

ABERDEENSHIRE COUNCIL
FORMARTINE AREA COMMITTEE

THE KIRK CENTRE, STATION ROAD, ELLON, 23 JULY 2019

Present: Councillors I Davidson (Chair), A Duncan, A Forsyth, J Gifford, A Hassan, P Johnston, A Kloppert, G Owen, A Stirling, I Taylor

Apologies: Councillors K Adam and R Thomson

Officers: A Roe (Acting Area Manager, Formartine), A Cumming (Committee Officer, Garioch), F Stewart (Senior Solicitor, Legal & Governance), J Wheater (Senior Planner), P Leiper (Roads and Landscape Services Manager) and K Sparrow (Engineer)

1. DECLARATION OF MEMBERS' INTERESTS

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

Item 4A – Councillor Johnston indicated that he knew the landowner. Councillor Johnston left the Council Chamber whilst the item was determined.

Councillor Kloppert indicated that she knew the agent, but considered the interest to be remote and insignificant and she would continue to take part in the determination process; and

Item 4B – Councillor Johnston clarified that he had declared an interest when the original application had been determined, but confirmed that he no longer had any connection to the parties involved and would take part in the determination of the current application.

2. STATEMENT ON EQUALITIES

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

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

3. MINUTE OF MEETING 2 JULY 2019

The Committee had before them, and approved as a correct record, the minute of the meeting of 2 July, 2019.

4. PLANNING APPLICATIONS FOR DETERMINATION

The following planning applications were considered along with any representations received in each case and were dealt with as recorded in Appendix A.

	Application No	Description	Decision
A	APP/2019/0843	Erection of building for (Class 6) storage and distribution with ancillary office and retail element at land at former Allathan Quarry, Udney, Ellon	Grant
B	APP/2019/0922	Erection of 3 no. wind turbines (50m hub height, 76.5m blade tip height) and associated infrastructure without compliance with conditions 7, 9, 10, 12,13, 4, 16, 18, 19 and 20 of approved Planning Application APP/2015/2965, land at Mains of Cairnbrogie, Oldmeldrum, Inverurie	Refuse

5. PROPOSED TRAFFIC MANAGEMENT WITHIN NEWBURGH

A report by the Director of Infrastructure Services was circulated presenting proposed traffic management in Newburgh and seeking authorisation to undertake the procedures for the appropriate traffic orders.

The Chair indicated that a request to speak had been received from the Community Council. The Committee **agreed** to hear from the Community Council representative.

The Engineer explained that the proposals had been formulated following a consultation process that had been undertaken in June and consideration about what could be done within current policy to improve safety for drivers and pedestrians in Newburgh. The Roads and Landscape Services Manager explained that the proposals were traffic management rather than traffic calming as the speed surveys that had been undertaken had not identified any issues that would allow work to be undertaken under current policies for traffic calming.

Members asked how many less parking spaces there would be. The Engineer explained that to accommodate the buildouts and improve visibility would result in the loss of 3 spaces, but that waiting times would improve availability of spaces if they were used correctly.

The Chair invited Ron MacDonald from Foveran Community Council to address the Committee. Mr MacDonald reminded the Committee that the issue had been raised by a petition from the community which had been considered by the Area Committee. He reminded the Committee of its response to the petition at the time and suggested that the current proposals did not go far enough. He suggested that a more holistic paper looking at the whole village was required.

Members considered what their intent and objective was when initially requesting that the issue be considered. Whilst accepting the limitations of the current policy, Members highlighted that similar issues were emerging in all communities relating to traffic speeds, traffic calming and traffic management. They were concerned that it was not possible for the Area Committee to do enough to respond and alleviate the concerns of residents. They suggested that further consideration needed to be given

as to whether the policy was appropriate and discussed how the Area Committee could progress this further. They were also keen to consider all of the elements of traffic management in Newburgh at the same time.

The Senior Solicitor advised the Committee that section B11.2 of the Scheme of Governance set out use of their scrutiny powers in terms of which, the Committee could seek a report on the implementation of this policy with a view to requesting Infrastructure Services Committee to undertake a policy review, if appropriate.

The Committee **agreed** to:

1. defer consideration of the proposed traffic management scheme to formalise parking spaces and install a footway build out on Main Street, Newburgh in order to consider all of the aspects of traffic management in Newburgh at the same time;
2. authorise the commencement of the statutory procedure for the making of the Aberdeenshire Council (Newburgh Traffic Management) Order;
3. request that a report be presented to Committee following the closure of the consultation detailing all of the feedback received through the consultation process for the making of the Order; and
4. request that a scrutiny paper be presented to Committee by the Head of Roads and Landscape Services in consultation with the Head of Transportation in relation to implementation of traffic management and traffic calming policies within towns and villages in Aberdeenshire. The report should also include active travel.

APPENDIX A

4A. Reference No: APP/2019/0843

Full Planning Permission for erection of building for (Class 6) storage and distribution with ancillary office and retail element at land at former Allathan Quarry, Udney, Ellon

Applicant: Whisky Hammer Ltd.
Agent: Angela Slater

As indicated under item 1, Councillors Johnston and Kloppert intimated interests. Councillor Kloppert remained in the Council Chamber and took a full part in determining the application. Councillor Johnston left the Council Chamber whilst the application was determined.

The Chair indicated that a request to speak had been received from the applicant. The Committee **agreed** to hear from the speakers.

The Senior Planner highlighted the key elements viewed from the site visit and provided detailed information showing the history and extent of the quarry site on maps. He confirmed that there was no record of rates being paid for the site although it was accepted that an area had been used by the Roads Service for storage. He explained that there was no evidence of when it was used and for how long. He highlighted the naturalised state of the site and indicated that the Planning Service did not have any evidence that the site was ever used in conjunction with the quarry. He confirmed that given the history, evidence and current state of the site it could not be considered brownfield and the application would not comply with Policy R2.

Councillors sought clarification regarding the extent of the road improvements and the definition of naturalisation. The Senior Planner explained that the road would be tarred up to the site and explained that if there was no evidence of previous structures the site would be considered naturalised.

The Chair invited David Milne, the architect and David Murray, the applicant, to address the Committee.

Mr Milne articulated his knowledge of the use of the site and said that the whole site was used for quarrying and by the Council. He suggested that the proposed use would fit with community aspirations. Mr Murray provided information about the business model and why the site was chosen. Members sought clarification about the security of the site and the speakers then returned to the public benches.

Members highlighted the tourism benefits that could be gained from the application. They pointed out that the site was well located and on a regular bus route. They noted the Town Centre First Principle, but indicated that it was not appropriate to consider this development on these terms. They considered that on balance the benefits that could be gained from the provision of this facility would outweigh the impact relating to the designation of the site and considered it appropriate to depart from Policy R2 in these circumstances.

The Committee **agreed** to grant Full Planning Permission subject to appropriate conditions on the grounds that the net economic and social benefits derived from the

application in relation to Policy B3: Tourist Facilities make it an appropriate departure from Policy R2 and the proposal otherwise accords with the development plan.

4B APP/2019/0922

Full Planning Permission for erection of 3 no. wind turbines (50m hub height, 76.5m blade tip height) and associated infrastructure without compliance with Conditions 7, 9, 10, 12, 13, 14, 16, 18, 19 and 20 of approved Planning Application APP/2015/2965 at land at Mains of Cairnbrogie, Oldmeldrum, Inverurie, Aberdeenshire

Applicant: Mountwest 838 Limited

Agent: Ian A Downie

As indicated under item 1, Councillor Johnston declared an interest, but continued to take a full part in determining the item.

The Chair indicated that a request to speak had been received from a party representing a number of members of the community. The Committee **agreed** to hear from the party which had requested to speak.

The Senior Planner explained that the application was quite technical as it had requested a number of amendments to the conditions for the wind turbine planning permission to allow a material start to the development without undertaking a number of conditioned actions until a later date. He said that a section 42 application, to amend conditions could be dealt with in three ways, to grant as applied for, to refuse or to grant with different conditions recommended by the Planning Authority. He confirmed that, in considering the application, the Planning Service considered that there was some duplication in conditions 9 and 19 which, with revision to the wording of condition 7, would achieve the same outcome, but avoid duplication and increase the precision of the condition. He confirmed that conditions 12, 13, 16 and a revised condition 7 were proposed to be retained as pre-commencement conditions. He confirmed that the only other proposed variations related to matters dealt with by the conditions that were not required at the outset of the development e.g. colours, location of cabling etc.

The Senior Planner also indicated that approval of the application would result in a new three-year period for the development to take place subject to the discharge of the relevant conditions. The current live application being due to expire on 24 August 2019.

Members sought clarification on a number of aspects of the recommendation and thereafter the Chair invited Tim Eley, an objector to the application, to present to the Committee on behalf of himself and other residents of Craigdam.

Mr Eley indicated that the applicant had made no effort to communicate with residents or to provide any community benefit from the turbines. He stressed the uncertainty of the situation and suggested that the shift in wind energy to offshore might see the development never being viable. There were no questions for Mr Eley and he returned to the public benches.

Members spent some time clarifying further the recommendation of the Planning Service and what it would mean in practical terms.

The Senior Planner clarified that there was an error in the report at paragraph 4.1 (page 9 of the report) in relation to the response to the application by the Ministry of Defence and apologised for the error. The Ministry of Defence had not objected to the change of wording of the condition proposed by the applicant. Even so the Planning Service remained concerned and considered the condition should remain as currently worded.

Some Members were concerned by the implications of amending conditions for this application that had been implemented on other similar applications. They considered that the conditions on the live permission were robust, competent and provided the community with certainty in terms of the application and were of the view that the application should be refused.

However, other Councillors were content with the proposal of the Planning Service to tidy up the wording of some of the conditions whilst continuing to ensure that key matters were still to be completed before any development could take place.

Councillor Johnston, seconded by Councillor Gifford, **moved** that the application be **refused** on the grounds that the original conditions:-

1. are still competent;
2. set a higher threshold to comply with;
3. provide more certainty for the community in terms of the future planning of the area.

As an amendment, Councillor Davidson, seconded by Councillor Taylor, **moved** that the application be **granted** subject to the conditions detailed in the report, as per the Officer recommendations.

The Committee voted:-

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|-------------------|-----|---|
| For the motion | (6) | Councillors Forsyth, Gifford, Hassan, Johnston, Kloppert and Owen |
| For the amendment | (4) | Councillors Davidson, Duncan, Stirling and Taylor |

Therefore the motion was carried and the Committee **agreed** to **refuse** Full Planning Permission on the grounds that the original conditions:-

1. are still competent;
2. set a higher threshold to comply with;
3. provide more certainty for the community in terms of the future planning of the area.