

THE MORAY COUNCIL
MINUTE OF MEETING OF THE ENVIRONMENTAL SERVICES COMMITTEE
2 OCTOBER 2002
COUNCIL HEADQUARTERS, ELGIN

PRESENT

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

APOLOGIES

Apologies for absence were intimated on behalf of Councillors J.A. Divers, G.D. Gormley, and L. Gorn.

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 Head of Estates Services, the Senior Engineer (Traffic), the Principal Solicitor (Commercial and Conveyancing), R O'Brien, Solicitor (Commercial and Conveyancing) in respect of Item 6, the Public Relations Co-Ordinator and the Senior Committee Services Officer, Clerk to the Meeting.

ALSO IN ATTENDANCE BY INVITATION

Inspector G Phillips, Grampian Police in respect of Item 13.

WELCOME TO THE MEETING

The Chairman welcomed to the meeting, a group of Primary 7 pupils and their teachers from Rothes Primary School and the two youth representatives on the Forres Community Council.

1. EXEMPT INFORMATION

On being advised that there was additional financial information in respect of item 9 (a) "Traffic Management in Buckie and Portgordon" which required to be discussed in confidence the Meeting agreed to consider this item in the confidential section of business, in terms of Paragraph 9 of Part I of Schedule 7A of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended. It was also agreed that a press release advising of the Committee's decision would be issued following the meeting.

Thereafter 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 Paragraphs 13 to 15 of this minute so as to avoid disclosure of exempt information of the class described in Paragraph 9 of Part I of Schedule 7A of the Act.

2. CURRENT PLANNING APPLICATIONS**(a) Scheme of Delegation**

Prior to considering the applications the Development Control Manager referred to concerns expressed by Members in regard to the current requirement, in terms of the current Scheme of Delegation, to give a written reason for requesting either or both referral of an application to Committee or a site visit which, in terms of the new Code of Conduct, might be seen to prejudge their position when the Committee comes to consider the application. In light of these concerns he recommended that, in regard to applications referred to the Chair, Vice-Chairs and Local Member, the forms be amended so that applications will be referred to Committee and

site visits requested without a written reason being given with Members requiring to explain their reasons for requesting referral and/or site visit at the Committee meeting.

BURGHSEA – NO. 11 WARD

- (b) 02/00904/FUL Construct a BMX cycle track on Former Railway Track adjacent to Station Court, Burghhead for Burghhead Amenities Association

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 construct a BMX cycle track on the former Railway Track adjacent to Station Court, Burghhead for Burghhead Amenities Association.

The Meeting noted that the application was being referred to the Committee, in terms of the Scheme of Delegation, as a departure from the Development Plan which was being recommended for approval and, as a number of objections had been received, a Hearing was recommended.

The reasons for the departure being recommended are :-

- the approval is temporary only, and the proposals would not irreversibly prejudice the designation of the area for a community hall and associated parking/new access.
- on the area in question there is already evidence of informal use for BMX bike riding. Although this does not have any formal sanction, granting the current approval would subject the activities in this respect to control through planning conditions and enable appropriate monitoring.
- the area in question is a relatively small part of the overall designation.
- in relation to the "community" aspect of the designation, the proposed use does have a community benefit, albeit for one particular interest group of the "community".

The Meeting also noted that during the consideration of the application and discussion with the Transportation Manager revised plans had been received detailing three car parking spaces on a site access from Station Court, and that it was not considered that the impact of this amendment was such that neighbour re-notification was required.

Following consideration the Committee agreed 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 be invited to attend and be afforded the opportunity of being heard.

HELDON AND LAICH – NO. 12 WARD

- (c) 02/00586/FUL Erect a new dwellinghouse at a site at Whitehill, Burgie, Forres for Mr and Mrs J Franklin

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 new dwellinghouse on a site at Whitehill, Burgie, Forres for Mr and Mrs J. Franklin.

The Meeting noted the application was being referred to the Committee in terms of the Scheme of Delegation given that the local member, having most carefully considered the advisory comments by transportation, objectors representations and the applicant's responses and his own objective observations in the context of Policy L/IMP2b.Amenity (ii) Traffic, had requested that consideration be given, following a site visit, to the inclusion of an additional reason for refusal. The additional reason being:-

" Policy L/IMP2. The proposed access route from the east may be expected to introduce increased traffic movement and noise which is likely to significantly detract from the amenities of the area, and particularly from the amenities of those dwellings sharing the proposed route".

The Meeting noted that members of the Committee visited the site of the application on Monday 30 September 2002.

The Meeting also noted that the application had been advertised as a departure from the Development Plan and that as objections had been received then, were the Committee minded to approve the application, a Hearing was recommended.

Councillor Hogg intimated that whilst supportive of the principle to build a house on the site, subject to complying with policy, he was concerned with the proposed access to the site and moved refusal of the application, as recommended, subject to the inclusion of the additional reason for refusal referred to above. However failing to find a seconder the motion fell.

Thereafter the Committee agreed that the application be refused for the following reasons:-

1. The proposals are contrary to the Moray Structure Plan policies S/IMP1 and to the Moray Local Plan policies L/IMP2, L/IMP3, L/HC5, L/ENV2, L/IMP7 and L/ENV23.
 - The scale, shape and proportions of the proposed dwelling are suburban in design and the development fails to integrate sensitively into its rural surroundings and is detrimental to the appearance and character of the area.
 - The proportions of the gable do not comply with the requirements of L/HC5 Gable/pitch parameters.
 - At the time of determination insufficient evidence has been produced to prove that the ground conditions are suitable for the proposed non-mains drainage.
 - At the time of determination there was insufficient information to demonstrate that an adequate water supply could be provided.

- (d) 02/01496/FUL Erect new dwellinghouse and garage at Riccarton on a site at Lochiepots Road, Miltonduff, Elgin for Mr James Russell

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 erect a new dwellinghouse and garage at Riccarton on a site at Lochiepots Road, Miltonduff, Elgin for Mr James Russell.

The Meeting noted that the application was being referred to the Committee as the applicant is a member of staff of 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.
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. A parking layby 8.0 m long x 2.5 m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting and service vehicles to park clear of the public road. The

vehicular access(es) should lead off the layby(s). Layby to be to The Moray Council specification and be surfaced in bitmac.

7. Three private parking space(s) shall be provided.
8. A turning area shall be provided within the curtilage of the site to enable vehicles to enter/exit in a forward gear.
9. New boundary walls/fences shall be set back from the edge of the public road at a distance of 2.0 metres.
10. Prior to commencement of development with any part of the swimming pool, full details of the swimming pool drainage system (including ground water and percolation tests) shall be agreed in writing with the Planning Authority, in consultation with SEPA.

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.
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7. In the interests of road safety.
8. In the interests of road safety.
9. In the interests of road safety.
10. In order that adequate drainage arrangements may be ensured.

LHANBRYDE AND BIRNIE – NO. 15 WARD

- (e) 02/01074/FUL Erect a new dwellinghouse on a plot At Greenfields, Lhanbryde for Mr and Mrs Roberts

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 new dwellinghouse on a plot at Greenfields, Lhanbryde for Mr and Mrs Roberts.

The Meeting noted that the application was being referred to the Committee in terms of the Scheme of Delegation given that it was understood, by the Local Member, that the house applied for is part of the continuing progress of the business enterprise at Greenfields (site of the former Bogton Farm) which has been built up over ten years and whilst, in her opinion, the application does present some conflict with the Moray Structure and Local Plans and she had requested that the Committee take this into consideration when considering the application.

The Meeting also noted that Members of the Committee had visited the site of the application on Monday 30 September 2002 and that the application had been advertised as a departure from the Development Plan to which no objections had been received.

Councillor Shaw expressed the view that whilst, accepting that the proposal did not meet the requirements of policy L/HC3, the land could no longer be classed as mixed farm land given the retail and mail order business at the saddlery and as the house applied for is required for the development of the business there she considered that these reasons were material considerations to justify a departure and therefore moved that, subject to appropriate planting and screening and a satisfactory porosity test, planning consent be granted. The motion was seconded by Councillor Hogg.

As an amendment Councillor Leslie seconded by Councillor Burgess moved refusal of the application, as recommended.

Prior to moving to the vote the Meeting noted the comments from the Director of Environmental Services and the Development Control Manager that no reference to the house being required in connection with the development of the business at Greenfields had been submitted by the applicant. They also advised that even if such a case had been made by the applicant there is no basis, in policy, for approval on the basis of business need.

On a division there voted:-

For the Motion (7)	-	Councillors Shaw, Hogg, Bisset, Bothwell, Howe, McIntosh and Wilson.
For the Amendment (8)	-	Councillors Leslie, Burgess, Aldridge, Coutts, Ettles, Keith, Sim and Young.
Abstentions (7)	-	Councillors Hamilton, Jappy, Longmore, Shepherd, Towns, Urquhart, and Watt.

Accordingly the amendment became the finding of the Meeting and it was agreed that the application be refused, as recommended, for the following reasons:-

1. The proposals are contrary to Moray Structure Plan policies S/H1, S/H4, S/IMP1 and Moray Local Plan policies L/IMP2, L/IMP3, L/HC3, L/ENV21 and L/IMP7.
2. The proposals fail to meet requirements of L/HC3 as the site lacks the required enclosure and definition of all four boundaries. It does not retain 25% of existing tree coverage on site and as such, the development fails to integrate sensitively into the surrounding area.
3. At the time of determination insufficient evidence has been provided to demonstrate the suitability of ground conditions for proposed non-mains drainage.

LENNOX – NO. 17 WARD

- (f) 02/00796/OUT Outline to erect new single storey dwellinghouse on a site at The Old Manse, West Street, Fochabers for Mr John Scott

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, outline planning consent be refused in respect of an application to erect a new single storey dwellinghouse on site at the Old Manse, West Street, Fochabers for Mr John Scott.

The Meeting noted that the application was being referred to the Committee in terms of the Scheme of Delegation given that the Local Member had expressed the view that his thoughts are broadly in accord with the observations from Historic Scotland and therefore had requested determination of the application by the Committee following a site visit.

The Meeting also noted that the application had been advertised as a development affecting the setting of a listed building and as a departure from the Development Plan. As an objection had been received then were the Committee "minded to approve" the application a Hearing was recommended.

The Meeting also noted that Members of the Committee had visited the site of the application on Monday 30 September 2002.

Following consideration Councillor Howe expressed the view that in his opinion the proposed development would not have a detrimental impact on the setting of the "B" Listed parent building, the Old Manse and therefore moved that the application be approved as complying with Policy. The motion was seconded by Councillor Bisset.

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 and subject to standard conditions.

The Meeting also noted that as the application had been approved as complying with policy a Hearing would not be required.

RATHFORD – NO. 21 WARD

- (g) 02/00033/OUT Outline for two sites at a site adjacent to Glen Mor, Drybridge, Buckie for Mr John A T Wilson

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, outline planning consent be refused in respect of an application for two sites on a site adjacent to Glen Mor, Drybridge, Buckie for Mr John A.T. Wilson.

The Meeting noted that in terms of the Scheme of Delegation the application was being referred to the Committee as the local member had declared an interest.

The Meeting also noted that were the Committee "minded to approve" the application it would require to be advertised as a departure from the Development Plan and given that an objection had already been received a Hearing was recommended.

Following consideration the Committee agreed to defer consideration of the application for a site visit.

FIFE KEITH AND STRATHISLA – NO. 22 WARD

- (h) 02/01013/OUT Outline for proposed new dwellinghouse and septic tank on land adjacent to Smithy Croft, Crossroads, Grange, Keith for Mr Jonathan Bliss

During consideration of this application Councillor Paul joined the meeting.

There was submitted a report by the Director of Environmental Services recommending that, for reasons detailed in the report, outline planning consent be refused in respect of an application for a proposed new dwellinghouse and septic tank on land adjacent to Smithy Croft, Crossroads, Grange for Mr Jonathan Bliss.

The Meeting noted that the application was being referred to the Committee in terms of the Scheme of Delegation given that the Local Member had expressed the view that he failed to agree with the second reason for refusal detailed in the report.

The Meeting also noted that the application had been advertised as a departure from the Development Plan to which no objections had been received and that Members of the Committee had visited the site of the application on Monday 30 September 2002.

Following consideration Councillor Watt advised the Meeting that the house applied for is in connection with a business located in Grange and that the applicant had acquired a 20m strip of land to the north-west of the site which he proposed to screen plant whether or not the application was approved. He also expressed the view that, in his opinion, the proposed development would integrate sensitively with the existing landforms and would not be an intrusive feature in the landscape visible from the B9018 tourist route nor set a precedent and therefore moved approval of the application as complying with policy. The motion was seconded by Councillor Longmore.

As an amendment Councillor Burgess, seconded by Councillor Keith moved refusal of the application, as recommended.

Prior to moving to the vote the Meeting noted the comments from the Director of Environmental Services and the Development Control Manager that no reference to the house being required in connection with the development of the business at Greenfields had been submitted by the applicant. They also advised that even if such a case had been made by the applicant there is no basis, in policy, for approval on the basis of business need.

On a division there voted:-

For the Motion (18) - Councillors Watt, Longmore, Aldridge, Bisset, Bothwell, Coutts, Hogg, Howe, Jappy, Leslie, McIntosh, Paul, Shaw, Shepherd, Sim, Towns, Wilson and Young.

For the Amendment (3) - Councillors Burgess, Keith and Ettles.

Abstentions (2) - Councillors Hamilton and Urquhart.

Accordingly the motion became the finding of the Meeting and it was agreed that the application be approved as complying with policy and subject to standard conditions.

SPEYSIDE – NO. 25 WARD

(i) 02/01342/FUL Erect dwellinghouse and garage at Broomhill, Ben Rinnes Drive, Tomnabent, Aberlour for Mr Stephen Strathdee

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 erect a dwellinghouse and garage at Broomhill, Ben Rinnes Drive, Tomnabent, Aberlour for Mr Stephen Strathdee.

The Meeting noted that the application was being referred to the Committee, in terms of the Scheme of Delegation, as a departure from the Moray Structure Plan and Moray Local Plan 2000 which was being recommended for approval. The reasons for the departure being recommended are :-

- 12 original outline applications were granted in two groups of 6 in 1990. (These consents subsequently expired);
- a refusal to renew one of the outline consents (97/00336/OUT) was overturned by a Scottish Office Reporter following an appeal;
- a recommendation for refusal on a site in this more prominent eastern group was not accepted by this Committee (01/00472/FUL). The Committee decided that the proposed development was in accordance with the Development Plan;
- on the western most side of Tomnabent 2 houses have been approved as departures, 01/00922/FUL approved in September 2002 and 02/00218/FUL approved in May 2002, as both occupy plots originally granted consent in 1990. A third plot (02/00224/FUL) in this group which did not occupy one of the original 1990 plots was recommended for refusal but approved by the Committee in May 2002.
- in respect of the above reasons, further detailed applications for houses on the six eastern plots were recommended for approval and approved as a departure at the Environmental Services Committee (01/01891/FUL, 02/00599/FUL and 02/00600/FUL).

Following consideration the Committee agreed 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. 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.
4. 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 dwelling 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.

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 that detailed consideration can be given to the landscaping of the site.
4. 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.

3. GRAMPIAN WOODLANDS COMPANY : PROGRESS REPORT

Under reference to Paragraph 19(ii) of the Minute of Meeting of this Committee dated 28 March 2001 there was submitted an annual progress report by the Director of Environmental Services on the work of the Grampian Woodlands Company's projects during the year 2001/02.

The Meeting noted that the Company was formed in 1998 to act as the holding company for various projects, the main ones being Grampian Forest and Grampian Woodlands, with the objective to increase the value of forestry and associated forest industries in the Grampian area in order to optimise the economic, social and environmental benefit of the region. The Committee previously agreed, at the meeting on 28 March 2002, to approve a contribution to the Company of £15,000 each year in respect of the years 2001/02 and 2002/03, subject to the submission of a satisfactory annual progress report on the work of the project during the preceding year.

Following consideration the Committee agreed to note the content of this report, as a basis for considering requests for any further financial support beyond 2002/03, subject to the submission of Business Plans and details of proposals for the forthcoming year.

4. SCOTTISH COUNCIL FOR DEVELOPMENT AND INDUSTRY (SCDI) : SUBSCRIPTION

There was submitted a report by the Director of Environmental Services recommending that, given the Council has, over the past two years, disengaged from active involvement in business support, the Council does not renew membership of the Scottish Council for Development and Industry (SCDI) which is an independent membership network seeking to influence Government policies to encourage sustainable economic prosperity.

Following consideration the Committee agreed not to renew the SCDI membership.

5. MORAY FIRTH PARTNERSHIP : FUNDING AND REPRESENTATION

There was submitted a report by the Director of Environmental Services inviting the Committee to consider a request from the Moray Firth Partnership (MFP) to continue contributing to “core” funding of the Partnership for a further three years and to agree Council representation on Management Board of the Partnership.

The Meeting noted that the Moray Firth Partnership was established in 1996 as a Partnership of all interests related to the Moray Firth from Wick to Fraserburgh, its purpose being to co-operate in managing the many competing demands on the Firth and that the strategy of the Partnership is promoted at national and European level as “integrated coastal zone management”.

Following consideration the Committee agreed:-

- (i) that no contribution be made in response to the request for £11,700 over 3 years.
- (ii) that MFP be invited to review and reduce its programme and staff levels, to be more focussed towards the purposes of partnership working as described in sections 4.4, 4.5 and 4.6 of the report;
- (iii) to consider future requests for contributions towards core funding and projects which can be shown to benefit Moray's coastline and coastal communities subject to available finances; and
- (iv) the Council's representative on the Partnership's Management Board being the Planning and Development Manager.

6. TREE PRESERVATION ORDERS

There was submitted a report by the Director of Environmental Services inviting the Committee to consider designating ten Tree Preservation Orders (TPOs) which have been proposed in the Moray Development Plan.

The Meeting noted that all the TPOs listed in the schedule, contained within the report, had been through a consultation exercise and are supported by the respective local communities. The report also advised that in 1989 a TPO was made at 11 North Street, Rothes, however the legal procedure required had not been completed and so as to ensure the TPO is beyond challenge it was recommended that the procedure should start again and therefore it was also included in the proposed schedule of TPOs.

Following consideration the Committee agreed:-

- (i) to serve Tree Preservation Orders at:
 - (a) Main Street, Church Grounds, Dyke
 - (b) Dunkinty House, Elgin
 - (c) Woodside Drive, Forres
 - (d) Croft Road, Forres
 - (e) Drumduan House, Forres
 - (f) Leancoil Hospital/Newbold House, Forres
 - (g) Golf Course/Fife Keith Wood, Keith
 - (h) Tomnabat Lane, Tomintoul, subject to clarifying the location of the trees prior to preparation of the Order
 - (i) Royal Oak, Urquhart
 - (j) North Street, Rothes
- (ii) that the site visiting of areas to be the subject of a TPO be researched and Members advised of the current policy.

7. STRATEGIC WASTE REVENUE FUND EXPENDITURE

Under reference to Paragraph 21 of the Minute of Meeting of this Committee dated 13 February 2002 there was submitted a report by the Director of Environmental Services advising the Committee of progress on the utilisation of the Strategic Waste Revenue Fund and seeking approval for the rephrasing of the upgrading of the recycling centre at Moycroft, Elgin.

The Meeting noted that the Council's Waste Consultant is progressing the Waste Strategy Implementation Plan, as planned, and as it was anticipated expenditure may not be fully utilised this financial year the slippage could be reallocated to augment purchases of containers for the expansion of mini recycling centres.

Following consideration the Committee agreed to:-

- (i) note the contents of this report; and
- (ii) approve the rephrasing of the Moycroft project to make effective use of the slippage that has been created from other projects.

8. CLEANSING SECTION : ADDITIONAL STAFFING

There was submitted a report by the Director of Environmental Services seeking approval of the appointment of two additional members of staff within the Cleansing DSO. The Meeting noted that the posts had been identified as being required to allow proper management of the current workload and to assist in compliance with current and forthcoming legislation by progressing the Waste Strategy Initiatives, especially that of mini recycling centres.

Following consideration the Committee agreed to recommend to the Policy and Resources Committee approval of the employment of one LGV driver and one loader/relief driver within the Cleansing DSO, the cost of which to be recharged in full to the Waste Strategy Revenue Budget.

9. A96 FOCHABERS-MOSSTODLOCH BY PASS

There was submitted a report by the Director of Environmental Services advising the Committee of the latest developments on the A96 Fochabers-Mosstodloch bypass scheme.

The Meeting noted that officers of the Council were recently approached by the Scottish Executive to discuss alternative proposals for the section of the proposed bypass between the B9014 Spey Bay road and the A98 Buckie roundabout and that in acknowledging the impact of alternative proposals there is a requirement to prepare an amendment to the Environmental Statement and alter the publicised Side Roads Order. In this regard the Scottish Executive propose to hold further public exhibitions in Fochabers on 23/24 October and Mosstodloch on 25 October 2002.

Following consideration the Committee agreed to note the developments in the proposals for the A96 Fochabers-Mosstodloch bypass and await a further report once the detailed information has been provided.

10. AIRCRAFT VIEWING PLATFORM : RAF KINLOSS

There was submitted a report by the Chief Legal Officer inviting the Committee to consider the terms and conditions of a proposed agreement between the Moray Council and the Ministry of Defence (MOD) in regard to the establishment of a platform to enable the public to view aircraft at RAF Kinloss in a safe environment.

The Meeting noted that provisional terms were almost agreed in regard to the proposed viewing platform whereby the Moray Council or a third party, authorised by them and approved by the MOD, would construct and maintain the platform and there would be a requirement for the Council or the third party to maintain Public Liability Insurance cover. In the event of the work being undertaken by a third party the MOD has requested that a condition be included to the effect that the Council will indemnify the MOD against any claims by the public not covered by the Policy.

Following consideration the Committee agreed to:-

- (i) enter into an Agreement with the Ministry of Defence in relation to a proposed Aircraft Viewing Platform at RAF Kinloss subject to road safety considerations being addressed; and
- (ii) include within the terms of that Agreement a condition requiring the Council to take over responsibility for the Viewing Platform in the event of a third party authorised by the Council failing

to maintain Public Liability Insurance cover or the third party ceasing to exist, subject to road safety considerations being addressed.

11. LAND AT WESTERTON ROAD (NORTH) INDUSTRIAL ESTATE, KEITH

There was submitted a report by the Head of Estates Services inviting the Committee to consider declaring 742m² of ground at Westerton Road (North) Industrial Estate, Keith.

The Meeting noted that the site, as shown on the plan attached to the report, comprises part of a landscaping strip and part undeveloped industrial land. The incorporation of the site into the adjacent Seafield Mills site would provide a more regularly shaped redevelopment site which would be more attractive to potential developers and it was therefore recommended the 742m² site be declared surplus to requirements and incorporated into the Seafield Mills redevelopment site.

Following consideration the Committee agreed to declare the 740m² of ground at Westerton Road (North) Industrial Estate, Keith surplus to requirements.

12. LIST OF REPORTS ISSUED FOR INFORMATION

In terms of the Council's decision of 14 July 1999 (Paragraph 6(a) of the Minute 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:-

- Lists of Leases and Rent Reviews Submitted for Noting - Report by the Head of Estates Services.

13. TRAFFIC MANAGEMENT IN BUCKIE AND PORTGORDON (Para 9)

Under reference to Paragraph 1 of this Minute and Paragraph 20 of the Minute of this Committee dated 7 August 2002 there was submitted a report by the Director of Environmental Services advising the Committee on the outcome of the evaluation of the proposal to promote a 7.5 T weight restriction through the residential areas in The Yardie and Buckpool including James Street, Merson Street and Robert Street.

The report also highlighted a number of practical issues and difficulties and concerns of Officers in regard to the schedule of restrictions which would require to be contained in the Traffic Regulation Order associated with the proposal, details of which were set out in Appendix 2 to the report. There was also attached as Appendix 1 to the report a plan showing the extent of the restrictions proposed.

The Meeting noted that at a public meeting, which was held on 25 September 2002 the views of Buckie residents were mixed but generally in favour of the proposals whereas the representatives from Portgordon were generally not in favour and had requested that wider consultations take place involving more options than currently under consideration before the statutory process begins.

Prior to considering the proposed schedule of restrictions and on the invitation of the Chairman the Meeting heard the Director of Environmental Services, the Head of Direct Services, Inspector Phillips, Grampian Police, the Principal Solicitor (Commercial & Conveyancing) and the Head of Financial Services.

The Meeting noted the advice from the Head of Direct Services that, in addition to the issues raised in the report, the proposals were likely to lead to a requirement for further works, in early course, at the A98 Portgordon junction in particular. He further advised that this junction is a significant accident blackspot at the present time and the proposed restriction would mean increasing HGV movements through the junction from 100 to 250 per day. He also confirmed that detailed costings for any improvements were not available and that other works identified as "potentially required" would also require to be considered in detail.

The Meeting then heard from Inspector G Phillips who confirmed that the present situation was far from ideal but highlighted the concerns of Grampian Police in relation to the proposed restrictions. It was also noted that enforcement of the proposed restrictions would be difficult. He also advised that the section of the A990, through the Yardie, is the recognised emergency diversion route agreed between the Moray Council, Grampian Police and the Scottish Executive to be used in the event of the A98 being blocked by a fatal or serious accident and the proposed restriction would require HGV's to be diverted by Keith and Banff in the case of an emergency on this length of the A98

The Principal Solicitor (Commercial and Conveyancing) then advised the Committee of the procedures which would require to be followed if the proposals were to be approved, contrary to the recommendation of officers, and if objections were received. She confirmed that a Hearing would require to be held in the form of a Public Inquiry to which the Scottish Executive would appoint a Reporter to consider the issues and determine the outcome. In this regard and given the significant concerns of Officers, it would not be possible for them to defend the action of the Council at a Public Inquiry albeit they would be required to attend. It was further noted that a decision to improve the safety of one area of the community by knowingly increasing the accident risk elsewhere could lead to financial and legal implications for the Council.

The Head of Financial Services then recommended that, prior to proceeding with the proposals, the full cost of the works required to address the issues in the report and those highlighted at the meeting should be quantified to enable the Members to make a fully informed decision. The implications of the road safety hazards which had been raised at the meeting should also be discussed with the Council's Insurers prior to a final decision being made.

The Meeting also noted that the improvements to the A98 Portgordon junction may come forward for inclusion in the Capital Plan next year but that if a decision were to be made which increased the risk at that junction, as a result of restrictions elsewhere, then the improvements would require to be addressed now as a consequence of those proposals.

Following consideration Councillor Watt, seconded by Councillor Aldridge, moved deferral of the matter to enable further investigations on a number of options to be carried out, with these to be reported back to Committee along with detailed financial implications.

As an amendment, Councillor Jappy, seconded by Councillor Bothwell, moved that the Director of Environmental Services and the Chief Legal Officer be instructed to implement the necessary statutory procedures to make the Order in accordance with the schedule in Appendix 2 to the report.

On a division there voted:-

For the motion (19) - Councillors Watt, Aldridge, Bisset, Burgess, Coutts, Ettles, Hamilton, Hogg, Howe, Keith, Longmore, McIntosh, Paul, Shaw, Shepherd, Sim, Towns, Urquhart and Wilson.

For the amendment (3) - Councillors Jappy, Bothwell and Leslie.

Abstentions (0)

Accordingly the motion became the finding of the Meeting and it was agreed to defer the matter to enable further investigations on a number of options to be carried out, with these to be reported back to Committee along with detailed financial implications.

Councillor Jappy requested that his dissent be recorded.

14. LIST 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 a lease, as set out in Appendix 1 to the report, relating to a 450m² site at Moycroft Road, Elgin.

Following consideration the Committee agreed to approve the terms of the lease as detailed in the Appendix to the report.

15. ACQUISITION OF LAND FOR ROAD IMPROVEMENT SCHEMES (Para. 9)

There was submitted a report by the Head of Estates Services seeking approval of the terms provisionally agreed with landowners for the acquisition of land required for the road improvement schemes relating to the U123H Tombreckachie Glenlivet road realignment due to a landslip and the Elgin – Lossiemouth cycle path, details of which were set out in the Appendix to the report.

Following consideration the Committee agreed to approve the terms provisionally agreed for the acquisition of the land required in connection with the road improvement schemes set out in the Appendix to the report and that it be remitted to the Principal Solicitor (Commercial and Conveyancing) to conclude the transactions.