood, Area Committee Officer (Business Services)

1. DECLARATIONS OF MEMBERS' INTERESTS

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

(1) Councillor N Smith declared an interest in Item 5a by virtue of having a connection with the applicant through his role as Chairman of MACBI. In having a clear interest, the Chairman left the Chamber for the duration of this item,

(2) Councillor J Ingram declared an interest in Item 5a given he knows the applicant. Having applied the objective test, Councillor Ingram considered his interest to be remote and therefore remained and participated in this item,

(3) Councillor A Buchan declared an interest in Items 5a and 5b given that the applicants for both applications are customers. Having no financial contract with either, Councillor Buchan considered his interest to be remote and therefore remained and participated in both items, and

(4) Councillor A Fakley declared an interest in Item 5b given that he knows the applicant. Having applied the objective test, Councillor Fakley considered his interest to be remote and therefore remained and participated in this item

2. STATEMENT ON EQUALITIES

In making decisions on the following items of business, the Committee noted the requirement, 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

3. MINUTE OF MEETING OF 12TH NOVEMBER 2019

The Minute of the Meeting of 12th November 2019 had been circulated and was approved.

4. DEFERRED PLANNING APPLICATION

With regard to the deferred planning application, the Committee had before them a report by the Director of Infrastructure Services on a planning application for determination in terms of the Town and Country Planning (Scotland) Acts 1972 and 1997 and agreed to dispose of the application as detailed in Appendix A attached to this Minute.

(a) APP/2019/1129 Full Planning Permission for Erection of 4 Self Catering Pods (Short Term Letting Accommodation) at Site adjacent to Nether Park Cottage, Lonmay, Fraserburgh

5. NEW PLANNING APPLICATIONS

The Committee had before them reports by the Director of Infrastructure Services on planning applications for determination in terms of the Town and Country Planning (Scotland) Acts 1972 and 1997 and agreed to dispose of the applications as detailed in Appendix B attached to this Minute.

(a) APP/2018/2929 Full Planning Permission for Non Compliance with Conditions 17 (Play Equipment) and 20 (Bus Stops) of Planning Permission APP/2018/1138 (Erection of 100 No Dwellinghouses, Land Set Aside for Affordable Housing (3.35 acres) and Associated Infrastructure) at Phase B, Northwoods Housing Development, Mintlaw

(b) APP/2019/1606 Full Planning Permission for Erection of 20 Dwellinghouses and Associated Infrastructure at OP1 Site, Newton Road, St Fergus

(c) APP/2019/2106 Full Planning Permission for Erection of Dwellinghouse (Renewal of Planning Permission Reference APP/2016/2197) at Plot 2, Toux Farm, Mintlaw

(d) APP/2019/2185 Planning Permission in Principle for Erection of Dwellinghouse at Land at Lilybank, New Deer

6. APPEAL DECISION – FULL PLANNING PERMISSION FOR ALTERATIONS TO DWELLINGHOUSE AT 7 HIGH STREET, NEW PITSLIGO

The Committee noted the Appeal Decision Notice, Reference PPA-110-2377, which advised that the Planning and Environmental Appeals Division had allowed the appeal and granted planning permission for alterations and an extension to the dwellinghouse at 7 High Street, New Pitsligo.
7. DEVELOPING EXCELLENCE IN OUR NORTH COAST COMMUNITIES: 
CREATIVE PETERHEAD

The Chairman advised the Committee that this item had been withdrawn.

Councillor Calder lodged an objection in relation to this item having been withdrawn.

8. HOUSING ALLOCATION POLICY REVIEW CONSULTATION

A report by the Director of Infrastructure Services had been circulated advising that the Housing Allocation Policy is currently being reviewed, and that further investigations into a change to the current allocation process is being investigated. The Committee’s views were sought in respect of a possible change to a Choice Based Lettings approach.

Having considered the Housing Allocation Policy Mini Public Report regarding the housing allocation policy review and consultation responses, the Committee agreed to submit the following comments to the Communities Committee:-

(1) that the Buchan Area Committee has serious concerns with regard to the proposal to move to a Choice Based Lettings (CBL) approach for the following reasons -

(a) the allocations system should, first and foremost, be based on need, and should not be a “lottery”,

(b) a move to a CBL approach will exacerbate the problem with hard to let properties,

(c) to implement such a system will create a 2-tier structure, particularly for those at the top of the waiting list,

(d) given the relatively small number of houses that Aberdeenshire Council has, this will create an extra layer of detail that is not needed,

(e) those with no access to online facilities will be hugely disadvantaged,

(f) the Council will need to ensure that there are sufficient staff resources to deal with such a new system so as to provide support to those who need it, particularly those who are disadvantaged or vulnerable to ensure that they are not discriminated against, and

(g) the Housing Service already has a lot of issues with voids etc, these issues should be addressed before a new system is put in-place

9. BRITISH SIGN LANGUAGE IMPLEMENTATION PLAN
2018-2024 PROGRESS REPORT

A report by the Director of Business Services had been circulated providing the Committee with an update on progress made towards the actions in the British Sign Language Implementation Plan 2018-2024.

The Committee agreed to welcome and acknowledge the need for raising awareness.
10. COMMUNITY COUNCIL PROJECT GRANT APPLICATION – NEW PITSLIGO COMMUNITY COUNCIL

A report by the Director of Business Services had been circulated advising that an application had been submitted by New Pitsligo Community Council seeking funding towards their Millennium Garden Project.

The Committee agreed to award up to £665 towards the cost of improvements to New Pitsligo's Millennium Garden; thereby fully utilising the Project Grant Fund available to the Buchan area for 2019/2020.

11(a) COUNCIL PLAN 2017-2022 PRIORITIES PERFORMANCE MONITORING REPORT APRIL 2019-SEPTEMBER 2019 – BUSINESS SERVICES COMMITTEE PRIORITIES (ABERDEENSHIRE PERFORMS)

11(b) COUNCIL PLAN 2017-2022 PRIORITIES PERFORMANCE MONITORING REPORT APRIL 2019-SEPTEMBER 2019 – EDUCATION & CHILDREN’S SERVICES COMMITTEE LEAD PRIORITIES (ABERDEENSHIRE PERFORMS)

Reports by the Director of Business Services and Director of Education and Children’s Services had been circulated providing the Committee with an update on progress on delivery of the Council Plan 2017-2022, and specifically progress made with the delivery of priorities led by their respective Committees.

The Committee agreed:-

(1) to defer discussion of the performance papers in more detail to an informal session, and

(2) to highlight that to receive two Area Performance papers at one Committee meeting is perhaps too much detail to allow a meaningful discussion of both papers.
APPENDIX A

DEFERRED PLANNING APPLICATION

(a) Full Planning Permission for Erection of 4 Self Catering Pods (Short Term Letting Accommodation) at Site adjacent to Nether Park Cottage, Lonmay, Fraserburgh
For: Mr P Stewart, The Studio, Blackhills, Lonmay, Fraserburgh
Per: CM Design, St Brendans, 69 South Guildry Street, Elgin
Reference No: APP/2019/1129

The Committee agreed to Grant Full Planning Permission subject to the following conditions:–

01. No works in connection with the development hereby approved shall commence unless a scheme of compensatory tree planting has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

   a) The location of the compensatory tree planting.
   b) A schedule of planting to comprise species, plant sizes and proposed numbers and density.
   c) A programme for the implementation, completion and subsequent management of the proposed compensatory tree planting.

   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 the interests of visual amenity and in order to ensure compensatory planting, in accordance with the aims of local and national planning policies.

02. No development shall commence on site until full details of a vehicle hammerhead have been submitted to and approved in writing by the Planning Authority. The hammerhead shall be installed in accordance with the approved details prior to the first occupation of the development hereby approved and thereafter retained in perpetuity.

   Reason: To enable all vehicle movements onto or from the public road to be carried out in a forward gear, in the interests of road safety.

03. 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 90 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 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.

04. The development hereby approved shall not be occupied unless the driveways, turning areas, parking areas and layby 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.

05. No works in connection with the development hereby approved shall commence unless details of the refuse bin uplift store area has been submitted to and approved in writing by the planning authority. The area shall be constructed behind any visibility splay and shall be designed so as to be accessible for refuse bin uplift and to prevent empty bins from being wind-blown. No building hereby approved shall be occupied or brought into first use unless the refuse bin uplift store area has been provided and surfaced in accordance with the approved details. Once provided, the refuse bin uplift store area shall thereafter be permanently retained as such.

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

06. 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.

07. The development hereby approved shall not be brought into use unless the proposed foul water and surface water drainage systems have been provided in accordance with the approved plans and the drainage proposal detailed in the Porosity Test Report and Soakaway Design Calculations by James B. Buchan dated September 2019. The foul water and surface water drainage systems 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.
APPENDIX B
NEW PLANNING APPLICATIONS

(a) Full Planning Permission for Non Compliance with Conditions 17 (Play Equipment) and 20 (Bus Stops) of Planning Permission APP/2018/1138 (Erection of 100 No. Dwellinghouses, Land Set Aside for Affordable Housing (3.35 acres) and Associated Infrastructure) at Phase B, Northwoods Housing Development, Mintlaw
For: Mr Hamish Watson, Chapelpark, Balring Road, Mintlaw
Per: Colaren Homes, Kirkton House, South Road, Fraserburgh
Reference No: APP/2018/2929

The Chairman left the Chamber and took no part in the discussion of this item. The Vice Chair, Councillor Beagrie, took the Chair for this item only.

In terms of Standing Order 6.5, the Area Manager had received a request to address the Committee in relation to this application from the Agent, Mr Gary Purves.

The Committee was asked if they wished to hear the representation. The Committee unanimously agreed.

Having heard from the Senior Planner, the Committee then heard from Mr Purves –

"Having now reached an impasse, this is the reason for the application being in front of Members today.

With regard to Condition 17 –

The main issue is that this is not in a Master Plan. After the last Committee meeting on 17th September, I phoned the Planner on 18th September to discuss the requirements. The plan and equipment specification were then sent on 10th October. Members may recall I sent an email on 1st November keeping you advised on the progress. There were then several emails and phone calls to fine tune the details, and we are currently waiting to hear if this is acceptable. I would hope that in the near future we can purify this condition and won’t therefore need to seek non-compliance with this condition; resulting in a play park within the development.

With regard to Condition 20 –

We submitted a planning application for the bus stops on 12th September, and we are waiting for it to be validated.

We received a letter from Stagecoach on 1st October which confirms they are “content to make adjustments to the existing bus services in this area to serve a new bus stop”. On 30th October we received a response from Roads seeking full engineering drawings to be provided. We provided this, and given that the statutory determination date for the application was 18th November we hoped to have full planning permission before today’s meeting. However, on 14th November, we received a holding objection from Roads stating that our mini-roundabout was unacceptable as it does not comply with the Council standards. This was a big surprise as the mini-roundabout is indicatively shown on the plans for the business park which were approved by this Committee in 2017. Since receiving this holding objection we have asked for a meeting with the Roads Department to discuss alternative options, and we
have been advised that before they will consider convening a meeting we must submit details of the alternative layout options. We currently have a Team of Engineers drawing up these options. We are aware that the Condition as it stands requires the bus stops to be built on the main road, however, we do not think this is the right place because of the impact on the trees and concerns over road safety. A report from a tree expert advised us that almost 70 trees would have to come down if the bus stops were built between the two access points into our development from the main road.

It is because of this difference of opinion about where the bus stops should go that we have submitted this application, purely so Members can get involved and arbitrate to resolve the issue. It is obviously a huge piece of infrastructure and it is essential that we take our time to get it right. In the meantime, we would ask for a deferral of this application to give us more time to finalise the detail of the road with the Roads Department.”

The Monitoring Solicitor reminded the Committee that they must only consider the detail of the application before them, and not the detail of the application for the bus stops which is an entirely separate application.

Following a very full discussion, the Committee agreed to Grant Full Planning Permission subject to -

01. Notwithstanding the details submitted, no individual dwellinghouse hereby approved shall be occupied until its boundary treatments have been completed in full in accordance with details that shall be first submitted to and approved in writing by the Planning Authority. Once the boundary treatment has been installed it shall thereafter be retained in perpetuity.

Reason: For the purposes of clarification and in the interests of residential amenity, and road safety.

02. Notwithstanding the details submitted, within one month of the planning permission hereby granted, details of all enclosures around the site and on areas of open spaces, excluding individual plots which is required under Condition 1, shall be submitted to and approved in writing by the Planning Authority. Details shall include height, materials, and location by way of scaled plans, and timetable for implementation. For the avoidance of doubt the development shall thereafter be completed in accordance with the approved details including timescales, and thereafter, once erected, be retained in perpetuity.

Reason: For the purposes of clarification and in the interests of visual amenity, and road safety.

03. Notwithstanding the details submitted 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 dwellinghouse that the Energy Statement pertains to 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.

04. No residential unit in any phase of this development shall be occupied unless all roads, footpaths, parking and turning areas within and serving that phase of the development have been completed to the level of bottoming and binder course, including the access bellmouth and all turning heads in accordance with the Council's Standards for Road Construction Consent and Adoption.

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

05. Within 6 months of the occupation of the penultimate residential unit in each phase of this development hereby approved, or upon the expiry of a period of three years from the date of the first residential unit to be occupied in each phase, 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.

06. No individual dwellinghouse hereby approved shall be occupied unless their driveways and parking area pertaining to that dwellinghouse have been provided and surfaced in accordance with the details shown on the approved plans, as submitted under planning application APP/2016/1606. 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.

07. Notwithstanding the details submitted, within one month of the planning permission hereby granted a detailed timescale of implementation of all the soft and hard landscaping proposals as approved and shown in Plan NWM-1702-LS and the maintenance schedule as approved under planning reference APP/2016/1606, shall be submitted to and approved in writing by the Planning Authority. Thereafter, the landscaping shall be completed in accordance with the approved details and timescale for implementation. Any planting, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, severely 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.
08. No works in connection with this permission hereby approved shall hereby commence following the issuing of this planning permission unless the tree protection fences have been erected on the site as highlighted in drawing number NWET-1701-TR approved under planning application reference APP/2016/1606. The fencing shall be retained in accordance with the approved drawing position until each relevant construction phase it relates to is completed.

Reason: In order to preserve the existing trees within the site, in the interests of visual amenity and protection of habitat.

09. All landscaped areas outwith the curtilages of the dwellinghouses and shown outlined in green on the approved drawing number NWM-1702-LS of planning permission reference APP/2016/1606, shall be permanently retained as such and shall at no time be used as private garden ground nor incorporated within the curtilage of any of the dwellinghouses hereby approved without the express grant of planning permission by the planning authority. 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 no means of enclosure, other than that shown on the approved plans, shall be erected within the landscaped areas without an express grant of planning permission by the planning authority.

Reason: In the interests of the character and appearance of the development.

10. Notwithstanding the details submitted, within one month of the planning permission hereby granted a detailed site-specific construction method statement and related site plan shall be submitted to and approved in writing by the planning authority. The construction method statement shall include details of dust and noise mitigation during the construction process. All construction works on the site shall be carried out in strict accordance with the approved construction method statement.

Reason: In the interests of protecting the residential and local amenity.

11. Notwithstanding the details submitted, no individual dwellinghouse hereby approved shall be erected unless details of the external materials, including walls, roof, windows and door finishes, and type and colour of material pertaining to that house has been submitted to and approved in writing by the planning authority. The dwellinghouse shall be completed in accordance with the details approved in writing prior to first occupation.

Reason: In the interests of the appearance of the development and the visual amenities of the area, for the purposes of clarification.

12. 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.

13. Waste water from the proposed development shall be disposed of via the public sewer as indicated in the submitted application and shall not be disposed of via private means 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.

14. No single dwellinghouse hereby approved shall be occupied unless it is connected to the surface water drainage system in accordance with the approved plans as approved under planning application reference APP/2016/1606. 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.

15. Notwithstanding the details submitted, within one month of the planning permission hereby granted a Phasing Plan setting out the details of the phasing of the development shall be submitted to and approved in writing by the planning authority. Thereafter, the development shall be carried out in complete accordance with the approved Phasing Plan.

Reason: To ensure that build-out of the development is phased so as to avoid adverse impact on local services and infrastructure and in the interests of the visual amenity of the area.

16. The tree number 39 as identified in the Bat Survey NWHM-1703-BTI shall be inspected 24 hours prior to felling to determine whether any bats are roosting within the tree. Two of the recommended 6 bat boxes will be erected before the tree is felled. the remaining boxes to be erected in accordance with the Bat Survey.

Reason: In the interests of protecting a European Protected Species.

17. Prior to the occupation of the 15th house hereby approved a scheme for the provision of play equipment within the development hereby approved and a management scheme for the maintenance of that equipment shall be submitted to and approved in writing by the planning authority.

All play equipment must be provided in accordance with the approved details prior to the completion of the 75th house hereby approved, and thereafter shall be permanently retained and maintained in accordance with the approved maintenance scheme.

Reason: To ensure that a suitable play area is provided to serve the development hereby approved in accordance with the Aberdeenshire Local Development Plan 2017, in particular policy P2 Open space and access in new development.

18. That no house in each phase shall be occupied until the footpaths and/or cycle paths for that phase and as documented in the Transportation Assessment by ESC Transport Planning limited dated November 2016 are completed. All footpaths, including within the wooded areas, shall be maintained in perpetuity as per the details approved under planning permission reference APP/2016/1606.

Reason: To ensure connectivity within the development and with Mintlaw as a whole.

19. Notwithstanding the details submitted, within one month of the planning permission hereby granted full details of all parking on the site, excluding within domestic curtilage provision, shall be submitted to and approved in writing by the planning authority. Details shall include visitor parking, motorbike/moped spaces and cycle bays/storage, including the submission of a block plan to show the provision and timetable for
implementation. The development thereafter shall be completed in accordance with the approved details and retained in perpetuity.

Reason: In the interests of road safety.

20. Notwithstanding the details submitted, no later than 31st January 2020 infrastructure for bus stops shall be erected and installed in full in accordance with details that shall be first submitted to and approved in writing by the Planning Authority including a location plan to scale to show the location. For the avoidance of doubt the bus stop infrastructure shall comprise (i) two bus stops on the A952, one on northbound and one on the southbound direction. Each stop shall contain a shelter and shall be placed in laybys designed in accordance with the Design Manual for Roads and Bridges Standard TD69/07 except where adjacent to a formal street lit footway that forms part of an unbroken connection along the A952 between the bus stops and Mintlaw Square (ii) A formal crossing shall be provided on the A952 in the vicinity of the bus stops with the minimum provision of a refuge island (iii) Formal lit footpath connections between the residential development and the bus stops. Once provided the bus stops and associated infrastructure shall be retained in perpetuity thereafter.

Reason: In the interests of sustainable travel, and to accord with national and local planning policy.

(b) Full Planning Permission for Erection of 20 Dwellinghouses and Associated Infrastructure at OP1 Site, Newton Road, St Fergus
For: ARD Properties Ltd, c/o Agent
Per: Baxter Design Company, 1 The Square, Mintlaw
Reference No: APP/2019/1606

In terms of Standing Order 6.5, the Area Manager had received five requests to address the Committee in relation to this application from (1) the Agent, Mr Ryan Urquhart, (2) Mr David Buchan, an objector, (3) Mr Stephen Baird, an objector, (4) Mr John Chalmers, an objector, and (5) Mr Steve O'Brien, an objector. The Chairman then advised that although Mr Buchan had made a request to address Committee, he was not in attendance.

The Committee was asked if they wished to hear the representations. The Committee unanimously agreed.

Having heard from the Senior Planner, the Committee heard from Mr Ryan Urquhart –

“This application was submitted for 23 houses and infrastructure, 3 houses were strafing slightly onto the protected land at the bottom end of the site as we wanted the adoptable road to loop around the site. Following subsequent discussions with Planning, we elected to adjust the layout to remove the three plots off the protected land, the Roads Department were not party to these discussions. The plots were not replaced elsewhere, and the development was reduced to 20 units, including 5 affordable housing units.

The removal of the adoptable loop road led us to the road design we have in front of you today, linear in nature. Whilst a connection could be made to Kinloch Road, it is a narrow single track road not fit to carry a lot of surplus traffic, we therefore proposed a turning circle so that refuse and emergency service vehicles can turn and leave the site in a forward gear without having to reverse, and not creating a rat run. Members may be aware that a bid had been submitted by the applicants to include the land west of this development site as a housing development in the next Local Development Plan, which would take access with a road straight into this development as the access to the Kinloch Road junction could not be upgraded to the required
standard. It was our understanding as of last week that the Roads Department are now happy with that arrangement.

Reason 6 for refusal is also a roads issue, however, this has not been raised with us, 2.4 x 59m visibility can be provided and has been shown on plans and road safety audits, and again it is our understanding as of last week that the Roads Department are satisfied.

Reason 1 for refusal is given as design issues. The house types are that which the developer has sold elsewhere, so they know market demand is good for these house sizes and styles. We’ve made some updates to the designs such as replacing bay windows with large single window units, removal of Fyfestone quoins up the corners, and changing the finishes. Around half of the houses proposed have gable ends and half have hip ends, and around half are proposed to have Champagne dry dash render and brown finishes and the other half are to have Skye Marble dry dash with grey finishes. This provides choice for the market rather than bland monochrome houses throughout. The styles are particularly relevant in matching the existing house designs adjoining and adjacent to the site, which also have a proven track record of meeting market demand in the area.

Reason 2 for refusal mentions overshadowing, and 6.15 in the report describes how there had been concerns of overlooking to existing houses at Newton Road but we have addressed that by moving windows so that no first floor windows look back to the existing houses other than the en-suite and hall, which would be high level and possibly even have obscured glazing installed. In terms of overshadowing between plots 16 and 18, we have extensively looked at layout options for the development and have made various changes along the way, but it’s not as straightforward as raising one house floor level and reducing another as it would have knock on changes elsewhere in the site, hence we arrived at this layout and the plots would be marketed as such. The site is on a steep slope and we have engineered that into the design as far as possible to make the site welcoming and viable to build.

Reasons 3 and 5 for refusal mention flooding and surface water drainage. On 27th August the Flood Prevention Unit commented on the application with no objection, satisfied with our Drainage Impact Assessment. Due to the change in road layout described earlier the application had to be re-notified to neighbours, during which time there was heavy rainfall that flooded an area of ground south to the woodland beyond the development site. The Flood Prevention Unit then sought further information from us on how we could help alleviate this. We carried out further drainage studies and calculations and updated the Drainage Impact Assessment to show that we would reduce the existing greenfield run off rate of 12 litres per second from the field to 6.5 litres per second post-development. This could further be reduced if we are allowed to increase the size of the basin a bit further. This will improve the situation as far as possible, however any works out with the site are not part of the remit of the application and the applicants have already been refused access to the neighbouring land to clear ditches to further improve the situation. With the agreed level of Developer Obligations contributions and affordable housing, having dropped 3 houses from the development and having to contribute to Scottish Water for sewer network upgrades, making any other financial or physical contributions on someone else’s land would render the development unviable, which is a shame given that it is the only allocated site in St Fergus.

Members will be aware that the developer is coming to an end of other development sites in the area and if this development doesn’t go ahead then they will have to pay off site and office staff.”

Following some questions, the Committee then heard from Mr Stephen Baird –

“...This development started way back in April when the developer unlawfully erected a site compound 2ft from my, and my neighbours’ properties. Since then the developer's...
carelessness has caused an injury to my four year old son as dust blew into his eye from the huge pile of dirt that was dumped behind my property as you would have seen in my photos, putting children in any sort of danger is unacceptable. The developer continued to work behind our home even after being asked multiple times by planning enforcement to cease all work therefore endangering my family and destroying our amenity. The land has been raised and a hardcore base has been laid, as you will see from the photos, this has caused flooding damage to my, and my neighbours’ property. Aberdeenshire Council's own Local Development Plan 2017, Policy C4 Flooding states "We will not approve development that may contribute to flooding issues elsewhere. Sustainable Urban Drainage principles apply to all sites". This compound has without a doubt caused flooding onto our properties and abiding by Aberdeenshire Councils own rules, this must be fixed before any thoughts of potential approval. If the compound had not been erected, our property would have not flooded and my family’s safety and amenity would not have been affected, therefore this compound must go to protect our property and family. What is the root cause of all this? Poor planning and disobeying planning rules. The Local Development Plan 2017 states regarding site OP1 "Due to the scale of the site, a Masterplan will be required". Had the developer taken the time to abide by Aberdeenshire Councils LDP, all these issues would have been avoided and my son would not have been hurt. On the developers own plan it shows an access road for the next part of the development and a wayleave for drainage, it is obvious that the developer is planning to continue with a full development of OP1, to submit two separate applications would be the exact opposite of a Masterplan which the LDP asks for. This application has provided false information from day one and is missing vital information that I have asked for multiple times, it was vital that a Masterplan should have been carried out however there has been no mention of this. Aberdeenshire Council had a meeting early November this year on the importance of Masterplans so why has one not been carried out?

As you will hear from Mr Chalmers, the developer is wanting to connect the SuDS discharge onto land that already floods, as indicated with both SEPA and the 2017 LDP. Why is this being proposed when again, the LDP clearly states “We will not approve development that may contribute to flooding issues elsewhere”. It has been proven multiple times that the drainage system is already at over capacity and allowing any more water to enter this system will without a doubt enhance the flooding problem and damage Mr Chalmers property that he has worked hard to maintain not only for himself, but for the benefit of the whole community.

I have seen no evidence of a Stage 2 quality audit or street engineering review that has been requested, why not? The report also states that this is a potential road safety issue. A completely unsafe road set above number 29s garden fence is proposed as you can see in my photos. If any cars were to come off that proposed road there is a huge potential that they would end up in Mr and Mrs Gray’s garden or through their sun lounge. It is unacceptable to compromise on safety and this should have been rectified long ago.

Mr Hume also stated that the application layout would cause adverse impacts on residential amenity by way of loss of privacy and overshadow on more than one property. This is easily rectified behind Newton Road by building single storey houses and ensuring that the land behind our homes is not raised. Residential amenity should not be compromised when people are living in their potential forever home and this should have been rectified well in advance of this meeting.

Why is it so hard for the developer to follow Aberdeenshire Councils own rules and regulations and why did they refuse to obey planning enforcements instructions to cease all work? I ask you, for the good of the community that elected you to represent them, do not authorise this application as it does not fall in line with Aberdeenshire Councils policies. The Planning Team, Flood Prevention, Roads and Waste Management have all objected or refused this application, they are the experts providing advice in their field, and they need to be listened to otherwise what is the point of having them? Policies are made for a reason; they are there to
protect the communities where we live and help ensure Aberdeenshire remains a great place
to live.

Thank you very much for your time and attention and if you have any questions please ask.”

Following a series of questions, the Committee then heard from Mr John Chalmers –

“I would just like to start by saying that I am representing myself John Chalmers and my Father
John Chalmers Snr being the owner of Hazels Walk and adjoining properties and gardens
relating to our objection of ref no APP/2019/1606 OP1 Development and the impact on our
property and land. We object to this proposal for the following reasons:

St Fergus going back many decades was a small village. The infrastructure ie roads, drains,
playing areas, schools etc, were all put in place to accommodate a small village. Now we see
the village grow over the last 10 years to nearly half its size again, which has caused many
problems with over capacity of the school, increased traffic on narrow lanes and roads,
flooding problems with water courses and drains not fit for purpose.

Nearly 20 years ago my fathers mother, my granny, Hazel Chalmers spent the remainder of
her years at Rainward Court, St Fergus. She loved the outdoors, so my father bought land
near Rainward Court and developed it into what is known now as Hazels Walk which has been
enjoyed by people from all over for many years.

We have spent a lot of money and time developing it into something special for everyone to
relax in and enjoy, putting many drains to clear areas that had lying water. But over the last
10 years or more we’ve had to contend with more water than ever entering our drains and
water courses from new developments and higher ground. We unfortunately are at the lowest
level of the village and as we know, water always finds its way to the lowest point.

We realise it is our responsibility to maintain our land infrastructure water courses and drains
which we have on many occasions, but when these areas become fully flooded at time of
heavy rain and impact from higher ground more and more water entering into the existing
infrastructure cannot cope anymore, causing flooding to Hazels Walk and other properties.

This new proposal development is only going to impact on us even more. We have never been
opposed to new housing or development but the infrastructure that is in place at St Fergus
should be looked at in more detail. Considering all the information that has come from
Aberdeenshire Council and submitted in writing with their concerns we feel that no further
development should go ahead until such time this can be resolved.”

Finally, the Committee heard from Mr Stephen O’Brien –

“Good morning, I would first like to thank you for giving me the opportunity to address the
committee today. My name is Stephen O’Brien and I reside at 25 Newton Road, and the rear
of my house and garden backs on to the proposed site.

The first topic I would like to touch on is:

The P2 and Suds Area -
When we purchased our property in 2012, we chose number 25 because of the open outlook
on to the P2. This plot came with a wayleave for a sewage pipe, but thought this was a small
price to pay to have an open outlook to the rear of our property.

In April 2019 we had a visit from the developer, who confirmed the position of plot number 2
and the P2 boundary by installing a coloured marker post on his land.
However, the subsequent site plans states the P2 red boundary line is an “approximation”. Surely this is a crucial piece of information that has been omitted from the plan and I can only surmise it has been left out to allow the developer more scope to rearrange his houses. This encroachment may be classed as “minor” by the planners but makes a huge difference to us as we now have a garage placed in front of our main living area.

Policy PR1 that identifies that “development will not normally be permitted on areas of open space. Unless the new use is ancillary to the use of open space.

I would argue that the proposal to build a Suds system, an access road and 2 buildings is not ancillary to the open space but is in fact in support of the proposed development.

Considering that the whole P2 area and the planned Suds system is such an important factor to the planned site, the developer is not offering anything back to the village for losing this area.

The LDP states that contributions toward new community woodland planting, to connect existing areas of woodland in and around the settlement may be required, so I think it only be appropriate for the developer to landscape the P2 area so that it is an attractive feature for the village residents to enjoy. The P2 area has currently been decimated with no regard for the wildlife that was living there and has become an eyesore.

Loss of Amenity -
In the planning report issued on the 27th November, they stated that there was a minor degree of overlooking on number 29 Newton Road, but not so on numbers 25 and 27. I concur that the removal of rear bedroom windows does help to a degree, but numbers 25 and 27 Newton Road have exactly the same overlooking issues as number 29, and this is magnified by the fact that the developer is planning to raise the FFL of these Plots by 2 meters leaving a bottom of Plots 1 and 2 rear gardens. This is not evident on the site plans but is visible on the location plan.

The ground level at the boundary fence has always been lower than the houses on Newton Road, contrary to the location plan. This all changed when the developer erected his unauthorised site compound, raising the ground level approximately 1 meter above our boundary level. This has had a dramatic effect on the visual amenity of numbers 25, 27 and 29, and the gardens are already showing signs of flooding. This will inevitably affect all 3 existing properties once the developer builds his site up to the level he has planned.

I would ask the committee here today, if someone proposed to build a 1.5 storey house behind your property with a 2 metres elevation, with all garden run off ending up in your garden, would you be happy with this acceptance.

Flooding -
However, the most important point I have to make is that of flooding.

I won’t labour long on this issue as I knew Mr Chalmers had hands on experience on the village flooding issues. What I would say is that both SEPA and the LDP 2017 have produced the flood risk maps showing medium to high probability of flooding in areas of St Fergus, so when we received notification of application, I spent some time studying this system to see if I would be affected. I can say, that the system was never designed to handle the demand that the system is seeing at the moment and if the developer gets approval for this, and for the additional 55 houses on his next site, it will be a disaster for the Eastern edge of the village.
On Tuesday 26th November I lodged some further updates on flooding issues but was told that it was too late for them to be considered but on Friday 29th of November I was surprised to see a drawing of the developers new tie in point that was displayed on the planning website, which we have not had the time or the opportunity to comment on.

Having seen this, I have the following concerns on this tie in point, as I have a main culvert that flows downhill under my drive from the top end of St Fergus, even on dry days, there is a considerable amount of water flowing down this culvert. This culvert is upstream of the new tie in point. The effect of this new tie in point has not been assessed due to its late entry and will now be an additional choke point on the system causing the system to flood here as well.

I am led to believe that many of the original surface water drains are combined systems (along with the foul water drains) so this is an event that Scottish Water needs to be made aware of, as they have clearly stated in their response to the application “that the applicant must identify any potential conflicts with the Scottish Water assets and contact the asset impact team” I have seen no indication that this has been done!

Having considered the various representations made, the Committee agreed to defer consideration of the application to allow Members to undertake a site visit to consider the issues raised in respect of loss of privacy, general amenity and the possible risk of flooding.

(c) **Full Planning Permission for Erection of Dwellinghouse**  
(Renewal of Planning Permission Reference APP/2016/2197)  
**at Plot 2, Toux Farm, Mintlaw**  
For: Mrs Karalyn Davidson, Toux Lodge, Fetterangus  
**Reference No:** APP/2019/2106

In presenting the application, the Senior Planner reminded Committee that if they were minded to approve then the application will have to be referred to Infrastructure Services Committee.

Having considered the content of the report, the Committee agreed:

(1) that being minded to Grant Planning Permission in Principle, subject to relevant planning conditions, that the application be referred to Infrastructure Services Committee for determination, and

(2) in having acknowledged that the application accords with Policy P1 Layout, siting and design, that there are material considerations for departing from Policy R2 Housing and employment development elsewhere in the countryside, in that the proposed dwellinghouse will sit between two detached houses and will therefore complete the layout, rather than leave an empty site

(d) **Planning Permission in Principle for Erection of Dwellinghouse**  
**at Land at Lilybank, New Deer**  
For: Mr & Mrs C Dubbels, c/o Agent  
Per: Baxter Design Company, 1 The Square, Mintlaw  
**Reference No:** APP/2019/2185

In terms of Standing Order 6.5, the Area Manager had received a request to address the Committee in relation to this application from the Applicant, Mr Chris Dubbels, and the Agent, Mr Ryan Urquhart.
The Committee was asked if they wished to hear the representation. The Committee unanimously **agreed**.

Having heard from the Senior Planner, the Committee then heard from Mr Dubbels –

“Section 6.4 of the report states that the outbuilding is ancillary to the house. This may have been true at one point, but the internal concrete block dividing wall in the building and the fence dividing the clients ownership would suggest otherwise. The fence and dividing wall have been there since before they moved in 2005 and Google Street View shows the fence in a weathered and poor state in 2015. It also shows that the area in which we propose the site is overgrown in long grass and weeds, this has clearly never been used in conjunction with occupation of the house.

The end section of the steading is unoccupied and unused, other than some old logs and tools that have been left in there it is surplus to requirements of the occupation of the house as the main steading area serves as storage and workshop for the house.

Section 6.4 of the report states that part of the building is ‘full’ of firewood however there was only some excess logs stored there during the planners visit, which have been there for some time. The wood referred to was largely off cuts from garden joinery jobs carried out over 7 years ago along with an assortment of junk that was left there. The materials referred to have not been used in this time and should have been removed to the recycling centre and this has now been done. As can be seen from the photos of the doorway, the weed growth shows clearly that this is not used or accessed and is entirely redundant.

Section 6.5 states that the “oil boiler” is on the western side of the internal dividing fence. This is correct however the planning drawing shows the intention to have a linear divide so the portion of the fence from the steading would extend to the road side. This would place the oil tank within the curtilage of Lilybank. Originally a fence did extend from the rear of the steading to the back fence of the site as well, however this was removed due to its dilapidated condition and not replaced.

As the site area and that end section of steading are deemed surplus to occupation of the house, we felt it appropriate to apply for planning permission as the area is not part of the field surrounding the property and having a new house there would give it purpose. We could demolish the end section of the steading, however we felt it would give the plot owner a small area of storage, instead of having to erect a garden shed or such like to serve a new house, not to say that the person erecting a new house there could choose to demolish that end section if it was suitably justified in full planning application.

As you can see the site equates to around half of the ownership of the applicants, and they have ample driveway, parking, and garden area to serve their house.

Reference is made to the previous application made when the organic growth policy allowed for development within 400m of a village, but it was not viable to erect a footpath or pavement to the village for a single house along this busy stretch of road. Current policy does not require a footpath, and the current occupants do not tend to use the stretch of road as a regular footpath due to its busy vehicular use and high vehicles speeds, it is therefore not expected that occupants would walk the 300m along the road back into the village either. Although it should be noted that if they do walk around 1m west where the road is straight with clear visibility, they can use the single track Turfhill road and path that leads into the centre of the village opposite the Brucklay Arms.
Section 6.11 of the report talks about the trees that are on site, there are around 12 mature trees on site on the road-side and along the internal dividing fence, when I visited the site we looked at the visibility at the existing gate and decided to use that as the proposed access point, and felt that to accommodate a layby only 2-3 of the trees will need to be trimmed back or removed, the rest could remain as the road bends to the north and so the visibility clears most of the trees. There are a couple of small trees at the back of the site, we could certainly replace any trees lost by planting further trees on the south boundary, as part of any subsequent detailed application.

We therefore feel that planning permission should be granted, and we would welcome any questions that you may have.”

Following a discussion, the Committee **agreed** to Refuse Planning Permission in Principle for the following reason:-

01 The proposed development is in conflict with the Aberdeenshire Local Development 2017, in particular Policy R2 Housing and employment development elsewhere in the countryside, as the site does not comply with the organic growth exception due to distance from the settlement, and there is no redundant building within the proposed plot to be replaced, and no other exceptions apply.