

FINDERNE COMMUNITY COUNCIL

MEETING NOTES

Meeting of Monday 25th July, 1930hrs at Rafford Church Hall

FCC members present:

Brian Higgs (BH) - Chair

Chris Piper (CP) - Vice Chair

Anna Gatward (AG) - Treasurer

Mike Crutch (MC) - Secretary

Carlo Miele (CM) - Member

Bob Laughton (RL) - Co-opted Member

Tony Pinner (AP) - Associate Member

Also present:

George Alexander - Councillor, TMC

Lorna Creswell - Councillor, TMC

Rev. Donald Prentice - Rafford Kirk

Ruth Whitfield - Rafford Village Hall

Alec Laing - Logie Estate

plus Finderne residents: Anne Garrow and Derrick Stansfield

Apologies - Nikki Howard (FCC)

1. Welcome

BH welcomed all those present.

2. Police update

Carried forward until next meeting.

3. Notes and actions of 6 June 2016 meeting

a. A940/Mundole road visibility issues

following the issue being raised at the last meeting, MC had been in touch with TMC Roads Dept who had visited the site. Although they agreed that there was a visibility issue, available police statistics did not support an 'accident hotspot' indication. However, FCC were in receipt of

knowledge of a recent four vehicle road traffic collision, as well as pointed out that police involvement for road traffic collisions and will only show if they were in attendance.

TMC Roads Dept also stated that to make any sightline improvements would require changes to non-council land and therefore would be difficult to achieve. FCC assumes this to be Altyre Estate land and the meeting agreed that an approach them to explore what opportunities exist for some minor earthworks to improve the situation. **ACTION FCC (MC)**

b. Appointment of youth representation - ITEM CARRIED FORWARD (FCC - NH)

c. Timber lorry traffic along B9010

CP gave a brief overview of the tree felling licence process, and traffic aspects contained therein. Derrick Stansfield suggested that Forestry Commission Scotland be contacted as they were very good in addressing recent issues at Half Davoch. CP will look into which routes are approved under the TMC Agreed Routes Plan to highlight any non-adherences. **ACTION FCC (CP)**

CM informed the meeting of recent issues with Grants of Ballindalloch HGVs, and had spoken to their traffic manager who requested that any reports of problem driving, etc., so be reported to them along with the registration of the vehicle, plus date and time. CM also stated that HGV quarry traffic for the new railway construction is also a newly arisen issue for local road users. *Secretary's Note: FCC (CM) met with Network Rail and the contractor on 26 July and they have resolved to address the latter issue*

d. Road icing hazard near Dallas Dhu distillery

Signs will hopefully be progressed, awaiting for TMC officer to return from summer leave - **ITEM CARRIED FORWARD (FCC - MC)**

e. Street lighting in lower Rafford

Following the action from the last meeting, Cllr Alexander had passed correspondence to FCC as well as confirming with TMC's Street Lighting Supervisor that public consultation had been conducted at the time, resulting in a vote favouring non-replacement of the two lights adjacent to the Finlarig development. TMC have indicated that re-instatement would cost in the region of £30,000 due to associated building of public footpaths, etc., to support the light standard installation.

Anne Garrow and Ruth Whitfield were of the understanding that re-instatement of the lights were promised by TMC, and will review Rafford Village Hall committee notes for the period to see if this was recorded. *Secretary's Note: a subsequent check of RVH meeting notes confirms there was an agreed 'no requirement' for the lights to be re-instated. Item closed.*

f. High speed broadband

BH had been in contact with various parties to ascertain the roll-out plan, or lack of due to limitations of fibre optic systems extending beyond 4kms from installation boxes, etc. Alec Laing added that he has been discussing with Community Broadband Scotland (CBS) the same issue, and confirmed that the Edinkillie exchange is not due for fibre roll-out.

CBS are funding a very high number of projects, using satellite-based connectivity with cost breakdown of between £600-£1,000 per property dependent on the number involved, and giving a speed of around 20mb/sec. Derrick Stansfield mentioned 4km limit on fibre optic installations can be surpassed with booster junctions, but cost of such prohibits this move for small number of possible properties. *Secretary's Note: following the main meeting, council members agreed that this important issue requires ongoing progression, with all options being explored. Vice Chair Chris Piper will lead the initiative, and engage with local interested parties in due course.* **ACTION FCC (CP et al)**

g. Blervie estate access

BH had reviewed the issue, and had consulted with TMC officials including the Access Officer, as well as had an informal discussion with the estate owner, Mr Thompson. Following these discussions, FCC's viewpoint on the three main issues are as follows:

Regarding the issue of vehicle access, there is nothing that the FCC can do about this issue as the Land Reform Act does not cover vehicular access. The continuance of such would require a legal servitude to be in place in the title deeds of the properties involved or, if a right that has been exercised or 'possessed' for 20 years or more, a "prescriptive servitude" to be argued. We would advise individuals to take legal advice if they feel that either of these situations apply to their properties. It should be noted, however, that Mr Thompson has indicated that should the emergency services need to gain access through the gates he will not object to them removing the padlocks with bolt cutters.

As for moves to preserve privacy around the estate dwelling house itself, FCC regards the style of fencing erected by Mr Thompson to be unfortunate in that it is particularly unsympathetic to the locality and is not in keeping with what is commonly found in similar situations in Scotland. However, since there is no law which controls the type of fencing used in situations such as this, there is nothing that can be done.

TMC Access Officer has advised us that the fence does not constitute the boundary of "sufficient adjacent land" (as referred to in the Land Reform Act) to Blervie House, which would define the privacy zone around the property. Access rights as defined under the Land Reform Act therefore still apply inside the fenced area. However, since there is no way of knowing where the "sufficient adjacent land" boundary is, other than by pursuing court proceedings in an attempt to define it, the FCC advises that anyone entering the area takes due cognisance of the Scottish Outdoor Access Code for responsible access. It is frustrating that the law does not define exactly what constitutes "sufficient adjacent land" and, without the risk of incurring considerable legal costs in an attempt to do so, this remains the reality of the situation. On balance, therefore, given that (a) the landowner has made some concession as to the area of woodland fenced out compared to his original intentions and has constructed a new path within the woods, (b) the advice from TMC lawyers that a court challenge would be both expensive, and unlikely to be successful and (c) that there still remains considerable amenity available for walkers in the locality, **the FCC recommends that a line is drawn under this issue.** Clearly individuals are still within their rights to take private actions through the courts but this would not be supported by the FCC.

The FCC views that a planning approval application should have been made for the length of fence adjacent to the B9010 because it is above 1m in height. Had an application been submitted we

would have objected on the grounds of the hazard to pedestrians and non-motorised vehicle users that the erected fence constitutes. Furthermore, Section 164 of the Highways Act 1980 says that “barbed wire on land adjoining a public highway must not cause a nuisance to humans or animals using the highway” and it is the view of the FCC that the particular design of the fence, i.e. 7-strand barbed wire between concrete posts, constitutes a nuisance. Correspondence between FCC and TMC Planning & Roads departments continues as it is the view of FCC that the barbed wire should be replaced with plain. **ACTION FCC (BH) referral to TMC**

h. A96 dualling route assessment input

BH stated that consultations for such will start later this year and involve all affected community councils. Cllr Alexander suggested that due process with the consultations should provide a clearer framework within which CCs and TMC should engage with the route selection decision. Correspondence that BH had received from TMC did raise a question over what level of involvement the council would have in route selection and further clarification is being sought. **ACTION FCC (BH)**

i. Logie development

Following FCC representation (by BH) at a public open meeting in June, Alec Laing of the Logie Estate was invited to give a brief overview. Mr Laing stated that an outline plan for around 18 dwellings was being considered at present, though no timescales were currently identified. Cllr Alexander recommended that details of the development proposal be Input to local plan, with principal planning officer Gary Templeton being the one to inform.

Although a formal consultation has yet to be convened, already some positive and negative aspects had been fed back to Mr Laing during and post the open meeting. FCC hope to be kept apprised of the proposal in the coming months.

4. Secretary’s report

a. Progress on appointment of minute secretary

Still no volunteers had been forthcoming, therefore MC volunteered to formally take up the position until the end of the current council period ending September 2017.

b. Correspondence received

Issues regarding the U89E Half Davoch road continued to be notified to FCC in recent weeks, all of which related to the Hill of Glaschyle windfarm construction. MC stated that the project management company, Muirden Energy, had been very responsive to issues regarding site traffic using the northern half of the road following construction of a dedicated access route to the south. It was extremely unfortunate, however, that a two vehicle road traffic collision (with injuries sustained by two local residents) had occurred at the end of June involving a construction contractor who had not followed site guidelines and exited via the northern half of the road.

Derrick Stansfield remarked that this incident came after a long period of traffic issues involving construction traffic. Alec Laing, as the windfarm development is on the Logie

Estate, stated that the site will shortly see removal of a number of equipment and portacabins as the project moves towards commissioning stage, and a reduction in site personnel.

MC also raised the road closure issue for the U89E; having already seen a three week closure in the early spring, a further three week closure was notified for 1-21 August for works on a small section of the road. Local residents have commented to FCC that the length of closure was unacceptable, as well as no notification had yet been made (despite spray paint markings being applied to the surface) of two patches east of the windfarm which had seriously degraded due to the initial construction traffic throughput. MC will continue to liaise with TMC Roads Dept and Muirden Energy and feedback to constituents as necessary. **ACTION FCC (MC)** *Secretary's Note: following the meeting, e-mails have been exchanged once more and it has been agreed that the two patching works will now be incorporated during the forthcoming road closure. Both TMC and Muirden Energy still stand by the three week closure, which they say only allows a small element of 'slippage' timescale for weather, etc..*

5. Treasurer's report

AG reported that the bank account for the FCC is now established, and the first part of the annual grant from the TMC had been received.

The Berry Burn Wind Farm Community Fund had granted £132 to cover venue hire (based on discounted rates offered by both Edinkillie Community Hall and Rafford Village Hall) for FCC public meetings through to the end of the current community council elected period, ending October 2017.

6. Community Issues

No new matters arising.

7. Upcoming events

None notified.

8. AOB

a. **FCC logo** - BH reported that a logo is being devised for FCC 'corporate' use, drawn upon designs created by pupils at Logie Primary School.

b. **Hogweed eradication** - RL stated after funding being received, work from the Mosset Burn and south of has started. Knotweed continues to be an issue also, and volunteers are always welcome to help with removal efforts.

c. **Forres Fireworks** - CM reported that TMC's Common Good Fund is only providing around a quarter of the usual funding for the Forres Fireworks; the event is an important one for the wider community including Finnerne and therefore CM wanted to raise awareness.

d. **Darnaway and East Long-term Forest Plan** - CP raised that Moray Estates consultation process for

such has begun, and FCC will review for any appropriate response.

e. ***Edinkillie Community Hall*** - MC stated that committee numbers had declined and anyone with an interest in joining should contact them. The hall is currently looking at enhancing facilities to attract events such as weddings, but in order to do the committee requires new members to provide an enduring group to see such improvements through.

9. **Date, time & venue of next meeting**

5 September 2016, 1900hrs in the Edinkillie Community Hall.

prepared by: Mike Crutch, Secretary, FCC