

ABERDEENSHIRE COUNCIL

GARIOCH AREA COMMITTEE ON 22 JUNE 2021

ALL ATTENDANCE BY SKYPE

(THE RECORDING WAS STREAMED LIVE, AND A RECORDING OF THE PUBLIC SECTION OF THE MEETING IS AVAILABLE TO GENERAL PUBLIC)

Present: Councillors D Lonchay (Chair), N Baillie, L Berry, M Ewenson, M Ford, V Harper, S Leslie, A McKelvie, G Reid, H Smith, I Walker, and J Whyte.

Apologies: Councillors D Aitchison, D Keating, and R McKail.

Officers: A Overton (Garioch Area Manager), B Strachan, (Roads & Landscape Services Manager), M Hall (Strategy Manager, Transportation), A Gibbs (Principal Solicitor, Democratic Services), C DeVilliers (Acting Principal Solicitor, (Conveyancing)), I Welsh (Principal Officer, Roads, Landscape Services, & Waste), K Clark, (Principal Engineer, Roads Development and Transportation), F Stewart (Senior Solicitor), B Strachan (Senior Planner), and J McRobbie (Area Committee Officer)

1. DECLARATION OF MEMBERS' INTERESTS

In accordance with the Councillors' Code of Conduct, the Chair asked Members if they had any interests to declare.

Councillor Whyte declared an interest in Item 8, Area Committee Budget – Area Initiatives Fund and Strategic Budget, as she had a family membership of the Garioch Rugby Club, an applicant for financial assistance, but indicated that, having applied the objective test as the interest was remote and insignificant, she would remain and participate in the discussion.

Councillors Ewenson and Harper declared interests in Item 11, Taxis and Private Hire Car Licensing Review of Advertisement Policy, as Members of the Licensing Sub-Committee, but indicated that, having applied the objective test, as the interest was remote and insignificant, they would remain and participate in the discussion.

Councillor Whyte declared an interest in Item 12, Civic Government (Scotland) Act 1982 – Application for Grant of Street Trader's Licence, as although she did not know the applicant, she had an ownership interest in the property in which they lived. She indicated that, having applied the objective test, she would remove herself from the meeting and take no part in the discussion of the application.

2. RESOLUTIONS - 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; and
2. where an Equality Impact Assessment was provided, to consider its contents and take those into account when reaching its decision.

3. MINUTE OF MEETING OF 1 JUNE 2021

In accordance with Standing Order 7.1.1, the Committee **agreed** that the Minute of 1 June 2021 was a correct record of proceedings.

4. STATEMENT OF OUTSTANDING BUSINESS

A report by the Director of Education and Children's Services had been circulated presenting the outstanding business for Garioch Area Committee as at 22 June 2021.

Having heard from the Area Manager as to the items still to be resolved, and of an indicative timescale for the reporting, post recess, on Items 1 (Supplementary Housing Work Plan and Business Case – Procurement Approval for Works at Littlewood Court, Kemnay) and 5 (Gypsy Traveller Halting Site Provision (from Planning Application Land Adjacent to Averon Engineering, Thainstone, Inverurie); with a briefing on the latter to be issued in early course, the Committee **noted** the updates provided for the items on the Statement of Outstanding Business.

5. MEMBER PROMOTED ISSUE (MPI) - SPEEDING ON FINTRAY ROAD, BLACKBURN

A report by the Director of Infrastructure Services was circulated presenting the Committee with a response to a Member Promoted Issue (MPI), raised by Councillor Reid with regard to interventions which might be introduced to reduce traffic speeds on Fintray Road, speeding traffic on Fintray Road, Blackburn.

The Committee heard from the Strategy Manager, Transportation that the officers were unable to act outwith the currently adopted Council policy, but that Members could consider the issues raised in the MPI, together with the officer recommendations, and advised that it would be up to Members what recommendation to make to the Infrastructure Services Committee.

There was discussion of the timetable for any potential actions arising from a positive response by the Infrastructure Services Committee; the availability and cost of any infrastructure which would be required to support any actions pursued; the difference in public perception of accidents and those reported formally to Police Scotland, or involving the other rescue services; police enforcement on speeding; the incidence

of similar situations in other communities across the Garioch Area and Aberdeenshire; the relatively recent review of the Policy by the Infrastructure Services Committee; and whether the setting of a 20mph limit would be of benefit.

Having therefore considered (a) the MPI raised by Councillor Reid as detailed in Appendix 1 to the report, and (b) the Transportation Service's response to the issues raised in the MPI, as set out within the report; Councillor Reid **moved**, seconded by Councillor McKelvie, that the Committee recommend to the Infrastructure Services Committee their consideration of departing from policy and installing a Speed Indicator Device (SID), as detailed in paragraphs 4.15 and 4.20 of the report.

Councillor Berry **moved as an amendment**, seconded by Councillor Ewenson, that it be recommended to the Infrastructure Services Committee that there be no departure from policy.

On a division, there voted:

For the Motion	(8) Councillors Baillie, Ford, Harper, Leslie, Lonchay, McKelvie, Reid, and Walker; and
For the Amendment	(4) Councillors Berry, Ewenson, Smith, and Whyte.

The Motion was therefore carried, and the Committee **agreed** to recommend to the Infrastructure Services Committee their consideration of departing from policy and installing a Speed Indicator Device (SID) on Fintray Road, Blackburn, as detailed in paragraphs 4.15 and 4.20 of the report.

6. PLANNING APPLICATIONS FOR DETERMINATION

The following applications were considered along with valid representations received and were dealt with as recorded in **Appendix A** to this Minute.

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|----|---------------|--|-----------------|
| A. | APP/2020/2406 | Erection of 2 dwellinghouses and garages at Plot 4 and 5, land north of Premnay School, Auchleven, Inch, AB52 6QA | Delegated Grant |
| B. | APP/2021/0686 | Commercial development to include Class 4, 5 and 6 Uses with associated infrastructure and landscaping: Non Compliance with Condition 8 of Planning Permission in Principal Reference APP/2015/3793 at land to the west of Thainstone Business Park (Thainstone LDP Sites E3 And SR2), Inverurie | Grant |
| C. | APP/2021/0179 | Erection of dwellinghouse at Site at Stoney Burn, Midmar | Refuse |

7. PLANNING APPEAL – ERECTION OF DWELLINGHOUSE AND GARAGE AT CAUSEWAY FOLD, MEIKLE WARTLE, INVERURIE, AB51 5AU

With reference to the Minute of Meeting of 23 February, 2021, (Item 6B), a Planning Appeal decision notice had been circulated, detailing the outcome of an appeal against the Refusal of Full Planning Permission for Erection of Dwellinghouse and Garage at Site at Causeway Fold, Meikle Wartle, Inverurie, AB51 5AU.

The Committee **noted** the planning appeal decision to disagree with the Area Committee's decision to refuse permission, and Grant Full Planning Permission for the application detailed above.

8. AREA COMMITTEE BUDGET – AREA INITIATIVES FUND AND STRATEGIC BUDGET – 2021/22

A report from the Director of Education and Children's Services had been circulated reporting on the application of previous grant funding, and the allocation of small grants as delegated to the Area Manager, presenting the requests for Area Initiatives Fund funding received by the closing date 31 May 2021, and reporting for consideration potential projects for Garioch Area Committee Strategic Budget 2021/22.

Having heard further from the Area Manager as to the applications which had been received; that the budget had been oversubscribed; of the potential to vire funds from one budget allocation to the other; and of the further consideration required to determine the validity of strategic grant applications, Members considered the individual applications.

After lengthy discussion of the merits of the applications, including whether the proposals referred to were revenue or capital works, and the previously voiced commitment to support communities with Christmas lighting, the Committee **agreed:-**

- (1) to grant the following awards from the Area Initiative Fund:-
 - a. £2053.13 to Home Start Garioch towards volunteer expenses;
 - b. £2,000.00 to Westhill Men's Shed towards the repair of its roof;
 - c. £558.60 to Kemnay Community Council towards festive lights;
 - d. £3,879.15 to Aberdeenshire Sailing Trust towards six replacement boats;
 - e. £5,000.00 to Garioch Rugby Football Club towards professional fees for the development of additional community facilities in the new pavilion;
 - f. £1,750.00 to Newmachar Community Council towards festive lights;
 - g. £2,046.00 to Westhill and Elrick Community Council towards path drainage;
 - h. £2,053.12 to LATNEM towards mental health support resources;

- i. £1,560.00 to Kemnay Community Council for repair of the path at Fetternear Estate; and
 - j. £4,900.00 to Action Kintore for the repair of Kintore Bothie;
- (2) in respect of the Strategic Budget:-
- a. to reduce the allocation of funding for energy efficiency measures in community halls to £20,000 in the current financial year;
 - b. that £10,000 be allocated to the development of Community Action Plans as detailed in the report;
 - c. that an allocation of £20,000 be made for Arnhall Moss Nature Reserve path; and
 - d. that no allocation be made to the Blackburn Steps or Denman Park projects, determining that these could not be agreed as strategic projects;
- (3) to acknowledge the update on the Strategic Budget projects for 2020-2021 as detailed in Appendix 4 to the report; and
- (4) to acknowledge the decisions made by the Garioch Area Manager in respect of the Small Grants Fund, as detailed in Appendix 5 to the report.

9. ANNUAL SCRUTINY REPORT – 2020/21

A report from the Director of Education and Children's Services was circulated to present to the Committee the annual report outlining scrutiny activity during 2020/21 for the Garioch Area Committee.

The Committee heard from the Area Manager of the achievements of the continuing scrutiny in all matters with the Committee still being able to transact its regular business during the Covid-19 lockdown by the embracing of online meetings. Ms Overton spoke of the evolution of the report as part of the new delegations of scrutiny in the 2017 revision of the Scheme of Governance.

Noting that the current lack of performance reporting made the identification of areas for scrutiny more challenging, and of the various formats, both formal and informal, within which scrutiny could take place, there was discussion of the links to the monitoring of the delivery of the Garioch Area Plan; the method by which issues raised in informal sessions became transparent to the public; the potential benefit of establishing Microsoft Teams spaces to facilitate the timeous updating and sharing of relevant information between, and to, local Members; the use of digital tools such as Power BI and Pentana to allow Councillors access to up-to-date and local information; the timings and scheduling of informal briefing sessions to maximise Member attendance; and potential action to mitigate the delay in draft Minutes being available to Members over the recess period, which may best be considered on a pan-Council basis.

The Committee **agreed**, having considered the activities as detailed in the report:-

- (1) that the transparency of informal sessions be considered, including formal reporting to Area Committee in a more narrative than standard Minute style, and the allocation of time in the sessions to identify the “so what” questions of the discussion;
- (2) to welcome officers’ consideration, for report post recess, of the establishment of Ward Spaces in Microsoft Teams for sharing of information and the better management of Ward Meetings;
- (3) to commend the use of available existing tools such as Teams, Power Bi, and Pentana, subject to these being kept up-to-date for mutual benefit of officers and Members;
- (4) to consider the requirement for refresher training in Power BI and Pentana for Members;
- (5) that better attendance at informal sessions to be encouraged to make the best use of officer time;
- (6) that officers consider the scheduling and frequency of Ward Meetings/ informal sessions; and
- (7) that a workshop be held, post recess, to explore the above and consider the new Performance Framework, to be approved by Council, 24 June, 2021, and the Area Performance Framework.

10. STATUTORY CONSULTATION ON PROPOSED LEASE OF BURGH FISHINGS AT INVERURIE AND KINTORE

A report from the Director of Business Services was circulated to inform the Committee of the commencement of the statutory consultation exercise required to enable two separate applications for Common Good Orders: one relating to the proposed 25-year lease of the Burgh Fishings at Inverurie, and the second for the proposed year-to-year lease of the Burgh Fishings at Kintore.

The Committee heard from the Acting Principal Solicitor, Conveyancing, and the Principal Officer, Roads, Landscape Services, & Waste of the history and context of the proposals, and of discussions which had been held with Landscape Services officers, the Fishing Associations, and the Ury River Park Trustees on the proposed leases.

There was discussion of the rights of riparian owners in terms of access and also liability in the event of flooding; clarification that the leases referred to fishing rights and none of the other three ownership rights; the instances where landlord authorisation might be required from the Council for different categories of work; and recent joint collaborative working to tackle the challenge of invasive Giant Hogweed on the river banks.

The Committee **agreed** to:-

- (1) approve terms of the proposed 25-year lease to Inverurie Angling Association (IAA), as detailed in the report;

- (2) approve the terms of the proposed year-to-year lease to Kintore Angling Club (KAC);
- (3) note the commencement of the two statutory consultations on the proposed leases of Common Good, in accordance with the requirements of Section 104 of the Community Empowerment (Scotland) Act 2015; and
- (4) defer the determination of the leases of the Inverurie Burgh Common Good Fishings and the Kintore Burgh Common Good Fishings, pending a further report on the results of the statutory consultations.

11. TAXIS AND PRIVATE HIRE CAR LICENSING REVIEW OF ADVERTISEMENT POLICY

A report from the Director of Business Services was circulated to seek views from the Area Committee on the draft Advertising Policy for Taxi and Private Hire Cars.

Having heard from the Principal Solicitor (Democratic Services) of the proposed more flexible approach, adopting national advertising authority standards, but with the continuation of robust compliance procedures which would allow local licensing officers to intervene, or to refer a case to the Licensing Sub-Committee for resolution, there was discussion of the potential speed of any Council response to any complaint received; the wording relating to the use of a wrap on a vehicle; the consideration of the use of a gender neutral pronoun in the enforcement flow chart; and the context of behaviours of applicants which could be considered.

The Committee, having considered the terms of the report and the proposals as detailed in Appendix 1, **agreed** to recommend to the Licensing Sub-Committee the consideration of the undernoted comments:-

- (1) that the timescale for Council response, once aware, of breaches of standard to be considered;
- (2) that consideration be given of the potential need to strengthen the wording in Section C, on the referral of wrap consideration to the DVLA; and
- (3) noting the legal standard to have masculine deemed to include the female, that officers consider the use of a more gender-neutral designation in the enforcement flowchart.

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

A report by the Director of Business Services was circulated presenting an application for the grant of a Street Trader's Licence, which had attracted an objection and so required the Committee to determine the application.

Cllr Whyte, having declared an interest in the matter, left the meeting during the consideration of the item.

Councillor McKelvie, having re-joined the meeting during the discussion of the item, indicated that he would not participate in the consideration of the matter.

The Committee heard from the Senior Solicitor that the applicant had been invited to attend the meeting but was not yet present, and that efforts were being made to contact him.

The Committee agreed to hear from the Roads & Landscape Services Manager of the Service's concerns about the location for the proposed operation of a street trader's licence.

There was discussion on issues of whether land ownership for the proposed site would be a relevant consideration; of the specific location of the site and health and safety concerns regarding visibility splay; and of safety of access to the location by large lorries which were assumed to be part of the target market for the provision.

Following consideration of the proposal, the Committee **agreed**

- (1) that there was enough evidence before it to allow a determination to be made; and
- (2) in terms of the legal test, Appendix 4, paragraphs (c) i (location) and (c) v (public safety, as detailed in the report, that the application be REFUSED as the location was not suitable for the proposed activities in terms of public safety, being on a busy road, with limited parking, and poor visibility.

Councillor Presiding over meeting

Print Name

Signature

Date

GARIOCH AREA COMMITTEE – 22 JUNE 2021

APPENDIX A

PLANNING APPLICATIONS FOR DETERMINATION

6A. Reference No: APP/2020/2406

Full Planning Permission for Erection of 2 Dwellinghouses and Garages at Plot 4 and 5, Land North of Premnay School, Auchleven, Inch, Aberdeenshire, AB52 6QA

Applicant: Mr Ian Gilbert
Agent: Norman P Lawie Limited

There had been circulated a report dated 1 June, 2021 by the Director of Infrastructure Services, requesting Members' consideration of an application for Full Planning Permission for the erection of 2 dwelling houses and garages at Plots 4 and 5, Land North of Premnay School, Auchleven, Inch.

The Committee heard from the Senior Planner as to the merits of the application which officers deemed acceptable, subject to (a) confirmation of appropriate surface drainage and (b) the securing of a footpath provision before the occupation of the second house on site, in terms of Policy R2 of the Local Development Plan, 2017 given the location adjacent to an established settlement with capacity for two additional dwelling houses within the plan period.

There was discussion of an existing sewage problem in the adjacent village and its potential exacerbation by the addition of two new houses, and the requirement for the developer to undertake a drainage impact assessment with Scottish Water; and having heard from Ward Councillors, the Committee **agreed:-**

that authority to GRANT Full Planning Permission be delegated to the Head of Planning and Environment Service subject to: -

- a) Submission of surface water drainage details for the road and footpath and a satisfactory consultation response from Flood Risk and Coast Protection;
- b) A new condition to secure delivery of the proposed footpath to the north of Plot 5 prior to occupation of the second dwellinghouse on the site; and
- c) Any conditions arising from the above, and the following conditions:
 1. 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 2.4 metres by 59 metres to be formed on either side of the junction of the vehicular access with the public road has been provided 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.

2. That the vehicular access and parking area hereby approved shall not be brought into use unless they have been provided and surfaced in accordance with the details shown on the approved plans. The first five metres of access measured from the edge of the road or back of the footway shall be fully paved and shall have a maximum gradient not exceeding 1:20. The access 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, the access and parking area shall thereafter be permanently retained as such;

Reason: To ensure the timely completion of the access and 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, all in the interests of road safety.

3. That prior to occupancy of the development, off-street parking for 6 cars, surfaced in hard standing materials, shall be provided within the site;

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

4. That 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; and
- 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. That 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.

6. That 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.

7. That wastewater 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; and

- (2) That the reason for decision is that the planning authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Development Plan 2017. It has been demonstrated that the proposed dwellinghouses would be deemed acceptable under Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017 in that they are located within 200 metres of the settlement of Auchleven and there is capacity for two dwellinghouses within this plan period. The proposed house types are appropriately designed and scaled, with no adverse impacts on the surrounding amenity, in compliance with Policy P1: Layout, siting and design of the Aberdeenshire Local Development Plan 2017.

6B. Reference No: APP/2021/0686

Planning Permission in Principle for Commercial Development to include Class 4, 5 and 6 Uses with Associated Infrastructure and Landscaping: Non Compliance with Condition 8 of Planning Permission in Principle Reference APP/2015/3793 at Land to the West of Thainstone Business Park, (Thainstone LDP Sites E3 And SR2), Inverurie

Applicant: Thainstone LLP
Agent: Halliday Fraser Munro

Having been advised that a request to be heard on the application had been received from Dr Paul Davison, objecting to the application, the Committee **agreed** that Dr Davison be heard.

Members heard from the Senior Planner of the context of the service's consideration of the application for amendment of the original planning permission, as an

appropriate extension of the Thainstone Business Park, and also acceptable in terms of transport capacity and traffic generation, allowing for the delivery of commercial development on an allocated site.

Questions were asked of officers on the cumulative impact of planning applications on the roundabout at Thainstone; the Minute of Agreement with Transport Scotland on the road improvements planned; the percentage of the total assessed business use capacity which was being proposed to be developed; and the stand-alone application for an abattoir on the site, which had already been granted Full Planning Permission.

Thereafter the Committee heard from Dr Paul Davison as specific circumstances of the original holistic approach of the application by ANM for Planning Permission in Principle, initially refused by the Area Committee and then granted on appeal. It was promoted to allow for a site-wide approach with frontloaded provision of infrastructure, allowing flexibility in site allocation in response to market demand, which was accepted by the Scottish Minister's appointed Reporter as consistent with a coherent, phased development. In Dr Davison's view, the current proposals abandoned that coherent development approach, taking an incoherent and piecemeal approach to small pockets of development on the site. Dr Davison questioned the validity of the traffic survey undertaken by the developer's consultant as a basis of evidence of impact and suggested that a consultant's report, to be finalised in summer 2021, would recommend that works should be coordinated so as to minimise disruption to the A96 during the construction period.

Several other applications which had conditions requiring modifications to the Port Elphinstone roundabout would, Dr Davison suggested, contribute further to the traffic impact, whilst arguing that their development was too small to pay for the infrastructure costs.

He believed that the original Condition 8 was not necessarily out of date, but could be amended with Committee agreement, but suggested that the net benefit of an approval would merely undermine the DPEA reporter's justification for allowing the original appeal.

There were no questions for Dr Davison.

Members then discussed the application, beginning with the Ward Members.

Matters relating to the roundabout improvements and the Minute of Agreement with Transport Scotland; the anticipated timescale for the improvement works; and safeguarding Road bonds which would be put in place with the relevant developers, working together, were discussed.

Thereafter the Committee **agreed:-**

- (1) to **GRANT Planning Permission in Principle** subject to the following conditions:
 1. Details of the specified matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland)

Act 1997. No individual phase of the development shall be.g.in until all of the details listed in this condition for that phase of the development have been submitted to, and approved in writing by, the planning authority, and the phase of the development shall be carried out fully in accordance with the approved details:

Specified matters:

- (a) full details of the layout and siting of the proposed phase of development;
- (b) full details of the external appearance and finishing materials of all buildings in the proposed phase of development;
- (c) full details of the means of access to the site; the required visibility splays, which shall be in accordance with Aberdeenshire Council Standards;
- (d) a scheme of landscaping for the phase of the development detailing existing landscape features and vegetation to be retained; the locations of new trees, shrubs, hedges, grassed areas, and water features; a schedule of plants including species, plant sizes, and proposed numbers and density; the layout, design, and materials of all hard landscaping works including walls, fences, gates, and street furniture; the extent and distribution of public open space within the phase; and a programme for the completion and subsequent maintenance of the proposed landscaping;
- (e) a detailed levels survey of the site and cross sections showing proposed finished ground and floor levels relative to existing ground levels and a fixed datum point;
- (f) a noise impact assessment based on BS4142:2014, required to demonstrate the potential noise impact of the development on the surrounding area;
- (g) full details of the location and extent of all water bodies (including watercourses and field drains) within and bordering the site of the phase of development and details of the provision and maintenance of a buffer strip for all such water bodies, and full design details of, and a construction method statement for, any proposed engineering works (e.g. re-routing) to those water bodies;
- (h) full details of the proposed means of disposal of foul and surface water from the phase of development;
- (i) full details of the proposed scheme for the storage of refuse and recycling;
- (j) full details of the proposed car parking and vehicle turning areas within the phase of development. Car parking provision shall be in accordance with the Aberdeenshire Council parking standards applicable at the time of the application for approval of matters specified in conditions; and
- (k) full details of footpaths and cycleways within and serving the phase of development;

Reason: permission for the development has been granted in principle only, and subsequent approval of these matters is required in accordance with Section 59 of Town and Country Planning (Scotland) Act 1997 and to allow for a reasonable period of time to plan and implement the development.

2. That no works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a Written Scheme of Investigation which has been submitted by the developer and agreed in writing by the planning authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the written satisfaction of the planning authority;

Reason: to safeguard and record the archaeological potential of the area.

3. That no development shall take place unless Camie's Stone and the area around it to a 10 metre radius buffer has been protected by fencing. No works shall commence unless the extent and details of the protective fencing have been submitted to, and agreed in writing by, the planning authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels, or construction activities shall be permitted within the protected area without the written consent of the planning authority;

Reason: in order to ensure adequate protection for Camie's Stone during the construction of development.

4. In the event that Camie's Stone requires to be relocated, that no works shall be undertaken until a method statement has been submitted to, and approved in writing by, the planning authority. This shall include details of the proposed site for Camie's Stone; for the avoidance of doubt the location shown on drawing 10129 sk-14 dated June 2016 is not approved. Once agreed, Camie's Stone shall be relocated to the approved site in full accordance with the approved method statement;

Reason: to ensure the protection and appropriate relocation of Camie's Stone within the Thainstone area.

5. That no works in connection with the permission hereby approved shall take place unless the trees marked for retention within the Enviro Centre Tree Schedule and Constraints Plan dated 2 March 2016, and on the approved plans submitted under Conditions 1 and 2, have been protected by fencing in accordance with BS5837:2012 Trees in Relation to Design, Demolition, and Construction. No works shall commence unless details of the protective fencing have been submitted to, and agreed in writing by, the planning authority. 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 a position where the flames could extend to within 5 metres of foliage, branches, or trunks;

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

6. That prior to the occupation of any of the development hereby approved, the proposed alterations to Thainstone Roundabout as illustrated in Fairhurst Drawing No. 105574/SK7004 (or such other scheme as shall have been approved in writing by the planning authority), shall be completed to the satisfaction of the planning authority;

Reason: in order to deliver mitigation on the Trunk Road network.

7. That no more than 10% (3,100sqm Gross Floor Area) of the development floor area hereby approved shall be occupied unless the proposed scheme of transport mitigation measures for Port Elphinstone roundabout, generally as illustrated in Fairhurst Drawing No. 101169/1058 contained within the Fairhurst Transport Statement, dated February 2021 (or such other scheme as shall have been agreed in writing by the Planning Authority) has either been completed to the satisfaction of the Planning Authority, or a Minute of Agreement is in place to the satisfaction of Transport Scotland and the Planning Authority that such a scheme will be delivered;

Reason: to mitigate the adverse impact of the development on the safe and efficient operation of the trunk road and to ensure that the infrastructure modification proposed to the trunk road complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

8. That the surface water drainage shall be in accordance with the approved plans and drainage assessment (Fairhurst – March 2016), and the development shall not be occupied unless the approved drainage system has been implemented in this form, unless otherwise agreed in writing by the planning authority. Following provision of the drainage system, it shall thereafter be maintained by the developers or their successors, in accordance with the recommended maintenance regime;

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

9. That notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or the Town and Country Planning (Use Classes) (Scotland) Order 1997, or any order replacing those instruments, the development hereby permitted shall not exceed 10,200 square metres GFA of Class 4 (Business), 8,000 square metres GFA of Class 5 (General Industrial), and 12,800 square metres GFA of Class 6 (Storage / Distribution) without an express grant of planning permission from the planning authority;

Reason: to enable the planning authority to consider the implications of any subsequent change of use on the amenities of the area.

10. That commercial vehicles (including fork lift trucks and deliveries) shall only be started up, manoeuvred, operated, loaded, or unloaded between 0700 and 1900 hours Monday to Friday, and 07:00 and 12:00 hours on Saturdays, and should not be operated at any time on Sundays, and Bank and other public holidays, without the prior agreement in writing of the planning authority;

Reason: in the interests of the amenity of adjacent residents.

11. That prior to the construction of any building, an Energy Statement applicable to that building must be submitted to, and approved in writing by, the planning authority, including the following items:
- (i) Full details of the proposed energy efficiency measures and/or renewable technologies to be incorporated into the development; and
 - (ii) 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 the planning authority's Supplementary Planning Guidance on Carbon Neutrality in New Developments. (In this case the development will achieve at least a Bronze Active rating under Section 7 of the Building Standards Technical Handbook). The development shall not be occupied unless it has been carried out 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 the planning authority's Supplementary Planning Guidance - Carbon Neutrality in New Developments; and

12. That prior to the commencement of development, details shall be submitted to, and approved in writing by, the planning authority of measures to encourage walking and cycling between the site and existing walking / cycling routes and to improve public transport accessibility. Once approved, the measures shall be implemented to the written satisfaction of the planning authority prior to first occupation of any building within the site;

Reason: to ensure that site users are encouraged to adopt more sustainable travel modes and are able to do so safely; and

- (2) That the reason for decision is that the planning authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Plan Development Plan 2017. Development of the Thainstone Business Park extension is appropriate and non-compliance with the relevant condition is acceptable in terms of Section 42 of the Town and Country Planning (Scotland) Act 1997 as an appropriate level of development is considered acceptable in terms of transport capacity, and traffic generation, and suitably allows for delivery of commercial development on an allocated site.

6C. Reference No: APP/2021/0179

Full Planning Permission for Erection of Dwellinghouse at Site at Stoney Burn, Midmar

Applicant: Mr Richard Forbes
Agent: Michael Gilmour Associates

The Committee was advised that a request to speak had been received from the applicant, Mr Richard Forbes and **agreed** that Mr Forbes be heard.

Members heard from the Senior Planner of the details of the proposed dwelling house, and of the service's consideration that the principle of development of the site in the countryside could not be supported as the remediation of a redundant brownfield site, or the reinstatement of an old site. This was because there was no defined curtilage, an incomplete footprint with sporadic walls, and although considered to meet the requirements of Policy P1 in terms of layout and siting, and being of a high standard of design, the application should be refused as it did not comply with Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017.

A question was asked of officers as to whether the visible walls showed evidence of having been mortared or not; and of the condition of the walls. Whilst the walls could be determined as evidence of a structure at some point in the past, there had been no visible evidence of mortar, and officers had determined that any structure which had existed on the site had fallen into disuse many years before.

The Committee heard from the applicant, Mr Richard Forbes, of his gratitude for being allowed to address the Committee, and of his belief that the presentation shared by planning officers was a reasonably accurate reflection of the site, although walls to a level of 5 feet were, he believed an indication that they may have been much higher than that when originally built. Mr Forbes suggested that the residual walls also looked different at different times of the year when vegetation growth was less than as shown in the planning presentation, and were over 5 foot high, and 40 foot long. He thought this was sufficient basis to support a substantial uptake in building, and their reuse reducing the carbon footprint of the proposed dwelling house. He had been looking for land for over 10 years, looking to design an off-grid, carbon neutral small holding. He was aware that the report supported the design as being of high quality, and, in that regard, meeting the requirements of the Local Development Plan, and had mitigations incorporated for the impact of the development on the character and amenity of neighbouring land usage. Mr Forbes challenged the subjective definition of brownfield site, referring to previous supplementary guidance on rural development 01/16, which would, in his opinion, fit the category of type 3. As he thought that the policy was currently now ill-defined, he felt the merits of the application should be considered which would make the application exceptional as an exemplar of zero carbon design housing in the countryside.

Questions were asked of Mr Forbes regarding the carbon costs of off-grid living, solar panels proposed, and planting of willow in the field to sustain a bio burner.

The Senior Planner spoke of the previous guidance types 1-5 as detailed in the 01/16 Guidance but advised that these were no longer material considerations in the determination of an application. Whilst the application of current policy in the Local Development Plan could be seen as subjective, it should also be taken as professional judgement: from the outset the applicant had been advised that there

was insufficient evidence that the location was a brownfield site and so was unlikely to be recommended for approval.

Members discussed the walls as pictured in the presentation; the definitions of brownfield sites, as opposed to naturalised sites; where sustainability could be brought to have appropriate weight in controlling permissions for any development, as less sustainable homes could be made once permission had been granted; and definitions of sustainability also requiring to relate to servicing and transport requirements, as well as in its energy use.

Thereafter, the Committee **agreed** to REFUSE Full Planning Permission for the reason that the planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2017. The application does not comply with Policy R2: Housing and employment development elsewhere in the countryside of the Aberdeenshire Local Development Plan 2017 as there is minimal evidence of a former building and the application site is considered to have naturalised and therefore not be brownfield in nature.

DRAFT