

THE MORAY COUNCIL
MINUTE OF SPECIAL MEETING OF THE ENVIRONMENTAL SERVICES COMMITTEE
THURSDAY 31 JANUARY 2008
COUNCIL OFFICE, ELGIN

PRESENT

Councillors A Wright (Joint Chair : Planning & Environment), J Russell (Joint Chair : Transportation & Direct Services), G Leadbitter, G McDonald, A McKay, F Murdoch and I Ogilvie.

APOLOGIES

Apologies for absence were intimated on behalf of J Divers, J Hamilton, M McConachie, G McIntyre, P Paul, R Shepherd and I Young.

ALSO PRESENT BY INVITATION

IN RESPECT OF ITEM 3

The applicant, Mr S Morris.

IN RESPECT OF ITEM 4

Janet Philip, Architect, representing the applicant, Aberlour Parish Church. Also present was Ms E Strath & Mr I Thompson, objectors to the application.

IN ATTENDANCE

The Head of Development Services, The Development Control Manager, J Gibson and R McNeill, Planning Officers (Development Control) the Principal Solicitor (Commercial and Conveyancing) and the Senior Committee Services Officer, Clerk to the Meeting.

1. CHAIR

The Chair was taken by Councillor A Wright (Joint Chair : Planning & Environment).

2. DECLARATION OF GROUP DECISIONS

In terms of the relevant Standing Order 20 and the Councillor's Code of Conduct the meeting noted that there were no declarations from Group Leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the agenda.

3. PUBLIC HEARING : PLANNING LISTED BUILDING APPLICATION 05/02851/LBC : LISTED BUILDING CONSENT TO DEMOLISH SALESROOM BUILDING AT FORRES SALE ROOM TYTLER STREET, FORRES FOR MR SANDY MORRIS

There were submitted reports by the Chief Legal Officer and the Director of Environmental Services regarding an application for Listed Building consent to demolish the salesroom building at Forres Sale Room, Tytler Street, Forres for Mr Sandy Morris.

The report by the Chief Legal Officer advised that, in terms of the Council's Scheme of Delegation relating to Planning Applications, the application had been referred direct to a Hearing to which the applicant and objector were invited to attend and be afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing.

The report by the Director of Environmental Services, Appendix 1 to the report, gave details of the application and the consultations, which had been undertaken regarding it and the relevant planning criteria in terms of the Moray Development Plan. The report recommended that, subject to conditions detailed in the report and notification to Historic Scotland prior to the issue of consent, Listed Building

consent be granted. The meeting also noted that the application had been advertised as a departure from the Development Plan to which there were outstanding objections. Members of the Committee visited the site of the application on Friday 25 January 2008.

The Chairman welcomed those present to the meeting and reminded them that the Special Meeting had been arranged to allow those submitting representations on the application to speak to their representations and the applicant to be heard before the Committee reached its decision on the application. He also advised those present that submissions must be restricted to those already submitted and that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted that the applicant, Mr Morris, was present and would be addressing the meeting.

The Clerk to the Committee advised the meeting that the objector to the application, Mrs E M Stewart, was unable to attend the Hearing due to work commitments and had submitted a statement on her objections. A copy of the statement had been circulated to members of the Committee prior to the meeting.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

Mr Morris referred to the history of the building, since he took ownership, which is now in a poor state of repair and that it was uneconomical and unsafe to continue use. He also advised the meeting that despite marketing the property over a considerable period there has been no interest in the property as it stands. He also had the property included in the Civic Trust Buildings at Risk for over a year with no interest, to date, and therefore he considered that he was left with no alternative but to seek Listed Building consent to demolish part of the building, retaining the existing front gable, and dispose of the site to a developer. In this respect indicative proposals had been submitted, in support of the application, for 30 flats. He also advised the meeting that the building had been surveyed, on behalf of Historic Scotland, and that he understood that whilst currently not a danger to the public the building had been built on the cheap and would, within the next 5 years, become unsafe in terms of public use.

In regard to the objections to the application Mr Morris expressed the view that, in his opinion, with other developments ongoing in the area the area was becoming more residential and the traffic associated with 30 flats would be less than that which currently exists and that the demolition of the building would improve the appearance of the area.

REPRESENTATIONS TO THE APPLICATION

The meeting noted that **Mrs E M Stewart** was of the opinion that the anticipated increase in traffic movement in the area associated with 30 new flats will have an adverse effect on existing parking arrangements and that the occupants of the flats will overlook the existing secluded rear area of her property thus intruding on her privacy. She was also of the view that the occupation of the 30 flats will lead to excessive noise and nuisance to house owners in the immediate vicinity.

SUMMARIES OF SUBMISSIONS

The Chairman then invited Mr Morris to summarise his submission and thereafter, in response to a question from the Chair, intimated that he was satisfied with the conduct of the proceedings of the Hearing.

COMMITTEE CONSIDERATION OF THE APPLICATION

During discussion the meeting noted that Condition 11 required, prior to demolition, the submission of two sets of detailed digital photographic records of all elevations, both externally and internally, including any unusual features clearly annotated on a plan. The meeting also noted that the Council's Building Control Section would be giving interim advice to the applicant, in terms of public safety, pending demolition.

Following discussion and on the motion of Councillor Russell, the Committee agreed to approve the application as an acceptable departure, subject to notification to Historic Scotland prior to the issue of consent and the following conditions:-

1. That the proposal to which it relates must be begun not later than the expiration of five years beginning with the date of this consent.
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 demolition works shall be commenced until after the approval of a detailed application, based on the attached sketch and as required by the following conditions have been submitted and approved by the Planning Authority.
4. The detailed proposal shall retain the existing front gable, its chimneys and its general fenestration and drawings to a scale of 1:50 showing how this is to be achieved and built into the new development.
5. Windows and doors shall be of painted timber construction.
6. The existing slates will be carefully removed and retained for re-use as the roof covering to the new build.
7. The new roof shall be finished with natural slate.
8. Dressed stone from the down takings shall be carefully stored and appropriately re-used in the new development, this use will be shown on the detail drawings required in condition 3 above.
9. Sample panels of harling shall be prepared on site and approved by the Council as Planning Authority prior to the commencement of harling works.
10. The finished floor level of the new build will be set above the 200 year flood level (9.9m AOD) which should also include freeboard.
11. Two sets of detailed digital photographic record of all elevations, both externally and internally, including any unusual features and clearly annotated on a plan shall be submitted prior to the commencement of demolition work.

Reasons:

1. The time limit condition is imposed in order to comply with the requirements of Section 16 of the Planning (Listed Buildings and Conservation Areas) (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. To ensure detailed consent is obtained prior to the commencement of works.
4. To ensure that this important elevation of the listed building is retained and how it will be incorporated into the new development.
5. To ensure that these elements of the design are of traditional materials and finish.
6. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
7. In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
8. To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area.
9. To ensure that the external appearance of the building is satisfactory and that it contributes to the character and appearance of the area.

10. To ensure that the new development is set at a level so as to minimise flood damage.
11. To ensure a detailed photographic record is made and kept of the features of the existing building.

4. PUBLIC HEARING : PLANNING & LISTED BUILDING APPLICATIONS 07/01059/FUL & 07/01063/LBC : ERECT A CHURCH MEETING ROOM AND CAR PARK WITH BORE HOLES FOR HEATING SYSTEM AT ABERLOUR PARISH CHURCH, 104A HIGH STREET, ABERLOUR FOR ABERLOUR PARISH CHURCH

There were submitted reports by the Chief Legal Officer and the Director of Environmental Services in regard to planning and listed building applications relating to the erection of a church meeting room and car park with bore holes for a heating system at Aberlour Parish Church, 104A High street, Aberlour for Aberlour Parish Church.

The report by the Chief Legal Officer advised that, in terms of the Council's Scheme of Delegation relating to Planning Applications, the application had been referred direct to a Hearing to which the applicant and objector were invited to attend and be afforded the opportunity of being heard. The report also set out the proposed procedures for the Hearing.

The report by the Director of Environmental Services, Appendix 1 to the report, gave details of the applications and the consultations, which had been undertaken regarding them and the relevant planning criteria in terms of the Moray Development Plan. The report recommended that, subject to conditions detailed in the report and notification to Historic Scotland prior to the issue of consent, consent be granted. The meeting also noted that the applications had been advertised as departures from the Development Plan to which there were outstanding objections. Members of the Committee visited the site of the applications on Friday 25 January 2008.

The Chairman welcomed those present to the meeting and reminded them that the Special Meeting had been arranged to allow those submitting representations on the application to speak to their representations and the applicant to be heard before the Committee reached its decision on the application. He also advised those present that submissions must be restricted to those already submitted and that the Hearing would be confined to examining the planning merits of the application and therefore discussion on irrelevant non-planning related issues would not be considered.

The meeting noted that Ms J Philip, Architect, represented the applicant.

The Clerk to the Committee advised the meeting that of those who had submitted representations on the application, referred to in the report on the application, Ms E Strath and Mr I Thompson were present and would be speaking to their objections. Mr E Wood, Mrs H Smith, Mrs B Mitchell and Mr A Smith having intimated that they were unable to attend the hearing and had submitted statements, copies of which had been circulated to members of the Committee prior to the meeting.

REPRESENTATIONS ON BEHALF OF THE APPLICANT

Ms J Philip addressed the meeting on behalf of the applicant Aberlour Parish Church. She advised the meeting that the Church Committee has, over the past years, investigated many alternative options and positions, both inside and outside the Church for a badly needed new meeting hall, taking into account the need to facilitate the many and changing functions of the Church and the restrictions and requirements of the different regulative bodies. Although the proposed site is within an existing green area it was considered to be the best option and would be designed to be deferential to the Grade B listed Church using natural and local materials reflecting forms already present in the locality, the Church, the Drill Hall and Tea room/station. The building ridge has been kept low to match the vestry and had been moved over to the South West after discussions with the owner of 'It'll' Do' so as to give more space from his property, which sits behind a high hedge but has views out at its entrance. Ms Philip advised the meeting that by improving the rear entrance area to the Church through the removal of the dark steps down to the Church this will provide a more open aspect to this area.

In regard to the requirement for car parking provision, Ms Philip advised the meeting that this will be positioned to the North East of the building and merged into the grassy park by using a grasscrete surface with the cars adjacent to the proposed building area. The hard surface will start at this point for disabled access from the car park to the proposed meeting room. She was also of the view that

the addition of four car parking spaces would not cause undue nuisance. In order for the building to be positioned on the site Ms Philip advised the meeting that it has been necessary to remove some of the existing trees which will be replaced with an indigenous variety further back on the site with its junction with the park. The existing low level bed to the South West will be removed to accommodate the building and will be replaced with low level planting, which will also deter the present parking at the Church porch, directly in front of the Drill Hall. For these reasons Ms Philip, on behalf of the applicant, sought approval of the application.

In response to Members' questions, the meeting noted that the four parking spaces were to meet the requirement of the consent. It was also noted that the heating would be provided through the use of a buried ground loop, which transfers the heat from the ground into the building to provide space heating and was considered the best option in terms of price and the environment.

REPRESENTATIONS TO THE APPLICATION

Mr I Thompson addressed the meeting on his representations on the application. The meeting noted that, whilst not totally opposed to the proposal for a church meeting room, he was concerned in regard to the height of the proposed building which, in his opinion, would significantly reduce the amenity and privacy he currently enjoys as well as a loss of view of the surrounding landscape which he considered to be unreasonable. He was also of the opinion that the proposed development was set in public parkland within the countryside and not in a built up area and therefore contrary to the local Structure Plan. Mr Thompson also expressed concerns in regard to the location of a sewerage pipe, which ran underneath the site. He was also of the view that the proposed development will lead to a significant increase in vehicles using the existing road network, which is currently overloaded to the extent that it has become a nuisance to local residents. He also made reference to the local plan policy L/ENV18, which advises that the Council will protect existing green spaces within towns and villages and has a presumption against development which threatens to diminish the amenity value of the area. For these reasons Mr Thompson was of the view that the area of ground should be retained within the park and that the Committee should take account of the objections and refuse the application.

In response to Members' questions, the meeting noted the location of Mr Thompson's property in relation to the proposed development. The meeting also noted that he was unaware of the distance the proposed development had been moved to alleviate some of his concerns and, in this respect, the Church did not own the land and that it was the owner's responsibility to ensure that any development on the ground did not adversely affect adjoining residents.

Miss E Strath then addressed the meeting on her representations on the application. The meeting noted that, like Mr Thompson, she opposed the proposed development and not the principle of the Church having a meeting room. The proposed development, in her opinion, contravenes the Moray Development Plan in that it encroaches into a green area which the Council has a duty to protect and curtail the creeping urbanisation of an area of outstanding natural beauty. Given that the Church has other land interests in the area Miss Strath was of the view that there were other options available to it without the need to develop on an area which is heavily used by locals and tourists and often used as a backdrop for wedding photographs. In this regard she took exception to the reference in the report to area in question as being 'insignificant'. Miss Strath also expressed her concerns in regard to the proposed car parking provision, which she considered intrusive and was unlikely to be available for use given that they would quickly fill up with shoppers and white vans. She also advised the meeting that there were many other residents opposed to the proposed development but did not wish to speak out against it given that the Church was the applicant.

Miss Strath also made reference to the bat population, which formally resided in the old engine sheds and can now be found in the Church gargoyles and roof space. Given that bats are protected species she expressed her concern in regard to the effect the proposed development will have on their habitat. For the reasons stated in her submission Miss Strath urged the Committee to retain the open area and not allow the application.

The meeting also noted the following statement from those objectors who were unable to attend the Hearing.

In his statement to the Committee **Mr E Wood** expressed his concern in regard to the level of encroachment the proposed development will have into Alice Littler Park and the impact the resultant evening use will have on the surrounding residential area in terms of parking, congestion and noise

given that, in his opinion, the proposed car parking provision is inadequate for the proposed use. He was also of the view that the proposed development was contrary to Policy L/IMP11 and L/ENV18 and reminded the Committee that in March 2007 the Council intimated that it could not support the proposal due to the development being in Alice Littler Park. For these reasons Mr Wood respectfully suggested that the Committee abide by the sensible advice given by the Council and not grant permission for this proposal.

Mr A Smith questioned why, having noted the response and the objections to the proposed development, the suggested contravention of the Local Plan had not been addressed in the report. He was of the view that Alice Littler Park falls within Policy E4 and that it is important that the area is safe, secure, accessible and well maintained and took issue with the reference in the report to the area of Park to be lost, should the development proceed, being classed as 'insignificant'. He was also of the view that the proposed removal of trees and bushes to accommodate the new building is contrary to Policy E3 given that, in his opinion, they are of significant amenity value to the community as a whole. He also expressed his concerns in regard to the potential impact increased traffic will have on the surrounding residential area in terms of noise and disturbance and was of the view that the proposed development will result in an unattractive and unwelcome addition to an area of Victorian style buildings and houses.

Mrs H Smith advised that having read the responses to the objections she was concerned that the proposed encroachment into Alice Littler Park was considered 'insignificant' given the usage by tourists and locals alike. She was also concerned in regard to the potential increase in traffic noise and nuisance leading to the inconvenience and loss of peace for nearby residents. Mrs Smith was also of the opinion that the building materials to be used were totally out of keeping with the existing Grade B Listed Building and that it was accepted the interior of the church could be altered to provide the same facilities as those planned for the new hall. She also took issue with the comment that the perception of crime is conjecture, which could only lead her to believe that the planning department has no knowledge of the use of the area in question.

Mrs B Mitchell also questioned the need for a new hall, given that it had been accepted that the extra space required could be made available within the church and therefore no need to encroach into Alice Littler Park which would, if permitted, be in contravention of the Council's Local Plan. In regard to the proposed car parking provision she was of the view that this was not required and if permitted would only lead to further erosion of the amenity of the area in terms of noise, nuisance and congestion and that the proposed building materials were not, in her opinion, in keeping with what should be used in association with a listed building.

COMMENTS OF DEVELOPMENT CONTROL MANAGER ON REPRESENTATIONS

In response to some of the issues raised the Development Control Manager advised the meeting that the building would be under six metres in height and that it was considered that the loss of such a small loss of amenity space is unlikely to detract from the overall setting of the Park. In regard to the reference made by Mr Thompson to development being set in public parkland within the countryside and not in a built up area he advised the meeting that the northern settlement boundary for Aberlour was the River Spey. In regard to the reference to a sewerage pipe running through the site it was noted that this was a matter for SEPA. There were no objections from Historic Scotland and the four car parking spaces were being provided to meet the requirements of the Council's Roads Services Section. He also advised the meeting that in March 2007 the preliminary advice given was that the Council could not support the application given that the proposed development was in Alice Littler Park. Since then however detailed proposals were considered and, following consultation with the appropriate consultees, it was considered to be an acceptable departure, subject to a number of conditions.

In regard to the installation of the proposed thermal heating system the Development Control Manager invited the Committee to consider, were it minded to approve the applications, the inclusion of an additional Condition 10, as requested by SEPA, requiring the submission of a method statement prior to the commencement of work.

SUMMARIES OF SUBMISSIONS

The Chairman then invited the applicant's representative Ms Philip, and Ms Strath and Mr Thompson, objectors to the application, to summarise their respective submissions. Ms Philip advised that the proposed development had been moved 1/1½ meters away from Mr Thompson's property in order to

accommodate some of his concerns and that the area would not be fenced off therefore remaining open to the public. She also advised that the Church would welcome the provision of bat boxes and that the additional condition would be acceptable to her client. On the conclusion of their summaries and on the invitation of the Clerk all intimated that they were satisfied with the conduct of the proceedings of the Hearing. Mr Thompson intimating that he was still of the opinion that the proposed development was in the countryside and not within the Settlement boundary for Aberlour.

COMMITTEE CONSIDERATION OF THE APPLICATION

Following consideration and on the motion of Councillor Wright, the Committee agreed that the applications be approved as acceptable departures, subject to notification to Historic Scotland prior to the issue of consent and 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 2.4 m of the edge of the carriageway.
4. The width of vehicular access shall be 5m 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 or loose material onto the public footpath/carriageway.
6. No material shall be imported onto the site until written details of the source of the imported material has been submitted in writing to the Council (as Planning Authority). The details which shall be submitted no later than four weeks prior to the material being imported onto the site shall include :-
 - a) The source of the imported material.
 - b) Any potential source(s) of contamination within 50 metres of the source of the material to be imported.
 - c) The material must not be imported on to the site until written approval of the source of this material has first been issued by the Council (as Planning Authority). The material from the source agreed only shall be imported in strict accordance with these agreed details.
7. In the event of potential contamination issues being identified by the Council (as Planning Authority) following the assessment of the details of the imported material submitted in compliance with condition 1 above, a Phase I investigation must be undertaken by the developer (or contaminated land consultant on his behalf) and a written report of that investigation submitted to this Council's Contaminated Land Team, for written approval within a time scale prior agreed with this Council (as Planning Authority).

Should potential contamination issues identified by this Council remain following this investigation a Phase II investigation (sampling and analysis) shall be designed and agreed with this Council (as Planning Authority) which determines the condition of the material. Thereafter the Phase II investigation shall be undertaken by the developer (or contaminated land consultant on his behalf) in accordance with the agreed design and a written investigation report submitted to the Council (as Planning Authority) for written approval within a time scale prior agreed with this Council (as Planning Authority).
8. Where significant contamination is identified by a Phase II investigation, the material shall be remediated prior to being imported on to the site, or an alternative source of material sought (written details of which shall be submitted for written approval in accordance with condition 1 above). Where the material is to be remediated a written remediation strategy shall be designed in agreement with this Council (as Planning Authority) prior to the

remediation being undertaken. Thereafter the remediation shall be undertaken in strict accordance with the agreed remediation strategy.

Following remediation a written validation report shall be submitted to the Council (as Planning Authority) for written approval prior to material being brought to the site.

9. No development (apart from that required for remediation) shall commence until all necessary works to remediate contamination on the site have been carried out in accordance with the details of the required remediation measures which have previously been submitted to and approved by the Council, as Planning Authority in consultation with the Council's Environmental Health (Contaminated Land) Section where
 - a) the required remediation measures shall be fully implemented as detailed and described in the applicants Contamination Remediation Method Statement.
 - b) Notification of the date of commencement of remediation works shall be given to the Council, as Planning Authority not less than 7 days before the development commences (contact Environmental Health Manager, Council Offices, High Street, Elgin, IV30 1BX, tel: 01343 563345).
 - c) Should any subsequent or previously undiscovered contamination be found during the development of the site, then all works should cease and the Planning Authority in consultation with the Environmental Health Section (Contaminated Land) be contacted immediately, after which measures to remediate these areas should be agreed in writing and implemented as per the approved revised remediation statement.
10. Prior to the commencement of the drilling a method statement for the operation process shall be submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency.

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 order to safeguard the health and safety of the occupants of the site from harmful effects of contamination.
7. In order to safeguard the health and safety of the occupants of the site from harmful effects of contamination.
8. In order to safeguard the health and safety of the occupants of the site from harmful effects of contamination.
9. In order to safeguard the health and safety of the occupants of the property from the effects of harmful ground contamination.
10. In order to protect nearby watercourses from contaminated run-off.