

THE MORAY COUNCIL

MINUTE OF MEETING OF THE ENVIRONMENTAL SERVICES COMMITTEE

13 MARCH 2002

COUNCIL HEADQUARTERS, ELGIN

PRESENT

Councillors E. Aldridge (Chairman), R.F. McIntosh (Vice-Chairman), A.E. Coutts (Vice-Chairman), A. Bisset, A.R. Burgess, J.A. Divers, M.L. Ettles, L. Gorn, J. Hamilton, J.C. Hogg, T.A. Howe, W. Jappy, A. Keith, J.A. Leslie, S.D.I. Longmore, P.B. Paul, R.H. Shepherd, R. Sim, G.G. Towns, A. Urquhart, W.P. Watt and I. Young

APOLOGIES

Apologies for absence were intimated on behalf of Councillors J.M. Shaw and A.R. Wilson

IN ATTENDANCE

The Director of Environmental Services, the Head of Development Services, the Head of Direct Services, the Head of Financial Services, the Development Control Manager, the Planning and Development Manager, the Environmental Health Manager, the Head of Estates Services, the Senior Engineer (Traffic), the Principal Solicitor (Commercial and Conveyancing), the Principal Planning Officer (Development Control), G Templeton, Planning Officer (Planning & Development) in respect of item 6, the Business Projects Officer in respect of items 15 & 16, D Caldwell, Environmental Health Officer in respect of item 5 (d), R O'Brien Solicitor (Commercial & Conveyancing) in respect of item 5 (e), the Public Relations Co-ordinator and the Senior Committee Services Officer, Clerk to the Meeting.

WELCOME TO STUDENTS FROM MORAY COLLEGE

The Chairman welcomed to the meeting, a group of HND Communication Students from Moray College.

1. ADDITIONAL BUSINESS

In terms of the relevant Standing Order the Committee agreed to accept as additional items of business to be transacted at the meeting the undernoted reports on the Chairman certifying that, in his opinion, they required to be considered on the grounds of urgency in order to give early consideration to concerns being expressed by the community of Elgin; staffing matters relating to existing staff and the recruitment of new staff; and the current position relating to and action being taken in regard to compliance with planning consent conditions:-

- (i) Elgin Bypass - Report by Director of Environmental Services

Confidential Matters

- (ii) Environmental Health Staffing - Report by Director of Environmental Services (Para 1)
- (iii) Unauthorised Development : Planning Application 00/00848/Ful - Oral report by the Director of Environmental Services (Para 13)

2. EXEMPT INFORMATION

The Meeting agreed, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, that the public and media representatives be excluded from the Meeting during consideration of the items of business appearing at the relevant paragraphs of this Minute as specified below so as to avoid disclosure of exempt information of the class described in the appropriate paragraph of Part I of Schedule 7A of the Act.

<u>Para No. of Minute</u>	<u>Para No. of Schedule 7A</u>	<u>Para No. of Minute</u>	<u>Para No. of Schedule 7A</u>
23	1	28	9
24	1	29	9
25	1	30	1
26	9	31	13
27	9		

3. GETTING INVOLVED IN PLANNING: CONSULTATION PAPER FROM SCOTTISH EXECUTIVE DEVELOPMENT DEPARTMENT

There was submitted a report by the Director of Environmental Services seeking approval of a draft response to a consultation paper from the Scottish Executive Development Department entitled "Getting Involved in Planning".

The Meeting noted that a review of the existing arrangements for enabling people to become involved in planning issues is currently being undertaken by the Scottish Executive Development Department and that the measures contained in the consultation paper are intended to improve the arrangements for involvement in the planning system by all parties. Details of the draft response to the consultation document were set out in the Appendix to the report.

The Meeting also noted concerns expressed by officials in regard to the potential financial, staffing and legal implications for the Council should Local Authorities be required to carry out neighbour notification as proposed in the consultation paper.

Following consideration the Committee agreed:-

- (i) to approve the response to the questions in the consultation paper as set out in Appendix 1 of the report; and
- (ii) to strongly oppose the proposals for placing the responsibility for neighbour notification with the Council for the reasons detailed in the report.

4. PROPOSED AMENDMENTS TO THE NOTE FOR GUIDANCE OF THE COMMITTEE

There was submitted a report by the Chief Legal Officer advising the Committee of a requirement to amend the Note for Guidance to Committee which is currently issued with all reports submitted to Committee in respect of planning applications.

There was attached as an Appendix to the report a copy of the current Note of Guidance and the Committee's attention was drawn to the seventh paragraph in the Note relating to the reference to the External Auditor and the procedure commonly known as "surcharging". The report advised that with effect from 31 December 2001 the surcharge provisions had been repealed and a new range of sanctions, as detailed in the report, introduced with effect from 1 January 2002 and therefore the Note required to be amended accordingly.

Following consideration the Committee agreed:-

- (i) to note previous surcharge provisions have been repealed and a new range of sanctions involving censure, suspension or disqualification introduced with effect from 1 January 2002;
- (ii) that the part of the note for guidance of the Committee which refers to surcharging, where the decision of the Environmental Services Committee is contrary to the recommendation of the Director of Environmental Services in respect of a planning application, be deleted;
- (iii) that the following guidance to the sanctions available when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise, be inserted in the note for guidance:-

“Secondly, in addition to the application for Judicial Review when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise

and are raised either by or with the External Auditor of the Council and where an individual can be blamed the sanctions available are:-

Censure of a Councillor or an Officer
 Suspension of a Councillor for up to one year
 Disqualification of a Councillor for up to five years

In the case of the Council being to blame, recommendations may be made to the Scottish Ministers about rectification of the authority's accounts. Ministers can make an order giving effect to these recommendations."

5. CURRENT PLANNING APPLICATIONS

FINDERNE - NO. 9 WARD

- (a) 01/02019/FUL Demolish existing dwellinghouse and erect 3 detached dwellinghouses and garages at Roseview, Cassieford, Forres for Ian J Wiseman (Design And Build)

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to demolish an existing dwellinghouse and erect three detached dwellinghouses and garages at Roseview, Cassieford, Forres for Ian J. Wiseman (Design and Build).

The Meeting noted that Members of the Committee had visited the site of the application on Monday 11 March 2002.

Councillor Hamilton expressed the view that, in his opinion, the proposed development does not contravene the policies referred to in the report as it would remove an unsafe eyesore, would not have a detrimental impact on an essentially rural character of the setting, it will be sensitively sited and is located within an existing settlement with 10 houses to the north and 2 to the south, involves the replacement of an existing dwelling and rehabilitation of a site and that subject to a satisfactory porosity test on site 1 the application should be approved as complying with policy. His motion was seconded by Councillor Urquhart.

There being no-one otherwise minded the motion became the finding of the Meeting and it was agreed that the application be approved as complying with policy subject to standard conditions and a condition to ensure no development occurs until a satisfactory porosity test is carried out on site 1.

BURGHSEA - NO. 11 WARD

- (b) 01/02042/FUL Erect 30 detached and semi-detached dwellinghouses on Site Between B9013 And Sigurd Street, Burghead, Elgin for Moray Housing Partnership Limited

Councillors Ettles, Leslie, Towns and Urquhart declared an interest in this application given that they represented the Council on the Moray Housing Partnership Limited. Members declaring an interest remained in the meeting and participated in the discussion and subsequent decision in terms of the National Code of Local Government Conduct Guidance.

There was submitted a report by the Director of Environmental Services recommending that, subject to a Hearing and referral to Scottish Ministers, the planning application to erect 30 detached and semi-detached dwellinghouses on a site between B9013 and Sigurd Street, Burghead for Moray Housing Partnership Limited be approved subject to conditions as detailed in the report and re-positioning the 30 mph speed limit and the proposed parking restrictions on Fraser Road/Keith Road.

The Meeting noted that Members of the Committee had visited the site of the application on Monday 11 March 2002.

The Meeting also noted that the application had been advertised as a departure from the Development Plan and, given objections/representations had been received, should the Committee be minded to approve the recommendation to permit subject to conditions and referral to Scottish Ministers, given the Council's interest in the development through the Moray Housing Partnership, a Hearing was recommended.

In regard to the "departure" the Meeting noted that the Local Plan states that a cycle track and footpath must be provided along the B9013 (now B9040) frontage to the junction with Fraser Road and no such link was

provided for within the proposal. It was also noted however that this departure can be supported given that the approved Development Brief for the designation Burghead R1 states that the cycle track and footpath to Fraser Road is not required which is a material consideration. This position is also supported by the Council's Transportation Manager.

Following consideration Councillor Paul, seconded by Councillor Aldridge moved that the application be referred to a Hearing, on a date to be agreed in consultation with the Chairman, to which the applicant and objectors to the application be invited to attend and be afforded the opportunity of being heard prior to the Committee determining the application and that, in the meantime, the developer be requested to consider amending the proposals so that the play area would be overlooked by family units as opposed to one bedroomed units.

As an amendment Councillor Urquhart, seconded by Councillor Burgess moved that given the proposals relating to the cycle path and location of the play area complied with the Development Brief which had been approved by the Council the application be approved, subject to referral to Scottish Ministers, without the requirement for referral to a Hearing.

On a division there voted:-

For the Motion (10)	-	Councillors Paul, Aldridge, Hogg, Howe, Jappy, Longmore, McIntosh, Towns, Watt and Young
For the Amendment (11)	-	Councillors Urquhart, Burgess, Bisset, Coutts, Divers, Ettles, Hamilton, Keith, Leslie, Shepherd and Sim
Abstentions (1)	-	Councillor Gorn

Accordingly the Amendment became the finding of the Meeting and it was agreed that, subject to referral to Scottish Ministers, the application be approved subject to the following conditions, without referral to a Hearing:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. The development shall relate to the applicants agents letter and enclosures dated 21 February 2002, including the landscape planting scheme (drawing A2987/LO-02), the proposed play equipment and design construction (section) details of the traffic calming (speed hump) and road/cycleway/footpath proposals.
4. Unless otherwise agreed with the Council (as Planning Authority) the development shall not commence until samples of the proposed roof and wall external finishing materials and their colouration have been submitted to and approved by the Head of Development Services.
5. Sample panels of roughcast shall be prepared on the site for the inspection and approval of the Head of Development Services and the roughcast work shall not be carried out until agreement has been reached with the Head of Development Services regarding the type and colour of materials to be used.
6. No development shall commence until details have been submitted to and approved by the Council, as planning authority regarding : -
 - (a) the location of the proposed play equipment within the play area,
 - (b) the time scale for the provision of the play area.
7. Prior to first occupation of the housing, details of the arrangements for the long term maintenance of the landscaping and play areas shall be submitted to and approved by the Council as planning authority.
8. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out not later than the end of the first planting and seeding seasons following the first occupation of the

development or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

9. No development works shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with the Council's Transportation Manager, NOSWA and SEPA regarding the location, design, construction and maintenance arrangements for the disposal of surface water from the site, in particular the use of sustainable urban drainage systems (SUDS), or similar and the details so approved shall be installed on site prior to first occupation of the houses, or completion of building works, whichever is sooner.
10. Two private car parking spaces for up to a 3 bedroomed dwelling and three private car parking spaces for a 4 or more bedroomed dwelling shall be provided and all parking shall be outwith visibility splays.
11. For Plots 19-22, the 8 parking spaces within the adjacent communal car parking area shall be provided in accordance with the approved plan prior to occupation of the flat block and thereafter made permanently available for use in conjunction with these plots.
12. A visibility splay with the B9040 (formerly B9013) of 4.5 metres x 60 metres shall be provided at the access.
13. New boundary walls/fences shall be set back from the edge of the public road at a distance of 1.8 metres from footways and 2.5 m from the cycleway.
14. No dwelling or flat shall be occupied until all roads, parking and footpaths/cycleway serving the respective property have been provided in accordance with the approved plans or at least to base course level or to a stage of road construction which shall previously have been agreed in writing with the Council, as planning authority in consultation with the Transportation Manager.
15. No housing shall be occupied until : -
 - (a) the proposed re-positioning of the 30 mph speed limit along the B9040 (formerly B9013) road has been carried out.
 - (b) the proposed parking restrictions along Keith Road/Fraser Road have been implemented; and
 - (c) the following have been provided, or to a stage of construction (at least base course level) which has previously been agreed with the Council, as planning authority in consultation with the Transportation Manager : -
 - (i) the access on the B9040 (formerly B9013) and the improved access into the cemetery car park,
 - (ii) the 2.5 m cycleway through the site (as indicated on drawing A2987/CO-02).
 - (iii) the 2.5 m cycleway from the site access, along the frontage of the cemetery on the B9040 (formerly B9013) to link with the existing footpath leading to St Aethans Road (as indicated on drawing A2987/CO-02).

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
3. In order to avoid any ambiguity regarding the terms of this consent and ensure a satisfactory form of development, details of which were lacking from submitted proposal.
4. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
5. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

6. To ensure a satisfactory form of development, details of which are lacking from the submitted proposal.
7. To ensure a satisfactory form of development, details of which are lacking from the submitted proposal.
8. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
9. To ensure a satisfactory form of development, in drainage terms.
10. In the interests of road safety and to ensure an appropriate standard of parking is provided for use in conjunction with each dwelling.
11. In the interests of road safety and to ensure an appropriate standard of parking is provided for use in conjunction with each flatted property.
12. In the interests of road safety.
13. In the interests of road safety.
14. To ensure a satisfactory standard of access and parking is provided at an early stage for the services of each plot.
15. To ensure an acceptable form of development in the interests of road safety.

HELDON AND LAICH - NO. 12 WARD

- (c) 01/02006/FUL Build one new public car park and upgrade a second car park at Muirywood, Forres for Forres Community Woodlands Trust

There was submitted a report by the Director of Environmental Services recommending that, subject to conditions as detailed in the report, planning consent be granted in respect of an application to build a new public car park and upgrade a second car park at Muirywood, Forres for Forres Community Woodlands Trust.

The Meeting noted that the application is being treated as a "departure" since policy L/ENV11 does not provide for the type of development in question and gives no tolerance for interpretation in favour of a proposal which is clearly complimentary to improve public access enjoyment of the extensive area of regenerating cleared forestry land involved. Given that the small informal nature of the parking facilities proposed would not detrimentally impact on the open rural nature of the setting approval was recommended.

Following consideration the Committee agreed to approve the application subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. The car parks hereby permitted shall be solely for open public use and shall be open for such use at all times.
4. No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.1 m of the edge of the carriageway.
5. The vehicular access shall be and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the public carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.
6. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.

7. A visibility splay of 4.5 metres x 125 metres shall be provided at the access.
8. New boundary walls/fences shall be set back from the edge of the public road at a distance of 2.5 metres and shall be no more than 1.0 m in height.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
3. For the avoidance of doubt, to ensure the car parks are not used for any purpose not complementary to public recreational enjoyment of the natural area involved.
4. In the interests of road safety.
5. In the interests of road safety.
6. In the interests of road safety.
7. In the interests of road safety.
8. In the interests of road safety and in the interests of visual amenity.

LOSSIEMOUTH EAST - NO. 13 WARD

- (d) 01/02029/FUL Convert existing store to 8 flats at 5-9 High Street, Lossiemouth for Mr James Clark

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to convert an existing store to 8 flats at 5-9 High Street, Lossiemouth for Mr James Clark.

The Meeting noted that the application had been referred to the Committee as there is currently no Councillor for the Ward and there is a known issue in relation to noise nuisance from the adjoining fish processors. The Meeting also noted that were the application to be approved, contrary to recommendation, any possible future enforcement action in respect of the noise nuisance could be prejudiced and redress sought by any relevant party. It was also noted that, given the application had been advertised as a departure from the Local Plan and an objection had been received, should the Committee be minded to approve the application a Hearing was recommended.

Following consideration Councillor Aldridge, seconded by Councillor Burgess, moved refusal of the application as recommended.

As an amendment Councillor Coutts, seconded by Councillor Bisset, moved that given other disused buildings in the vicinity had been rehabilitated into residential dwellings, there was adequate off street car parking given the width of the streets within Lossiemouth and that the current level of noise from the refrigeration units would appear to be excessive and as the applicant had intimated that he would be prepared to meet the cost of reducing the noise level to an acceptable standard, he considered it was unacceptable to refuse the application and therefore it should be approved.

In regard to the availability of off-street parking the Senior Engineer (Traffic) advised the Meeting that whilst he agreed that there may be ample on-street parking at other locations in the town, it was appropriate to apply the Council's parking standards in this case because the eight flats could be expected to attract up to 16 cars, and the site was situated near a road junction where parking restrictions may have to be introduced for road safety reasons and that the additional demand for on-street parking will also displace some existing residents' cars.

In response to a question the Development Control Manager advised that the proposal was not supported by evidence from noise consultants that the additional measures proposed would work. He stated that no condition

could be imposed relating to adjoining premises and therefore if the Committee was minded to approve the application he recommended deferral to look at practical measures to see if noise reduction could be achieved.

With the agreement of his seconder Councillor Coutts amended his motion to approval of the application subject to a condition requiring the noise from the adjacent industrial use to be reduced to a level to the satisfaction of the Environmental Health Section.

Thereafter as a second amendment Councillor Leslie, seconded by Councillor Sim, moved the deferral of the application in order to allow the applicant the opportunity to reach agreement with the neighbouring proprietor of the fish processors to reduce the level of noise from the refrigeration unit to a standard acceptable to the Environmental Health Department.

In accordance with Standing Orders the Second Amendment was taken against the First Amendment and on a division there voted:-

For the First Amendment (4)	-	Councillors Coutts, Bisset, Hamilton and Hogg
For the Second Amendment (16)	-	Councillors Leslie, Sim, Burgess, Divers, Ettles, Gorn, Howe, Jappy, Longmore, McIntosh, Paul, Shepherd, Towns, Urquhart, Watt and Young
Abstentions (2)	-	Councillors Aldridge and Keith

Accordingly the Second Amendment became the Amendment and on a division as between the Motion and the Amendment there voted:-

For the Motion (4)	-	Councillors Aldridge, Burgess, Keith and Urquhart
For the Amendment (18)	-	Councillors Leslie, Sim, Bisset, Coutts, Divers, Ettles, Gorn, Hamilton, Hogg, Howe, Jappy, Longmore, McIntosh, Paul, Shepherd, Towns, Watt and Young

Abstentions (0)

Accordingly the Amendment became the finding of the Meeting and it was agreed to defer consideration of the application to a future meeting in order to allow the applicant the opportunity to reach agreement with the neighbouring proprietor of the fish processors to reduce the level of noise from the refrigeration unit to a standard acceptable to the Environmental Health Section.

LOSSIEMOUTH WEST - NO. 14 WARD

- (e) 01/00743/FUL Erect new dwellinghouse on Land To North of Firthside, Stotfield Road, Lossiemouth for Mr And Mrs I McPherson

Under reference to Paragraph 3 (a) of the Minute of this Committee dated 13 February 2002 there was submitted a report by the Director of Environmental Services recommending that, subject to conditions as detailed in the report, planning consent be granted in respect of an application to erect a new dwellinghouse on land to the north of Firthside, Stotfield Road, Lossiemouth for Mr and Mrs I McPherson.

The Meeting noted that the application had been deferred from the meeting on 13 February 2002 to await the submission of amended plans from the applicant and that consideration of the request for revocation had also been deferred to enable the matters to be considered together. Since the report to the meeting on 1 August 2001 various issues had been raised regarding the proposal and were summarised in the report. A copy of previous reports were also attached for information.

The Meeting also noted that requests had been received from the objectors to the application for the revocation of application 00/01385/OUT prior to determining the current application and/or that consideration of the current application be postponed until such time as new Councillors have been elected for Lossiemouth to take the place of Councillors Fleming and Flynn. In response to these requests the report recommended that should a decision be taken to revoke the outline consent the present application be deferred until the outcome of the revocation procedures were known.

Details of the request and procedures relating to the revocation of an application were set out in the report and it was noted that the Principal Solicitor (Commercial and Conveyancing) strongly recommended that revocation would not be appropriate in this instance given that there had been no material changes either in terms of the Development Plan or other material considerations which the Council would legitimately take into account to justify seeking a revocation of the outline consent.

In regard to the request for a deferral the Principal Solicitor (Commercial and Conveyancing) reiterated her previous recommendation to Committee that it was not considered competent to defer consideration of the application until after the elections for the two local Council Wards in Lossiemouth and that the application should be dealt with as appropriate by the Committee.

In response to a question the Meeting also noted that, as several of the candidates in the forthcoming by-elections had already intimated their opposition, in public, to the application, then were consideration of the application to be deferred until after the by-elections and any of these candidates were to be elected they would be advised to declare an interest and would not be able to participate in any discussions or decisions regarding the application. It was also noted that that the application before the Committee related to detailed consent with the principle of development on the site having been established at the meeting of the Committee on 13 December 2000 (para 3 (c) of the Minute refers) which had subsequently been upheld following a Judicial Review.

In regard to the alleged rights of way issues the Meeting noted the submissions in this regard including the terms of a letter from Scotways the Scottish Rights of Way and Access Society which was appended to the report as Appendix 1. The Meeting noted that investigations into the alleged rights of way issues had concluded that there were two possible rights of way, one adjacent to the north-west boundary and the other to the south-west and to protect people's rights, the proposed preservation of these two possible rights of way was all that was considered necessary. Accordingly a negative condition was recommended to ensure that once the development is completed the public can still exercise their right to move from one public place to another and a further condition included so as to ensure that the routes are maintained at all times and not obstructed during or after construction.

Following consideration and on the motion by Councillor Aldridge, seconded by Councillor McIntosh the Committee agreed not to proceed with revocation procedures relating to application 00/01385/OUT and thereafter proceeded to consider the current application.

Following consideration Councillor Aldridge, seconded by Councillor Burgess, moved approval of the application as recommended.

As an amendment Councillor Bisset, seconded by Councillor Howe, moved deferral of consideration of the application until after the by-elections for the two local Council wards in Lossiemouth.

Given that the terms of the amendment were not a material planning consideration the amendment was ruled not competent.

Thereafter, as an amendment, Councillor Howe, seconded by Councillor Paul, moved that, in light of the correspondence from the Scottish Rights of Way and Access Society urging the Council to recognise that a public right of way has been established through the centre of the proposed site, the application be refused.

On a division there voted:-

For the Motion (17)	-	Councillors Aldridge, Burgess, Coutts, Divers, Ettles, Gorn, Hamilton, Hogg, Jappy, Keith, Leslie, Longmore, McIntosh, Shepherd, Sim, Urquhart and Young
For the Amendment (2)	-	Councillors Howe and Paul
Abstentions (3)	-	Councillors Bisset, Towns and Watt

Accordingly the motion became the finding of the Meeting and it was agreed that the application be approved subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.

2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. Unless otherwise agreed with the Council (as Planning Authority) the development shall not commence until samples of all external material finishes and their colouration have been submitted to and approved by the Head of Development Services.
4. Sample panels of roughcast shall be prepared on the site for the inspection and approval of the Head of Development Services and the roughcast work shall not be carried out until agreement has been reached with the Head of Development Services regarding the type and colour of materials to be used.
5. That no development shall take place until a Landscape Scheme (drawn to scale) is submitted to and approved by this Council (as Planning Authority). This Landscape Scheme shall show:-
 - (a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
 - (b) details of the measures to be taken to protect any existing trees, shrubs and hedgerows during the course of developing the site;
 - (c) details of the numbers, species, position, planting distances and sizes of all planting to be undertaken.
6. That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the development or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.
7. All proposed development works, including those associated with building operations and site engineering works shall be contained entirely within the approved site and all existing/proposed landscaping within (and outwith) the site shall be retained/protected during site construction works and not interfered with in any way without the prior consent, in writing, of the Council as planning authority.
8. Three private parking spaces shall be provided within the site.
9. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.
10. The width of vehicular access shall be 2.4 - 3.0 m and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.
11. No water shall be permitted to drain onto the public footpath/carriageway.
12. New boundary walls/fences shall be set back from the edge of the public road at a distance of 1.8 metres.
13. The development shall not be commenced 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 and approved by the Planning Authority with the agreement of the Regional Archaeologist.
14. The development shall not commence until approval has been obtained from the Planning Authority in consultation with Scottish Natural Heritage for details of measures to be put in place to ensure that any rock exposed during construction work on the foundations of the building can be studied and any rock revealed in other parts of the site can be retained, if possible, as additional rock exposure.
15. The development shall relate to the amended location and site plan (12:33:05a and 03 F respectively) submitted under cover of the applicant's agents letter dated 13 February 2002 regarding the boundaries of the site.

16. The two existing pathways identified on the amended drawing 12:33:03F shall at all times remain available for use and no part of the development hereby approved, both during construction and after completion of the development shall, at any time, obstruct or interfere with the use of these pathways unless with the prior written agreement of the Council as planning authority.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
3. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
4. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
5. In order that detailed consideration can be given to the landscaping of the site and provision of any play equipment.
6. In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.
7. To ensure a satisfactory form of development in the interests of maintaining the amenities and appearance of the surrounding foreshore area both during and after on-site construction works.
8. In the interests of road safety.
9. In the interests of road safety.
10. In the interests of road safety.
11. In the interests of road safety.
12. In the interests of road safety.
13. In order to safeguard any archaeological interest which there may be on the site.
14. In order to safeguard the natural interest of the site in relation to rock exposure.
15. In order to avoid any ambiguity regarding the terms of this consent.
16. In order to ensure that the pathways as defined are available for public use at all times.

- (f) 01/02027/FUL Alter existing dwellinghouse and erect new dwellinghouse on Site Adjacent To Morvada, Stotfield Road, Lossiemouth for Mr And Mrs B Stewart

There was submitted a report by the Director of Environmental Services recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application to alter an existing dwellinghouse and erect a new dwellinghouse on site adjacent to Morvada, Stotfield Road, Lossiemouth for Mr and Mrs B Stewart.

The Meeting noted that the application had been referred to the Committee as there is currently no Councillor for the Ward.

Following consideration the Committee agreed to approve the application subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.

2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
3. No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.1 m of the edge of the carriageway.
4. The width of vehicular access shall be 2.4 - 3.0 m and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the public carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.
5. No water shall be permitted to drain onto the public footpath/carriageway.
6. Drop kerbs shall be provided across the access to The Moray Council specification.
7. Two private parking space(s) shall be provided.
8. Sample panels of roughcast shall be prepared on the site for the inspection and approval of the Head of Development Services and the roughcast work shall not be carried out until agreement has been reached with the Head of Development Services regarding the type and colour of materials to be used.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
3. In the interests of road safety.
4. In the interests of road safety.
5. In the interests of road safety.
6. In the interests of road safety.
7. In the interests of road safety.
8. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

(g) 02/00303/FUL Extend dwellinghouse and erect garage at 2 Fastnet Place, Lossiemouth for Mr Martin McLeod

There was submitted a report by the Director of Environmental Services recommending that, subject to conditions as detailed in the report, planning consent be granted in respect of an application to extend the dwellinghouse and erect a garage at 2 Fastnet Place, Lossiemouth for Mr Martin McLeod.

The Meeting noted that the application was being referred to the Committee as the applicant was a member of staff within the Environmental Services Department.

Following consideration the Committee agreed to approve the application subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of five years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.

LHANBRYDE AND BIRNIE - NO. 15 WARD

- (h) 02/00053/FUL Erect dwellinghouse with integral garage at Hallowood, Troves, Elgin for Mr Donald Cameron

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to erect a dwellinghouse with integral garage at Hallowood, Troves, Elgin for Mr Donald Cameron.

The Meeting noted that Members of the Committee had visited the site of the application on Monday 11 March 2002.

Following consideration Councillor McIntosh, seconded by Councillor Keith, moved that the application be refused, as recommended.

As an amendment Councillor Jappy, seconded by Councillor Longmore, moved that, given there had been several developments in the immediate locale granted consent under delegated powers and that a precedent had already been set in regard to developments within Countryside Around Town (CAT) designation, citing a recent approval in the same Ward at Calcots as an example, the application should be approved. In support of his motion he also expressed the opinion that the proposed development complied with policy in that the site has established boundaries, the house would be positioned sensitively, the site was smaller than previously applied for and only slightly over 1400sq and has 27% tree cover compared to the required minimum of 25%.

Prior to moving to the vote Councillor Paul sought clarification as to the location of the agricultural shed which had permitted development rights and it was agreed that consideration of the application be continued to allow the Development Control Manager the opportunity to consult the file papers relating to previous applications in order to ascertain the exact location of the site of the agricultural shed.

FIFE KEITH AND STRATHISLA - NO. 22 WARD

- (i) 01/01810/FUL Tile roof of house with concrete roofing tiles at Corner Of Station Road And Braco Street, Keith for Mr And Mrs James Logie

There was submitted a report by the Director of Environmental Services recommending that for the reason detailed in the report planning consent be refused in respect of an application to tile the roof of a house with concrete roofing tiles at the corner of Station Road and Braco Street, Keith for Mr and Mrs James Logie.

The Meeting noted that Members of the Committee had visited the site of the application on Monday 11 March 2002.

Councillor Watt referred to the original permission granted on 18 October 2000 which was with tiles as the roof cladding and that on construction the solum had been raised approximately 15 inches due to flooding from the adjoining street. This meant a fresh application had to be applied for and on being granted the recommendation was changed to slates. He also referred to the construction of the proposed dwelling being a kit house and in order to fit slates the roof structure would all require to be changed and the applicant still wished to fit tiles which would be slate coloured and Councillor Watt saw no reason why this could not be the case given that the adjoining local authority houses have tiles as have most modern houses in the area including one opposite. Accordingly he moved approval of the application and, given the objections to the application related to the increased height of the dwelling as opposed to the tiles, a hearing would not be required. His motion was seconded by Councillor Towns.

There being no-one otherwise minded the motion became the finding of the Meeting and it was agreed that the application be approved without the requirement for a hearing.

SPEYSIDE - NO. 25 WARD

- (j) 01/01812/FUL Erect dwellinghouse and oil tank at Woodside, Ringorm, Craigellachie, Aberlour for Mr Stephen Strathdee

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to erect a dwellinghouse and oil tank at Woodside, Ringorm, Craigellachie for Mr Stephen Strathdee.

Following consideration Councillor Aldridge, seconded by Councillor Howe, moved that, in his opinion, the proposed development complies with policy in relation to new housing in the countryside in that it will be sensitively sited and will be in the proximity of an existing group of buildings and will not cause a change in the character of the area from an existing rural cluster to one of suburban style group of buildings or ribbon development. He also expressed the view that given the proposed development had been advertised and did not attract any objections from immediate neighbours nor from consultees he was of the firm opinion that the proposed development complies with the policies referred to in the report would not create a precedent for sporadic development and therefore the application should be approved as complying with policy.

There being no-one otherwise minded the motion became the finding of the Meeting and it was agreed that the application be approved subject to standard conditions.

- (k) 01/01905/OUT Outline to erect dwellinghouse at Aberlour Gardens, Aberlour for Mr Raymond Strathdee

There was submitted a report by the Director of Environmental Services recommending that subject to referral to a hearing and conditions as detailed in the report planning consent be granted in respect of an outline application to erect a dwellinghouse at Aberlour Gardens, Aberlour for Mr Raymond Strathdee.

Reference was made in the report to a previous application 01/00088/OUT which was refused consent given that there were already several discharges of septic tank effluent to adjacent water courses and a further discharge would be likely to result in an unacceptable addition to known problems with such discharges. The only difference between the previous proposal and the current application is that the septic tank discharge is now proposed via a long (210 metres) discharge pipe to the Burn of Allachy some 210 metres to the north of the site. The Meeting also noted that SEPA had no objections to the discharge proposal which will require the separate formal consent of SEPA under the Control of Pollution Act 1974 and that an application in this respect is required before any construction begins.

During discussion Councillor Jappy referred to the terms of a letter to the Council from SEPA dated October 1998 confirming their position and, as the Development Control Manager was unaware of the terms of the letter, it was agreed that the Development Control Manager liaise with Councillor Jappy on this matter.

Following consideration Councillor Aldridge moved that the application be approved as recommended and, given that SEPA were accepting the revised drainage proposals, the application complied with policy and therefore a Hearing was not required.

There being no-one otherwise minded the motion became the finding of the Meeting and it was agreed that the application be approved, without referral to a Hearing, subject to the following conditions:-

1. (a) That in the case of any reserved matter, application for approval must be made before:-
 - (i) that expiration of 3 years from the date of the grant of outline planning permission; or
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above.
- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-

- (i) the expiration of 5 years from the date of the grant of outline planning permission; or
 - (ii) the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.
2. The approval hereby granted is in outline and prior to the commencement of the development approval of the details, including the siting, design and external appearances of the building(s) the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Council, as Planning Authority.
 3. The proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the reserved matters numbered 4 - 7 below.
 4. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 3 above.
 5. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water shall be submitted in accordance with condition no. 3 above.
 6. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 3 above.
 7. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 3 above.
 8. It shall be ensured that the full length of the foul drainage outfall/discharge pipe to the Burn of Allachay shall be fully covered in soil at all times.
 9. The detailed application shall provide for a house which fully complies with the design requirements of policy L/HC5 in the Moray Council Local Plan 2000, and which is no more than 1½ storeys in height.
 10. No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.1 m of the edge of the carriageway.
 11. The width of vehicular access shall be 2.4 - 3.0 metres and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the public carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.
 12. No water shall be permitted to drain onto the public footpath/carriageway.
 13. Two private car parking spaces for up to a 3 bedroomed dwelling and three private car parking spaces for a 4 or more bedroomed dwelling shall be provided.
 14. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure that the matters specified can be fully considered prior to the commencement of development.
3. As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
4. As the consent is in outline only and in order that detailed consideration can be given to the matters specified.

5. As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
6. As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
7. As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
8. To ensure that the pipe in question has no material visual impact.
9. For the avoidance of doubt and to ensure that the house is sympathetic to the setting.
10. In the interests of road safety.
11. In the interests of road safety.
12. In the interests of road safety.
13. In the interests of road safety.
14. In the interests of road safety.

6. APPLICATIONS FOR WIND FARMS

Councillor Aldridge declared an interest in the applications given his membership of the Archiestown Village Council which had commented on the Paul's Hill application and given that he farms land owned by the Estate involved in the Cairn Uish application. He vacated the Chair in favour of the Vice-Chairman Councillor McIntosh and left the meeting taking no part in the discussions or decisions.

Prior to considering the applications Councillor Paul sought guidance on her participation in the Cairn Uish application given her capacity as Chairman of the Rothes Council which had heard a presentation on the application. Prior to the presentation she had declared an interest and had taken no part in the subsequent proceedings. The Chair being taken by the Secretary. It was noted that, as she did not consider she had prejudiced her position it would be in order for her to remain and participate in the consideration and decision on the Cairn Uish application.

(a) Covering Report On Applications For Wind Farms At Paul's Hill, Ballindalloch And At Cairn Uish, Rothes

There was submitted a report by the Director of Environmental Services summarising the procedures undertaken by the Council in regard to applications for wind farms at Paul's Hill, Ballindalloch and Cairn Uish, Rothes.

The Meeting noted that the applications had been assessed against the Moray Development Plan and other material policy documents including National Planning Policy Guideline (NPPG) 6 on "Renewable Energy Developments" and the Council's own guidance on wind farms and that the conclusions and recommendations in regard to the two applications were set out in individual reports.

The Meeting agreed to note the report.

(b) Proposed 28 Turbine Wind Farm At Paul's Hill, Ballindalloch

There was submitted a report by the Director of Environmental Services summarising the main issues, comments received and setting out a proposed recommendation to the Scottish Executive in respect of a planning application for a 28 turbine wind farm at Paul's Hill, Ballindalloch which has been lodged with the Scottish Executive under Section 36 of the Electricity Act (Scotland) 1989 and advising that as a statutory consultee the Council is required to respond to the Scottish Executive before 15 March 2002.

The Meeting noted that, under the legislation, planning authorities can undertake a consultation of their own before submitting comments to the Scottish Ministers and can either recommend approval, perhaps subject to conditions or refusal of the application. If the Council object to an application the Scottish Ministers must refer the application to public inquiry. An inquiry may also be called if objections are received from other bodies.

There were attached, as Appendices to the report details of Development Plan policies and other documents; Summary of Objections, Summary of Applicant's Response to Objections and Recommended Planning Conditions

Following consideration Councillor Young, seconded by Councillor Hogg moved that given, in his opinion, there were a number of issues requiring clarification and/or further information the Council recommend to the Scottish Executive that it objects to the application to enable a Public Inquiry to take place.

As an amendment Councillor Keith, seconded by Councillor Watt, moved that the Council recommend to the Scottish Executive approval of the application subject to the conditions recommended in the report.

On a division there voted:-

For the Motion (2)	-	Councillors Young and Hogg
For the Amendment (17)	-	Councillors Keith, Watt, Bisset, Burgess, Coutts, Divers, Ettles, Gorn, Howe, Leslie, Longmore, McIntosh, Paul, Shepherd, Sim, Towns and Urquhart
Abstentions (2)	-	Councillors Hamilton and Jappy

Accordingly the amendment became the finding of the Meeting and it was agreed to recommend to the Scottish Executive:-

- i) that the application by Fred Olsen Renewables Ltd for a 28 turbine wind farm at Paul's Hill, Ballindalloch be approved subject to the conditions set out in Appendix 4 of this report;
- ii) that the developer work in partnership with Highlands and Islands Enterprise and Moray, Badenoch and Strathspey Enterprise to secure benefit to the local economy;
- iii) that the wind farm is connected to the National Grid by underground cables;
- iv) that consent is only granted if the Executive are satisfied that the application raises no aircraft safety issues;
- v) that the applicant enters into a legal agreement to prepare and implement a moorland management plan to conserve the habitats and species in and adjacent to the application site; and
- vi) that the applicant enters into a legal agreement to secure appropriate developer contributions related to the development.

(c) **Proposed 28 Turbine Wind Farm At Cairn Uish, Rothes**

There was submitted a report by the Director of Environmental Services summarising the main issues, comments received and setting out a proposed recommendation to the Scottish Executive in respect of a planning application for a 28 turbine wind farm at Cairn Uish, Rothes which has been lodged with the Scottish Executive under Section 36 of the Electricity Act (Scotland) 1989 and advising that as a statutory consultee the Council is required to respond to the Scottish Executive before 15 March 2002.

The Meeting noted that, under the legislation, planning authorities can undertake a consultation of their own before submitting comments to the Scottish Ministers and can either recommend approval, perhaps subject to conditions or refusal of the application. If the Council object to an application the Scottish Ministers must refer the application to public inquiry. An inquiry may also be called if objections are received from other bodies. There were attached as Appendices to the report details of Development Plan policies and other documents; Summary of Objections, Summary of Applicant's Response to Objections and Recommended Planning Conditions

Following consideration Councillor Young, seconded by Councillor Hogg moved that given, in his opinion, there were a number of issues requiring clarification and/or further information the Council recommend to the Scottish Executive that it objects to the application to enable a Public Inquiry to take place.

As an amendment Councillor Keith, seconded by Councillor Watt, moved that the Council recommend to the Scottish Executive approval of the application subject to the conditions recommended in the report.

On a division there voted:-

- | | | |
|------------------------|---|--|
| For the Motion (2) | - | Councillors Young and Hogg |
| For the Amendment (18) | - | Councillors Keith, Watt, Bisset, Burgess, Coutts, Divers, Ettles, Gorn, Howe, Jappy, Leslie, Longmore, McIntosh, Paul, Shepherd, Sim, Towns and Urquhart |
| Abstentions (1) | - | Councillor Hamilton |

Accordingly the amendment became the finding of the Meeting and it was agreed to recommend to the Scottish Executive

- i) that the application by Fred Olsen Renewables Ltd for a 28 turbine wind farm at Cairn Uish, Rothes be approved subject to the conditions set out in Appendix 4 of this report;
- ii) that the developer work in partnership with Highland and Islands Enterprise and Moray, Badenoch and Strathspey Enterprise to secure benefits to the local economy;
- iii) that the Wind Farm is connected to the National Grid by underground cables;
- iv) that consent is only granted if the Executive are satisfied that the application raises no aircraft safety issues;
- v) that the applicant enters into a legal agreement to prepare and implement a moorland management plan to conserve the habitats and species in and adjacent to the application site; and
- vi) that the applicant enters into a legal agreement to secure appropriate developer contributions related to the development.

On the conclusion of this item Councillor Aldridge rejoined the meeting and the Vice-Chairman, Councillor McIntosh vacated the Chair in favour of the Chairman.

7. THE WARDS WILDLIFE SITE DRAFT MANAGEMENT PLAN

Under reference to Paragraph 11 of the Minute of Meeting of this Committee dated 23 August 2000 there was submitted a report by the Director of Environmental Services seeking approval of a draft Management Plan for the Wards Wildlife Site in Elgin in recognition of its value as an important wetland area supporting a wide variety of habitats and species of conservation concern.

The Meeting noted that the draft Management Plan was drawn up following a public consultation workshop held on 4 June 2001 and that the main conclusion of the workshop was for "minimal intervention" to the habitat while promoting interpretation and awareness of the value of the site and encouraging its use for education. A copy of the draft Management Plan was attached as an Appendix to the report.

Following consideration the Committee agreed to:-

- (i) approve the Wards Wildlife Site Draft Management Plan for consultation purposes; and
- (ii) consider the responses to the consultation exercise on the Draft Management Plan at a future Committee meeting

8. SCOTTISH AWARDS FOR QUALITY IN PLANNING 2001

There was submitted a report by the Director of Environmental Services advising the Council of successes in receiving three commendations covering three categories of "development control", "development plan" and "development on the ground" at the recent Scottish Planning Awards event.

The Meeting noted that submissions made by the Council were the draft Forestry Strategy, the Moray Access Network Initiative and the Moray Webmap and that the Council was the only authority in Scotland to receive three awards.

Following consideration the Committee agreed:-

- (i) to note the Council's receipt of three commendations from the Scottish Awards for Quality in Planning; and
- (ii) that the Committee's appreciation of the work involved in the preparation of the three submissions be conveyed to the staff concerned and also to the Community Groups who had been involved.

9. PLANNING APPLICATION 02/00053/FUL: ERECT DWELLINGHOUSE WITH INTEGRAL GARAGE AT HALLOWOOD, TROVES, ELGIN FOR MR DONALD CAMERON

Under reference to Paragraph 5(h) of this Minute the Development Control Manager confirmed that the site of the agricultural shed which had permitted development rights was on the same site as that of the current application and thereafter, in noting the terms of the Motion and Amendment, the Meeting proceeded to determine the application.

On a division there voted:-

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|------------------------|---|---|
| For the Motion (10) | - | Councillors McIntosh, Keith, Burgess, Coutts, Gorn, Hogg, Towns, Urquhart, Watt and Young |
| For the Amendment (11) | - | Councillors Jappy, Longmore, Aldridge, Bisset, Divers, Hamilton, Howe, Leslie, Paul, Shepherd and Sim |
| Abstentions (1) | - | Councillor Ettles |

Accordingly the amendment became the finding of the Meeting and it was agreed that the application be approved.

10. COOPER PARK FUNFAIR

There was submitted a report by the Director of Environmental Services inviting the Committee to consider allowing a kiddies funfair in an area of the Cooper Park, Elgin for six weekends during July and August 2002.

The Meeting noted that the Cooper Park was not one of the Council's registered funfair sites and therefore any booking of the Park would be subject to application and payment of a public entertainment licence and given that all registered funfair sites are currently exempt for payment charges for the booking, if permitted, be in accordance with the Council's rates for funfairs.

Following consideration the Committee agreed to allow G.L. Morrison's Amusements to book the Cooper Park for two "kiddies rides" only for six weekends during July and August 2002, on an area of the Park to be agreed with the Director and with opening hours restricted to afternoons only.

11. USE OF GROUND AT COOPER PARK, ELGIN

There was submitted a report by the Director of Environmental Services inviting the Committee to consider a request from Moray College for the Council to consider making available an area of ground adjacent to the Cooper Park nursery block/Biblical Garden to be made available to the College for horticultural training facilities.

Following consideration the Committee agreed to:-

- (i) an arrangement with the Moray College for the use of an area of ground adjacent to the Cooper Park Nursery and Biblical Garden, Elgin; and
- (ii) continue to liaise with the College and other relevant parties with a view to submitting a detailed report for further consideration to a future meeting of the Committee

12. PROSECUTION IN RESPECT OF DALLACHY WASTE DISPOSAL SITE

Under reference to Paragraph 18 of the Minute of Meeting of this Committee dated 13 February 2002 there was submitted a report by the Chief Legal Officer advising the Committee of the outcome of the prosecution under

Section 33 (1)(b) and Section 33 (6) of the Environmental Protection Act 1990 which was called in the Elgin Sheriff Court on 4 March 2002.

The Meeting noted that, in disposing of the case, the Sheriff indicated that he was impressed that the Council had taken such a serious view of this matter and had taken steps to rectify the situation which had led to this complaint. Based on the information which he had and these effective measures taken by the Council he admonished the Council.

Following consideration the Committee agreed to note the outcome of the prosecution in terms of the Environmental Protection Act in respect of the operation of the Dallachy Landfill Site

13. NATIONAL PLANNING POLICY GUIDELINE 2 (REVISED) ECONOMIC DEVELOPMENT: CONSULTATION DRAFT

There was submitted a report by the Director of Environmental Services seeking approval of a proposed response to the draft National Policy Guideline 2 (Revised) on Economic Development.

The Meeting noted that the draft NPG2 Economic Development proposes to revise and replace the current NPPG2 (Business and Industry) prepared in 1993 and acknowledges that the planning system has a role to play in supporting economic development and must link with other national strategies and directives in promoting and accommodating economic growth.

Following consideration the Committee agreed to:

- (i) respond to the consultation draft as outlined in paragraph 5.1 of the report; and
- (ii) note the potential requirement for a budget allocation to support the provision of sites and premises

14. ATLANTIC FORESIGHT STUDY

There was submitted a report by the Director of Environmental Services advising the Committee of an invitation for the Council to participate in Atlantic Foresight, a transitional body on rural governance issues and requesting that consideration be given to Member and officer participation in the study.

The Meeting noted that the Atlantic Foresight project, which has been initiated by the Association of the Chambers of Agriculture of the Atlantic Arch (AC3A), is a study of rural governance issues, with the aim of producing an influential paper which will feed into the planning process for the new Europe-wide Structural Fund programmes. The study is to include information from academic, farming and structural fund programming practitioners on the types of activities which rural areas wish to see supported after 2006. The results are to be compiled into an important and influential document which will be presented to the Commission as part of its planning process for the new 2007 European Programmes. Moray, having secured an invitation to participate in the study through its membership of the European Rural Exchange (ERE), will represent the north Scottish Greenland area whilst Orkney Council will represent the Scottish Islands Study with Dumfries and Galloway Council representing southern Scottish interests.

Following consideration the Committee agreed to:-

- (i) participate in the Atlantic Foresight project; and
- (ii) Councillor Watt or whom failing, representing the Council at the workshops to be accompanied by an officer, to represent the Community Economic Development (LEADER+) and Structural Fund Programming issues

15. SPIRIT OF SPEYSIDE WHISKY FESTIVAL

There was submitted a report by the Director of Environmental Services recommending that the Council support the 2002 Spirit of Speyside Whisky Festival and recommend to the Policy and Resources Committee that a contribution to match private sector cash input in the 2002 Festival, up to a maximum of £10,000, be approved from the 2001/2002 Corporate Economic Development Activities budget.

Following consideration Councillor Gorn, seconded by Councillor Watt moved that consideration be deferred for further information and that on receipt of this information it be delegated to the Chairman and the Vice-

Chairmen, in consultation with the Committee's Tourism Working Party to determine the level of contribution not to exceed £5,000.

As an amendment Councillor Aldridge, seconded by Councillor McIntosh, moved approval of the recommendations subject to the inclusion of a requirement for an evaluation of the 2002 Festival being provided to the Council's Tourism Working Party and the Council by September 2002 to include an Audited Statement and Business Plan and any budgetary implications for the Council.

On a division there voted:-

- | | | |
|------------------------|---|--|
| For the Motion (4) | - | Councillors Gorn, Watt, Hamilton and Towns. |
| For the Amendment (18) | - | Councillors Aldridge, McIntosh, Bisset, Burgess, Coutts, Divers, Ettles, Hogg, Howe, Jappy, Keith, Leslie, Longmore, Paul, Shepherd, Sim, Urquhart and Young |

Abstentions (0)

Accordingly the Amendment became the finding of the Meeting and it was agreed to recommend to the Policy and Resources Committee that:-

- (i) the Council match fund a contribution from the Private Sector of up to £10,000 towards the marketing of the 2002 Spirit of Speyside Whisky Festival to be met from the Corporate Economic Development Activities Budget; and
- (ii) that the contribution be subject to an evaluation of the 2002 Festival being submitted to the Council's Tourism Working Party and the Council by September 2002 to include an Audited Statement and Business Plan and any budgetary implications for the Council.

16. FARM BUSINESS DEVELOPMENT SCHEME (F.B.D.S)

There was submitted a report by the Director of Environmental Services inviting the Committee to consider making a contribution to the cost of support staff for the Farm Business Development Scheme (F.B.D.S). The Meeting noted that the scheme, launched in July 2001, is the successor to the Rural Diversification Programme (R.D.P) and covers all of Scotland except the Highland area which is covered by the Agricultural Business Development Scheme. It is administered by S.E.R.A.D through five regions, is discretionary and competitive and provides assistance of up to £25,000 to farmers and/or their immediate family to diversify out of mainstream agriculture.

The report advised that the appointment of a Project Officer Assistant will increase the potential number of applications getting funding as well as a better promotion of the Scheme and should benefit Moray East which has seen a low level of applications in the second round compared to Angus and Aberdeenshire. The person appointed will be located in Gordon House, Inverurie and be on the payroll of Aberdeenshire Council as is the present Project Officer.

Following consideration the Committee agreed to recommend to the Policy and Resources Committee to contribute £2,000 towards the cost of providing an Assistant to the Farm Business Development Scheme Project Officer for 2 years: 2001-2002 and 2002-2003 from the Council's Corporate Economic Development Activities Budget, subject to:-

- SEERAD's contribution being confirmed; and
- sufficient funding for the post being approved by the partners

17. ADDITIONAL REVENUE EXPENDITURE ON THE MAINTENANCE OF LOCAL ROADS

There was submitted a report by the Director of Environmental Services advising the Committee of the allocation of additional revenue funding from the Scottish Executive towards roads maintenance in 2002/03 and the conditions associated with the funding.

The Meeting noted that Moray's share of the additional funding will be £466,000 for local roads maintenance and is open to acceptance until 18 March 2003. The works must be completed by 30 September 2002 and the

Executive urges Councils to tackle repairs and maintenance of local roads and bridges with particular attention being given to repairs such as potholes and street lighting.

Following consideration the Committee agreed to welcome the additional funding and approve the acceptance of this additional revenue money under the terms given for its use, and await details of the repairs proposed in a further report to the next meeting of the Committee.

18. ELGIN BYPASS

Further to the meeting of the Full Council on 30 January 2002 there was submitted a report by the Director of Environmental Services on the issue of the Elgin Bypass and presenting a preliminary summary on the technical merits of a bypass based on traffic information currently available.

Following consideration the Committee agreed:-

- (i) that appropriate Officers of the Council meet with representatives of the Scottish Executive Development Department to discuss an Elgin bypass and to request information from the A96 study referred to in the report;
- (ii) to recommend to the Policy and Resources Committee that an allocation of £50,000 be made to commission work to develop and promote an Elgin bypass when considering the next review of the Capital plan;
- (iii) that the Council re-tenders the arrangements for the engagement of term traffic consultants as detailed in paragraph 5.1 of the report; and
- (iv) that the Council extends an invitation the Depute Minister for Enterprise, Transport and Life Long Learning to visit Moray to see for himself the problems in Elgin on the A96 and to discuss rail and road link issues which need to be addressed given their strategic importance to Moray and the North East economy.

Suspension of Standing Orders (12. 45 p.m.)

The Meeting unanimously agreed to suspend Standing Order 60 and conclude the business on the Agenda.

19. DONATION FOR DROPPED KERBS

There was submitted a report by the Director of Environmental Services inviting the Committee to consider the offer of a donation of £2,000 from Springfield Properties Limited, Elgin specifically to pay for dropped kerb crossings for disabled access in Mid Street, Keith.

Following consideration the Committee unanimously agreed that it would be inappropriate for the Council to accept the donation.

20. STREET NAMING AND NUMBERING

In terms of Section 97 of the Civic Government (Scotland) Act 1982 - Street Naming and Numbering there was submitted a report by the Director of Environmental Services inviting the Committee to consider a number of proposed new street names which have been put forward following consultation with the appropriate local member.

Following consideration the Committee agreed that:-

- (i) the name Old School Court, Findochty is given to the new development at Craigview, Findochty;
- (ii) the name Jock Glass Courtyard, Elgin is given to the new courtyard development at Lesmurdie House, Elgin;
- (iii) the name Taylor Place, Elgin is given to the new development off Kennedy Place, Elgin;
- (iv) the name Flats 1 to 17 Lesmurdie House, Elgin be given to the new development of flats at Lesmurdie House, Elgin;

- (v) the name Marleon Field, Elgin is given to the new development off Lesmurdie Road, Elgin; and
- (vi) the name Balnageith Gardens, Forres is given to the new development off Pilmuir Road West, Forres

21. LIST OF REPORTS ISSUED FOR INFORMATION

In terms of the Council's decision of 14 July 1999 (para 6(a) of the Minute of Meeting refers) in regard to the issuing of reports for information the Meeting noted that the undernoted reports had been issued under separate cover, copies of which had also been made available at the Council's Access Points and Public Libraries:-

- Planning Advice Note 45: Renewable Energy Technologies - Report by Director of Environmental Services
- New Guidance on Health and Safety Enforcement - Report by Director of Environmental Services
- Lists of Assignations and Leases Submitted for Noting - Report by Head of Estates Services

22. PUBLIC CONVENIENCES - CUMMINGSTON

There was submitted a report by the Director of Environmental Services inviting the Committee to consider a request from Burghead, Cummingston and Roseisle Community Council for the Council to resume responsibility for Cummingston public conveniences.

The report recommended that, initially, the Council resume responsibility for cleaning the toilets during the week Monday to Friday and the availability of additional funding necessary to open the toilets at weekends be referred, in the first instance, to the Central Management Team and if funding can be identified within revenue budgets the Director be given delegated powers to resume weekend servicing of the facility.

During discussion Councillor Towns requested that consideration be given to the toilets remaining open all year as opposed to the proposed period of April to October.

Following consideration the Committee agreed:-

- (i) to the request by Burghead, Cummingston and Roseisle Community Council that the Moray Council take back responsibility for the cleaning of Cummingston toilets during the week Monday to Friday;
- (ii) that the additional funding necessary to open the toilets at weekends be discussed by Central Management Team and if funding can be identified within Revenue Budgets, the Director be given delegated powers to resume weekend servicing of the facility; and
- (iii) that given the potential financial and staffing implications of the toilets remaining open all year round the matter be referred, in the first instance, to the Central Management Team for consideration and a report thereafter be submitted to a future meeting of the Committee.

23. ADDITIONAL MANUAL WORKERS POSTS WITHIN ROADS DLO (Para. 1)

There was submitted a report by the Director of Environmental Services inviting the Committee to consider recommending to the Policy and Resources Committee the establishment of an additional four Roadworker 2 posts within the Roads DLO in order to reduce overtime hours and payments.

Following consideration the Committee agreed to recommend to the Policy and Resources Committee the establishment of a further four Roadworker 2 posts with the level of overtime worked being kept under review.

24. WASTE DISPOSAL SECTION: ADDITIONAL STAFFING (Para. 1)

There was submitted a report by the Director of Environmental Services seeking approval for three additional members of staff within the Waste Disposal Section which have been identified as required to allow proper management of the current workload, to comply with current and forthcoming legislation and to progress waste strategy initiatives.

Following consideration the Committee agreed to recommend to the Policy and Resources Committee:-

- (i) approval of the employment of three additional permanent Disposal Operatives (Manual Grade 4) within the Waste Disposal Section; and

- (ii) approval of the use of the Strategic Waste Fund Revenue Budget for financing these posts as identified in the Committee Report on 13 February 2002.

25. RECYCLING OFFICER (Para. 1)

There was submitted a report by the Director of Environmental Services seeking the Committee's approval to establish a Recycling Officer post within the Waste Management Section of Environmental Protection.

The Meeting noted that typical duties of the postholder would include information gathering and recording, best practice reviews, advising on waste minimisation/recycling and educational role to regular school visits and to voluntary/not for profit bodies/community groups/business interests, liaising with assisting these groups and publicity of the Council's initiative through press releases and "road shows".

Following consideration the Committee agreed to recommend to the Policy and Resources Committee:-

- (i) approval of the permanent appointment of a Recycling Officer within the Waste Management Section on salary grade APIV (currently £18,878 - £20,897); and
- (ii) approval of the use of the Strategic Waste Fund revenue budget for financing this post as identified in the Committee Report on 13 February 2002.

26. ROAD IMPROVEMENT SCHEME: C16E BYRES - TANNACHY ROAD - (Para. 9)

There was submitted a report by the Head of Estates Services seeking homologation of a decision taken in consultation with the Chair of the Environmental Services Committee and the Vice-Chairman, Councillor Coutts to approve the terms for the acquisition of three additional plots of ground which are required to complete the Gavin Brae, Beaufighter Road improvement on the C16E Byres - Tannachy Road.

Following consideration the Committee agreed to:-

- (i) homologate the decision of the Head of Estates Services taken in consultation with the Chair and Vice-Chairs of this Committee to approve the terms for the acquisition of 1,077m² of ground required in connection with the Gavin Brae - Beaufighter Road Improvement Scheme to the C16E Byres - Tannachy Road; and
- (ii) remit it to the Principal Solicitor (Commercial and Conveyancing) to conclude the transaction.

27. PROPOSED SALE OF ADDITIONAL LAND AT WOODEND COTTAGE, LESMURDIE ROAD, ELGIN (Para. 9)

There was submitted a report by the Director of Environmental Services inviting the Committee to consider approving the provisional terms for the sale of 342m² of ground to the north and east of Woodend Cottage, Lesmurdie Road, Elgin for the purposes of additional garden ground.

Following consideration the Committee agreed to:-

- (i) sell the 342m² of land at Lesmurdie Road, Elgin to Mr M Watson on the basis of the provisionally agreed terms; and
- (ii) remit the matter to the Principal Solicitor (Commercial and Conveyancing) to complete the transaction

28. BRUMLEY BRAE: STORAGE/GARAGING FACILITIES (Para. 9)

Under reference to Paragraph 19 of the Minute of Meeting of this Committee dated 13 February 2002 there was submitted a report by the Head of Estates Services seeking approval of provisional terms for a lease of two additional industrial units, canteen area and small office at the old canning factory at Brumley Brae, Elgin which are required by Environmental Services for the safe storage of scrap refrigerators until the CFC gases can be dealt with.

Following consideration the Committee agreed to approve the provisionally agreed terms and conditions of lease in 3.1 of the report and thereafter remit the matter to the Principal Solicitor (Commercial and Conveyancing) to conclude the transaction.

29. LISTS OF LEASES SUBMITTED FOR APPROVAL (Para. 9)

There was submitted a report by the Head of Estates Services inviting the Committee to approve the terms of two leases relating to Unit R, Islabank Mills, Keith and 3 Chanonry Spur, Elgin as detailed in the Appendix to the report.

Following consideration the Committee agreed to approve the terms of the two leases at Keith and Elgin as detailed in the Appendix to the report.

30. ENVIRONMENTAL HEALTH STAFFING (Para 1)

There was submitted a report by the Director of Environmental Services inviting the Committee to consider staffing arrangements in regard to two existing posts within Environmental Health and seeking approval for two additional posts for staff to deal with issues under the Contaminated Land Regime.

The Meeting noted that the post of Environmental Health Officer (Contaminated Land) and that of Environmental Health Officer (temporary) are included in the revised establishment for the Department approved by the Council on 13 September 2000 and that an allocation of £12,000 per year had been included in the Revenue Budget to fund the permanent part-time post of Contaminated Land Officer.

Following consideration the Committee agreed to recommend to the Policy and Resources Committee:-

- (i) the establishment of a permanent part-time post of Contaminated Land Officer;
- (ii) the establishment of a temporary full-time post of Support Services Officer for a period of one year to assist with contaminated land issues;
- (iii) the post of the Environmental Health Officer (temporary) be continued until 31 March 2004;
- (iv) the post of Environmental Health Officer (Contaminated Land) be made permanent; and
- (v) the grades for the posts referred to at (iii) & (iv) above to be assessed and confirmed by Personnel Services.

31. UNAUTHORISED DEVELOPMENT : PLANNING APPLICATION 00/00848/FUL (Para 13)

Councillors Aldridge and Jappy declared an interest in this item and left the meeting taking no part in the discussion or decision. The Chair was taken by the Vice-Chairman Councillor McIntosh.

Under reference to Paragraph 24 of the Minute of Meeting of this Committee dated 13 February 2002 the Director of Environmental Services and the Principal Solicitor (Commercial and Conveyancing) reported orally on the current position in regard to the unauthorised development in connection with the construction of 88 houses at R9 Forres for Springfield Properties Limited.

Following consideration of oral reports by the Director of Environmental Services & the Principal Solicitor (Commercial & Conveyancing) the Committee agreed to note:-

- (i) the current position in regard to compliance with planning consent conditions relating to planning application 00/00848/FUL; and
- (ii) that an action by the Council seeking an Interdict to prevent any further house building, other than where houses are occupied or missives have been concluded with an imminent date of entry, until such time as the developer has complied with the conditions of consent is to call in the Court of Session on Friday 15 March 2002 and that the outcome will reported to a future meeting.