

ABERDEENSHIRE COUNCIL

MARR AREA COMMITTEE

ONLINE MEETING, 2 NOVEMBER, 2021

Present: Councillors J Latham (Chair), R Withey (Vice Chair), P Argyle, R Bruce, E Durno, M Ingleby, P Gibb, G Petrie, and A Ross.

Apologies: Councillor G Blackett.

Officers: J Clark, Area Manager (Marr); M McCowan, Risk and Resilience Manager; N Mair, Senior Planner; L Kimmitt, Solicitor; and K Macleod, Area Committee Officer (Marr).

1. DECLARATION OF MEMBERS' INTERESTS

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

Councillor Ross declared an interest on Item 9B by virtue of a connection with the hotel. She advised that she would leave the meeting and take no part in the item.

2. STATEMENT OF EQUALITIES

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

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

3. MINUTE OF MEETING OF MARR AREA COMMITTEE OF 28 SEPTEMBER, 2021

The Committee had before them, and approved as a correct record, the Minute of Meeting of the Committee of 28 September, 2021.

4. CONSULTATION ON THE DRAFT RISK MANAGEMENT POLICY

There had been circulated a report by the Director of Business Services which sought comments on a draft Risk Management Policy.

The Risk and Resilience Manager introduced the report and responded to a question on implementation of the policy.

The Committee **agreed** to note the draft Risk Management Policy, as set out in the appendix to the report, and to provide the following recommendation to Business Services Committee on 6th January 2022:-

- (1) That section 2 of the policy be amended to include Elected Members in the policy scope.

5. PETITION - SPEED LIMIT REDUCTION AT BRIDGE OF CANNY AND INCHMARLO

There had been circulated a report dated 13 October, 2021, by the Director of Environment and Infrastructure Services, which advised the Committee of a petition which had been received in relation to a proposal to reduce the speed limit at Bridge of Canny and Inchmarlo. The petition sought to extend the current 40mph speed limit on the A93.

The Committee agreed to hear from the lead petitioner Andy Wilkins. Mr Wilkins highlighted the strength of feeling in the area on the issue and referred to a number of issues including pulling onto the A93; children living nearby and having to cross the road for the school bus; the Aberdeen bus not being able to stop in time; logging vehicles taking additional time to pull into the road; and visibility at the Glencommon Road junction.

During discussion, Members commented on the busyness of the road, safety, new developments in the area, older people and children living in the community, emerging from the junctions, and traffic speeds. It was felt that the issues raised merited further consideration.

The Committee **agreed**:-

- (1) to note the petition received by the Director of Business Services as described at paragraph 4.1 of the report; and
- (2) to instruct a report from the Head of Roads and Infrastructure on the subject matter of the petition.

6. AREA COMMITTEE BUDGET - SMALL GRANT APPLICATIONS

There had been circulated a report dated 13 October, 2021, by the Director of Environment and Infrastructure Services, which sought consideration of an application for Area Committee Budget funding (Small Grant Scheme) from Upper Donside Bowling Club and a revised application from Mesolithic Deeside.

In relation to the application from Mesolithic Deeside, the Area Manager highlighted that a site at Milton of Crathes had been confirmed.

The Committee **agreed**:-

- (1) to approve an application for Area Committee Budget funding from Upper Donside Bowling Club for up to £2,000 towards the cost of an aerator; and
- (2) to delegate authority to the Area Manager (Marr) to approve a revised application for Area Committee Budget funding from Mesolithic Deeside for up to £1,850 towards the cost of archaeological test pitting at a site within the Marr Area, subject to a site with permissions being confirmed.

7. ABERDEENSHIRE CHARITIES TRUST (ACT2) APPLICATIONS

There had been circulated a report dated 14 October, 2021 by the Director of Environment and Infrastructure Services, which sought consideration of applications for ACT2 funding from Grace Church Family and Gordon Rural Action.

The Committee **agreed** to approve awards of ACT2 funding as follows:-

Applicant	Ward	Trust Purpose	Amount Awarded
Gordon Rural Action	14	The prevention or relief of poverty	£1,078
Grace Church Family	15	The prevention or relief of poverty	£1,000
	16	The prevention or relief of poverty	£107.76

8. LUMPHANAN COMMUNITY COUNCIL - SUPPORTED STATUS

There had been circulated a report dated 12 October, 2021, by the Director of Environment and Infrastructure Services, which advised that Lumphanan Community Council had been put into Support Status due to the number of Community Council Members falling below the minimum number required to remain established as determined by the provisions in Schedule 1 of the Scheme for the Establishment of Community Councils. The report also advised that a call for nominations for membership of the Community Council had been issued, with a closing date of 16 November 2021.

The Committee **agreed** to note that Lumphanan Community Council had been put into Supported Status due to the number of Community Council Members falling below the minimum number required to remain established and to acknowledge the call for nominations for membership of the Community Council.

9. PLANNING APPLICATIONS FOR DETERMINATION

The following planning applications were considered along with any representations received and were dealt with as recorded in Appendix A to this minute.

Reference No	Address
(A) APP/2021/1211	Full Planning Permission for Change of Use from Class 1 (Shop) to Form Multi-Purpose Community Building Class 11 (Assembly and Leisure) and Class 3 (Cafe) at Former Shop & Post Office, Bridge of Alford, Alford
(B) APP/2021/1677	Full Planning Permission for Formation of Staff Car Park (Retrospective) at Land Adjacent to Cherrytrees, Banchory Lodge, Banchory
(C) APP/2021/1679	Full Planning Permission for Erection of Dwellinghouse, Annexe Accommodation and Detached Garage (Change of House Type and Plot Layout to Planning Permission Reference APP/2019/1173) at Plot 4 The Mews, Dee Street, Banchory

Councillor presiding over meeting

Print Name

Signature

Date

APPENDIX A

PLANNING APPLICATIONS

- (A) **Reference No: APP/2021/1211 - Full Planning Permission for Change of Use from Class 1 (Shop) to Form Multi-Purpose Community Building Class 11 (Assembly and Leisure) and Class 3 (Cafe) at Former Shop & Post Office, Bridge of Alford, Alford**

**Applicant: Morrison Campbell Estates Ltd, Bridgend,
Farmhouse, Mossat, Alford, Aberdeenshire, AB33 8PL**
**Agent: Graham Mitchell Architects, Troupsmill, Drumblade,
Huntly, Aberdeenshire, AB54 6EU**

There had been circulated a report dated 13 October 2021, by the Director of Environment and Infrastructure Services, which sought consideration of an application for full planning permission for alterations and change of use to form a community hall (class 11) and associated café (class 3) at the former Bridge of Alford Stores and Post Office.

The Senior Planner presented the proposals and made reference to the planning history; key considerations being appropriateness of use and site servicing; amendments secured to address the concerns of Roads Development; and issues raised in representations and by the Community Council. As an update, it was highlighted that an application for the car parking required by condition 2 had been submitted. The Senior Planner advised that the applicant had requested that condition 5 be revised to allow the development to operate until 1am from Thursday to Saturday. This was acceptable to the Planning Service and a revised recommendation of a delegated grant subject to amendment of condition 5 was proposed.

Officers then responded to questions on waste management and road signage at the Bridge of Alford.

Following discussion, the Committee **agreed**:-

- (1) to delegate authority to the Head of Planning and Economy to grant Full Planning Permission subject to the following conditions and the amendment of condition 5 to allow the development to operate until 1am from Thursday to Saturday:
 01. No works in connection with the development hereby approved shall commence unless full details of any fixed plant and machinery (including location of plant and manufacturer's acoustic specification) that will be installed has been submitted to and approved in writing by the authority. The detail provided should include a statement by the applicant which demonstrates how noise impacts will be mitigated such that nearby residential properties are not adversely affected by noise from any fixed plant and machinery connected to the development.

Reason: In the interests of adjacent residential amenity.

02. Prior to the approved development coming into use, the ancillary car parking shown on drawing 027 CoU/E, any such alternative layout that meets the parking requirements, shall be provided, including the new footpath along the frontage of the car parking area. For the avoidance of doubt, the maximum gradient of the first 5m of the new access to the carpark shown on drg 027 CoU/E must not exceed 1 in 20, and the first 5m of access (measured from edge of road or back of footway) shall be fully paved.

Reason: In the interest of road safety, to ensure sufficient parking provision is in place prior to the development becoming operational.

03. Prior to the approved development coming into use, the new junction layout outside the property and adjacent hotel, as indicated on drg 037 CoU/A or any alternative design consented through the separate Section 56 Roads Consent process, shall be completed in compliance with the required Section 56 Roads Consent.

Reason: In the interests of road and pedestrian safety.

04. The level of noise from any fixed plant connected to the approved development shall not exceed Noise Rating Curve NR25, as detailed in BS8233:2014, when measured within a habitable room of any nearby noise sensitive dwelling at any time.

Reason: In the interests of adjacent residential amenity.

05. The development hereby approved shall not operate outwith the hours of 0800 - 2200 on any day.

Reason: In order to ensure that the development would not result in undue loss of amenity for surrounding properties.

- (2) that the reason for the decision be as follows:-

The application is considered by the Planning Authority to comply with the Aberdeenshire Local Development Plan (2017), the proposed community use is in an accessible location that, subject to conditions, is not anticipated to pose any detrimental impact on local amenity, and proposed a long term use for a listed building and can be suitably serviced and accessed, in compliance with Policies P6 Community infrastructure, HE1 Protecting historic buildings, sites and monuments and RD1 Providing suitable services.

(B) Reference No: APP/2021/1677 - Full Planning Permission for Formation of Staff Car Park (Retrospective) at Land Adjacent to Cherrytrees, Banchory Lodge, Banchory

Applicant: Banchory Lodge Hotel, Dee Street, Banchory, AB31 5HS

Agent: Matthew W Merchant, Unit 12, Silverbank, North Deeside Road, Banchory, AB31 5YR

With reference to Item 1 of the Minute, Councillor Ross declared an interest and left the meeting during this item.

There had been circulated a report dated 14 October 2021, by the Director of Environment and Infrastructure Services, which sought consideration of a retrospective application for full planning permission for the formation of a staff car park on land adjacent to Cherrytrees, Banchory Lodge, Banchory.

The Senior Planner reported on the details of the application which had been referred to the Committee due to the level of representations received along with an objection from Banchory Community Council. Reference was made to the retrospective nature of the application and other retrospective applications made by the applicant. The site had previously been a grassy area and had recently been surfaced to compacted sand and gravel. The hotel had stated the area had previously been used for parking, although this was disputed by neighbours. Key considerations related to the principle of the use of land as a car park and associated amenity impacts. Many of the issues raised in representations related to behavioural or civil matters outwith planning control. In planning terms, the application resurfaced an area of grass to gravel. It was not contrary to any policy in the Local Development Plan and was therefore recommended for approval.

The Committee then heard from objectors who had requested to speak. John Shanks addressed the Committee and explained that he lived behind the hotel. He indicated he was not opposed to hotel developments but felt they should be mindful of their social contract with the wider community. Mr Shanks focussed on the point of prior usage which he contended had been misrepresented in the report. He made reference to previous parking on site being extremely infrequent and limited to the odd car or two, which was not comparable to heavy usage by 10 vehicles used by hotel staff working irregular shifts. Without prior usage, the logic for approving the application was undermined. He then responded to a question on prior usage.

The Committee then heard from Alan Jackson who referred to statements regarding the area being used as a car park for some time being misleading; infrequent incidences of a single parked vehicle not constituting grounds to formalise a car park; the area having been long grass with nesting pheasants in April; and satellite maps from 2020 and 2021 showing one or no vehicles parked. He also made reference to roads issues and a previous housebuilding application having been partially refused; evidence of increased traffic flow; hotel staff still accessing the car park via the private road; and cars parking on the road. He then responded to a question on when works had been carried out.

Sarah Scorgie then addressed the Committee and advised that she resided at Cherrytrees, on the boundary with the new car park. She made reference to feeling a huge impact from the development; prior to May, the area having been used for storage with an occasional car parked; the car park causing a loss of amenity and increase in pollution and noise disturbance including car alarms at all hours; more traffic being generated with up to 12 cars in the car park and more on the road; the impact of a commercial car park in a residential area; and the impact of the development on their daily lives.

The Committee then heard from Audrey Russel who referred to statements about the land being used as a car park for some time being misleading; sympathies for the residents of Cherrytrees; misrepresentations regarding prior use; loss of amenity; loss of habitat for pheasants who had lived in the grass over the winter; and disregard for the social contract with residents. She concluded by recommending that the application be refused.

Members then sought clarity from the Senior Planner on the materiality of the previous use. During discussion, Members commented on the retrospective applications from the hotel; the information from objectors that the area had not previously been used as a car park; and the significant impacts on the amenity of residents.

Following discussion, the Committee **agreed:-**

- (1) to refuse the application for the following reasons:

The siting and use of the land for a formalised car park would be harmful to the local character of the area due to increased use and intensification of traffic movements, and would pose unacceptable detrimental amenity impacts due to noise and disturbance due to frequent staff and vehicular movements, contrary to Policies P1 Layout siting and design, P3 Infill and householder developments within settlements (including home and work proposals), and RD1 Providing suitable services.

- (2) that the Chair write to the applicant to express disappointment at the number of retrospective applications submitted, as detailed in Appendix B to this Minute.

- (C) Reference No: APP/2021/1679 - Full Planning Permission for Erection of Dwellinghouse, Annexe Accommodation and Detached Garage (Change of House Type and Plot Layout to Planning Permission Reference APP/2019/1173) at Plot 4 The Mews, Dee Street, Banchory**

Applicant: Mr Liam Gray Per Agent
Agent: Matthew W Merchant, Unit 12, Silverbank, North Deeside Road, Banchory, AB31 5YR

There had been circulated a report dated 12 October 2021, by the Director of Environment and Infrastructure Services, which sought consideration of an application for full planning permission for the erection of a dwellinghouse, annexe

accommodation, and detached garage, as a change of house type to that previously approved under planning permission reference APP/2019/1173 at Plot 4, The Mews, Banchory.

The Senior Planner outlined the application, which was being reported to the Committee due to an objection from Banchory Community Council. The Committee heard that there was a long-established principle for a dwelling on the plot; the amended design and layout was of high quality; and the proposal met the relevant policies in terms of access, site servicing, and design; therefore, the Planning Service recommended that the application be approved.

The Committee **agreed**:-

(1) to grant Full Planning Permission subject to the following conditions:-

01. The residential annex hereby approved shall be used only for purposes incidental to the enjoyment of Plot 4, The Mews as a dwellinghouse. No separate curtilage shall be formed and the residential annex shall at no time be used as an independent dwellinghouse without the express grant of planning permission from the planning authority.

Reason: The relationship between the residential annex and the main dwellinghouse within the site is such that the residential amenities of the occupants of both would be adversely affected by the creation of an independent residential unit in addition to the main dwellinghouse.

02. 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.
 - c) 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.

03. 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.

04. Works shall be carried out in accordance with the Woodland Access Plan and associated site plan 1443-201 REV B carried out by Matthew Merchants Architects dated 26th August 2019.

Reason: To ensure the adequate provision of public access within and around the site.

05. Notwithstanding the development hereby approved, the area of shown as green hatched on approved drawing 1660-SIT-001 Rev E shall not be classed as private garden ground unless otherwise agreed by the Planning Authority.

Reason: In order to protect and preserve the woodland.

06. Works shall be carried out in complete accordance with the Woodland Management Plan carried out by Astell Associates dated 28th November 2008.

Reason: In order to preserve the character and visual amenity of the area.

07. The dwellinghouse hereby approved shall not be occupied unless its driveway, parking and turning area has been provided and fully paved in accordance with details identified in the approved drawing. The maximum gradient of the first 5m of the new access must not exceed 1 in 20 and the first 5m of access (measured from the edge of road or back of footway) is to be fully paved. Off-street parking for 5 cars, surfaced in hard standing materials must be provided within the site and a suitable vehicle turning area, measuring not less than 7.6m by 7.6m, must be formed within the site to enable all vehicle movements onto or from the public road to be carried out in forward gear. 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, 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.

08. The dwellinghouse hereby approved shall not be occupied unless the refuse bin uplift store area has been provided and surfaced in accordance with the details shown on the approved plan. 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.

09. No development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 25 metres in an easterly direction and 17 metres in a westerly direction along the channel line of the private road has been provided from a point 2 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved new driveway in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

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

- (2) that the reason for the decision be as follows:-

The planning authority considers that the application is for a development that is in accordance with the Aberdeenshire Local Development Plan 2017. The layout, siting and design is considered acceptable, without causing a detrimental impact on the landscape or amenity of neighbours and is in line with Policy P3 Infill and householder developments within settlements (Including home and work proposals).

Our Ref: JL/LM

Your Ref:

Banchory Lodge Hotel
Dee Street
Banchory
AB31 5HS

Councillor John Latham
Chair of Marr Area Committee
Woodhill House
Westburn Road
ABERDEEN
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5 November 2021

**If you have difficulty reading this document please contact
Linda Milne on 01467 536421**

Dear Sir/Madam

**PLANNING APPLICATION REFERENCES –
APP/2020/2475, APP/2021/1677, APP/2021/1678**

I write to you, as Chair of the Marr Area Committee, to express the Committee's concern in relation to the number of recent breaches of planning control, and subsequent retrospective planning applications, that are associated with your hotel.

The recent consideration of an application for a car park, which had already been formed, prompted numerous nearby residents to express concern about the retrospective nature of the application, and this was shared by Members of the Marr Area Committee. This followed a previous retrospective planning application for outdoor dining, which also involved unauthorised tree felling. This again triggered a lot of concern from local residents and Councillors about the general disregard for the planning process which has been demonstrated by repeated retrospective applications.

The following applications are noted as having followed breaches of planning control through unauthorised development.

APP/2020/2475 – dining pods and pergola (now approved)

APP/2021/1677 – car park (now refused as contrary to Policies P1 Layout siting and design, P3 Infill and householder developments within settlements (including home and work proposals), and RD1 Providing suitable services.)

APP/2021/1678 – catering shelter (now approved)

There was also unauthorised tree felling of protected trees which took place to facilitate the dining pods and pergola, which was a severe breach of planning control in terms of breaching a Tree Preservation Order.

The above actions are disappointing and are avoidable. It is hoped that moving forward you shall engage with the relevant Council Services at an early stage in respect of any future matters and certainly before any action is taken, be it the Planning Service in relation to any development you may wish to carry out, or the Environment Team in relation to any works relating to protected trees, to avoid any unauthorised works occurring again.

Yours faithfully

Councillor John Latham
Chair of Marr Area Committee