

**THE MORAY COUNCIL**

**MINUTE OF SPECIAL MEETING OF THE PLANNING & REGULATORY SERVICES  
COMMITTEE**

**TUESDAY 23 JUNE 2009**

**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors S. Cree (Chair), J Russell (Deputy Chair), L Bell, G Coull, J Hamilton, M McConachie, A McDonald, G McDonald, A McKay, F Murdoch, D Stewart and A Wright.

**APOLOGIES**

An apology for absence was intimated on behalf of Councillor J Divers

**IN ATTENDANCE**

The Director of Environmental Services, Development Control Manager, Head of Development Services, J Martin, Principal Planning Officer (Development Control) in respect of Item 4(a), R Gerring, Senior Engineer (Transport Development), A Scott, Principal Solicitor (Commercial and Conveyancing), M Cross, Principal Planning Officer, D Duncan, Principal Planning Officer, G Templeton, Principal Planning Officer, Planning & Development Manager and Mrs C Carswell, Committee Services Officer, Clerk to the Meeting.

**1. ORDER OF BUSINESS**

In terms of Standing Order 25, the meeting agreed to take a report entitled "Extension to Rothes Wind Farm (07/0280/S3" as urgent additional business as Item 4(a).

The Chair advised that Item 8 "Space Tourism Conference" was to be withdrawn as he felt that following discussion with the Director of Environmental Services that there would be no benefit in sending a Member to the conference due to the current financial constraints on the Council.

The Chair also advised that the report due to come forward before Committee today on developer contributions would go to the next Committee as there were financial implications to be considered by other budget holders and it would be unfair to ask this to be done at such late notice to enable consultations to take place. Councillor G. McDonald stated that he was extremely disappointed that this report was not before Committee today.

## **2. DECLARATION OF GROUP DECISIONS**

In terms of Standing Order 20 Councillor Murdoch declared a non-financial interest in the Section 36 Consultation to the Scottish Government in respect of the Extension to Rothes Windfarm.

There were no other declarations from Members or group leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the Agenda.

## **3. WRITTEN QUESTIONS**

There were no written questions.

## **4. SCHEME OF DELEGATION**

The Director of Environmental Services advised that at the last Committee, there had been approval for the new Scheme of Delegation which was then submitted to the Scottish Government and reported to Full Council. A letter of approval had been issued today which meant that Moray would be one of the first Local Authorities in Scotland to have a new Scheme of Delegation approved by the Scottish Government. There was a requirement to have an "Appointed Officer" who would be able to carry out these powers and it was agreed that the Head of Development Services, whom failing would be the delegated "Appointed Officer" for the Council in respect of the Scheme of Delegation.

## **5. PLANNING APPLICATIONS**

### **KEITH AND CULLEN: WARD 2**

#### **(a)09/00613/FUL            PROPOSED NEW DWELLINGHOUSE AND GARAGE AT CHAPELHILL, GRANGE, CROSSROADS, KEITH**

There was submitted a report by the Development Control Manager 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 Chapelhill, Grange, Crossroads, Keith for Mr Keith Todd.

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 roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement of development.
4. 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.
5. 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 dwellinghouse 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.
6. Notwithstanding the provisions of Class 7 in Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any Order revoking or amending that Order, and unless alternative agreements are reached with the Head of Development Services, the boundaries of the site shall be comprised: -
  - post and rail fence
7. Prior to the commencement of any work on the dwellinghouse a passing place shall be constructed on the public road network, in accordance with The Moray Council's specifications and at a position between the site and the B9018 Keith-Cullen road to be agreed by the applicant and the Roads Authority.
8. Prior to the commencement of development the applicant shall submit an archaeological watching brief to the local planning authority to be approved in writing. The watching brief shall include details of
  - The schedule/timetable for development
  - The archaeological specialist to be used during ground breaking operations
9. The developer shall afford access at all reasonable times to any archaeologist nominated by the Planning Authority and allow him/her to observe work in progress and record items of archaeological interest.

10. The existing conifers on the western boundary shall be retained in perpetuity and neither lopped, topped or otherwise disturbed unless otherwise agreed in writing by the local 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 that detailed consideration can be given to the landscaping of the site and provision of any play equipment.
5. 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.
6. In order to ensure that consideration can be given to the appearance and impact of boundary enclosures other than those specified.
7. In the interests of road safety.
8. In order to observe work in progress and record items of interest and finds.
9. In order to observe work in progress and record items of interest and finds.
10. To ensure that the existing trees are retained as they contribute to the character of the site and the surrounding area.

**BUCKIE: WARD 3**

**(b)08/02475/FUL            ERECT RETAIL UNIT, PETROL FILLING STATION, CAR WASH, TOURIST INFORMATION POINT, CREATION OF ASSOCIATED ACCESS CAR PARKING AND LANDSCAPING AT HIGH STREET, BUCKIE**

There was submitted a report by the Development Control Manager recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application to erect retail unit, petrol filling station, car wash, tourist information point, creation of associated access car parking and landscaping at High Street, Buckie for Tesco Stores Limited and Robertson Property Limited.

Councillor G McDonald advised that he would wish to see sides on the bus shelter and questioned why a tourist information point would be within the proximity of TESCO when there was one across the road. He also raised concerns regarding the impact on the Buckie Town Centre as there were huge discrepancies between the percentages stated by Muir Smith Evans, who were employed by TESCO, of 6% and the retail consultant employed by the Council who had stated that the impact would be as much as 25%, when the original application had been submitted four years ago. He advised that he was aware that Muir Smith Evans had amended their figure to read 7.7% but questioned why no revised retail impact assessment had been done by the consultants employed by the Moray Council.

Therefore Councillor G McDonald, seconded by Councillor A McDonald, put forward a motion to move deferral of the application until an updated independent retail assessment had taken place.

The Development Control Manager advised that he noted Councillor G McDonald's comments on the bus shelter. Mr Cross, Principal Planning Officer advised that the tourist information point came forward as part of the original application as a similar provision was requested in Keith.

Councillor Stewart entered the meeting at this juncture.

Mr Duncan, Principal Planning Officer advised that it had been agreed that due, to the difference in views of the consultants, it would not be worthwhile seeking updated information from the consultant as there was difficulty in trying to measure the impact on town centres as consideration also had to be taken of the overall health of businesses which may be affected.

Councillor McKay felt that within Buckie there were three major supermarkets namely, Lidl, Co-op and Somerfield plus some privately owned shops and that unlike many towns there were no boarded up shops. She advised that she would like to see more up to date information from an independent consultant on the retail assessment.

Mr Duncan, Principal Planning Officer advised that officers had negotiated a contribution of £406,000 of which £250,000 could reasonably be attributed to the mitigation measures to address the impact. He further advised that advice had been sought from an adjoining authority who felt that the package obtained compares favourably.

Councillor Coull advised that the new application had increased the floor area compared to what had previously been considered and that he would like to see more detail on the impact within the catchment area ie Cullen, Findochty, etc.

Councillor Bell advised that he had heard what Councillors had raised and the response by the Director and he had concerns regarding the impact on Buckie and would be minded to refuse the application. Councillor Hamilton seconded Councillor Bell's amendment.

In response to a question from Councillor Russell on the leakage from Buckie to Elgin TESCO store, Mr Duncan, Principal Planning Officer advised that it would be difficult to confirm the figures but that there would be significant clawback from Elgin. Councillor Russell suggested that this should be included in any independent assessment.

Councillor Cree advised that the Committee were required to make a decision as to whether there was demand in Buckie for this store or whether Buckie residents should be denied a TESCO store. He also felt that the arguments would remain whether a new retail impact assessment was carried out as having a new TESCO store would impact on the town centre.

Councillor Murdoch indicated she considered input from the Buckie community including businesses was missing from the report and whether the public understood the impact a new TESCO store would have in the community.

Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that Officers have analysed information and had negotiated a package to mitigate the impact which the new TESCO store may have and that there could be no guarantee whether this could be challenged by objectors or the applicant in the future. She further advised that the Council do not always have the benefit of an independent assessment when deciding retail applications.

Councillor Wright felt that there was nothing within the developer contributions to help retain trade in the town centre. Mr Duncan, Principal Planning Officer advised that "town centre management/marketing initiatives" had been included in the financial contributions to give the local business community discretion, within the terms of the relevant circular, to dictate ways in which the monies could be spent. The amount of monies subscribed to that was somewhere in the region of £175,000, which was a significant amount of money. He advised that the considerable amount of monies which had been negotiated for Buckie may not mitigate shop closures in Buckie and that he would be very suspicious of any guarantee given on that basis.

Councillor G McDonald advised that there were no details of how the £175,000 would be managed, who would manage it and how it would be distributed. He also felt that there must be a link to mitigating the impact to the town centre. Mr Duncan, Principal Planning Officer advised that there was no prescription on how the monies were to be spent as there would require to be a legal agreement and the details between the fund and the business community were still to be agreed but there may be some flexibility on how the monies could be managed.

Councillor G McDonald, seconded by Councillor A. McDonald moved that the application be deferred to enable the Council to get an update from the independent retail consultant in relation to the retail impact of the proposal.

As an amendment Councillor Bell, seconded by Councillor Hamilton moved refusal on the grounds of the impact on the vitality and viability of Buckie Town Centre.

Councillor Cree put forward a second amendment that the proposal before Committee be approved as recommended, there being no seconder the second amendment fell.

On a division there voted:-

For the Motion (7)                      Councillors Coull, Cree, McConachie, A. McDonald,  
G. McDonald, Murdoch and Russell.

For the Amendment (5)              Councillors Bell, Hamilton, McKay, Stewart and Wright

Abstentions (0)

Accordingly the motion became the finding of the Committee and it was agreed that the application be deferred to enable the Council to get an update from the independent retail consultant in relation to the retail impact of the proposal.

## **HELDON AND LAICH: WARD 5**

### **(c)08/00644/FUL            DEMOLISH EXISTING STEADINGS AND ERECT 4 DWELLINGHOUSES AT LOWER WHITEFIELD STEADING, MOSSTOWIE, ELGIN**

There was submitted a report by the Development Control Manager recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application to demolish existing steadings and erect 4 dwellinghouses at Lower Whitefield Steading, Mosstowie, Elgin for Ingram Builders.

In response to a question from Councillor Wright as to whether objections received from outwith the area could be described as competent and whether there could be assurance that the four houses built would retain the existing structures and that there would be no amended application for another couple of houses in the future, Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that it was not relevant as to where objectors resided so long as the issues contained within the document raised relevant planning issues. The Development Control Manager advised condition 3 within the recommendation that the stone from the downtakings would be utilised in the new development and that any future applications for further dwellings would require to come back to Committee.

In response to a question from Councillor Russell as to how much the new development exceeded the footprint and whether a structural survey was done, the Development Control Manager advised that 75% of the development was within the footprint and that a structural engineer survey was not done and the recommendation was based on Planning Officer's assessment.

Discussion took place regarding the percentage of stone which could be used from the downtakings, the Development Control Manager advised that it was not quantified as they were unsure as to how much would be in a reasonable condition to be re-used. Councillor Wright noted that within Condition 3 the "details of how the stones from the downtakings will be utilised in the new development are to be submitted and approved in writing by the Development Control Manager" and he asked that Councillor's comments be noted with regard to the same.

In response to a question from Councillor Russell as to whether a precedent would be set if the development was exceeding the curtilage of the footprint and the Development Control Manager advised that it would not set a precedent as it was within the curtilage of the site.

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. Prior to the commencement of development details of how stone from the doughtings will be utilised in the new development will be submitted and approved in writing by the Development Control Manager.
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.

**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. To ensure that the existing material on site is reused in an appropriate manner to help retain the visual character of the 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.

## **ELGIN CITY SOUTH: WARD 7**

**(d)07/02806/FUL  
& 07/02807/LBC**

**CONVERT EXISTING CORNMILL TO 4 FLATS AND ERECT 28  
NO FLATS AT OLD CORN MILL, WARDS ROAD, ELGIN**

There was submitted a report by the Development Control Manager recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to convert existing Corn Mill to 4 flats and erect 28 no flats at Old Corn Mill, Wards Road, Elgin for Mr Bob Milton.

The Director of Environmental Services advised that since he stayed within Wards Road, he would take no part in the discussion.

On the invitation of the Chair, Councillor Leadbitter advised that as a ward member he had received a significant number of representations from objectors which were mainly focused on the parking issues. There was no general objection to development on the site but concerns were raised regarding the busy junctions and level crossing which often resulted in tailbacks along Wards Road. He also advised that the development was not on a bus route but that the nearest one was on Hay Street.

Mr Gerring, Engineer (Transport Development) advised that the normal ratio of parking for flats were 1.5 spaces per flat but for retirement flats the ratio would be 1.25 spaces per flat. He advised that there was a shortfall in parking spaces being put forward. He further advised that transportation had objected to a development on a neighbouring site and there were now parking issues on streets surrounding the area. He noted that there was an electricity supply box in the middle of the junction but there was no indication as to whether this was to be moved and that the visibility splay would not be achieved and that under Policy T2 the development does not satisfy the requirements.

In response to a concern raised by Councillor Russell regarding the lack of parking spaces and the ratios which have been taken into consideration, Mr Gerring, Engineer (Transport Development) advised that they could only take into consideration of a 1.5 spaces per flat as the applicant had not confirmed any of the flats would be used purely for retirement and there was no other parking provision within the area.

In response to a question from Councillor Russell as to why the application had been submitted in January 2008 and had not been considered at Committee until June 2009, the Development Control Manager advised that they could have refused the application earlier but had entered into negotiation to try and reach a compromise but as yet reasons for refusal 4, 5 & 6 have not been resolved. Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that Officers had tried to negotiate with the applicant but he had chosen his position and it was for the Committee to decide.

Following consideration the Committee refused the application, on the following grounds:-

1. The development is contrary to the requirements of the Moray Local Plan policies ED6, H3, BE2 and IMP1 on the basis that the proposed flats, given their height, density and massing would not be in keeping with the surrounding streetscape and would have an overbearing impact on the dwellinghouses to the north of the site.

2. The development is contrary to the requirements of the Moray Local Plan policies BE2 and IMP1 on the basis that the new flats would dominate and screen the B listed mill building to the detriment of the character and setting of the listed building.
3. The development is contrary to the requirements of the Moray Local Plan policies T2, T5 and IMP1 due to the unsafe nature of the proposed access and the substantial shortfall in parking provision, which would have an adverse impact on the road safety and amenity of the surrounding area.
4. The development is contrary to the requirements of the Moray Local Plan policies EP5 and IMP1 in that the applicant has failed to demonstrate that surface water can be disposed of from the site in a sustainable manner avoiding flooding or pollution issues.
5. The development is contrary to the requirements of the Moray Local Plan policies H9, IMP1 and IMP3 on the basis that the applicant has failed to make adequate provision to mitigate against identified impacts of the development upon the locality, namely affordable housing or children's play facilities.
6. The development is contrary to the requirements of the Moray Local Plan policies ER2 and IMP1 on the basis that the applicant has failed to demonstrate that a 15 percent reduction in CO2 emissions above the requirements of the 2007 Building Standards Regulations can be achieved.

## **FORRES: WARD 8**

### **(e)08/01730/FUL            EXTEND EXISTING UNIT AT UNIT 15 GRESHOP INDUSTRIAL ESTATE, FORRES**

There was submitted a report by the Development Control Manager recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application to extend existing Unit at Unit 15, Greshop Industrial Estate, Forres for Mr Andrew Dunlop.

The Director of Environmental Services advised that SEPA had advised that they would remove their objection if a planning condition could be imposed that the extension would not be built until Forres Flood Alleviation Scheme was operational and he advised that this may not be for five years whereby the planning consent would have run out. He further advised that conditions 6, 7 & 8 show that the applicant must allow for the building to flood so as not to displace the water elsewhere. The conditions are proportional in terms of the flooding matters.

In response to a question from Councillor Hamilton regarding condition 4 where it states that there will be "no outside storage or display for sale any items" yet the garden centre a short distance away were allowed to display their goods, the Director of Environmental Services advised that the condition could be split and limit it to outside servicing and cleaning or repairs operations and that would be within the remit of the Committee to do so.

In response to a question from Councillor Russell that if the extension were to flood then it may well flood the original building and the applicant should be made aware of this issue, the Director of Environmental Services advised that he was sure that the applicant was aware that the building may well flood but that they would include a note to the applicant to ensure that this point was emphasised.

Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that notification to the Scottish Ministers should be in terms of Circular 03/2009.

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. The upper and lower walling and roofing colours and materials shall match exactly those of the existing building.
3. The uses hereby approved are solely for car and van valeting, vehicle servicing and repair with parts storage and distribution and motorcycle and quad bike sales with parts distribution or as may be similarly defined in the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any re-enactment thereof).
4. There shall be outside storage or display for sale of any items but no outside servicing, cleaning or repairs operations.
5. The finished floor level shall be no less than 11.9m AOD.
6. Prior to the commencement of development the applicant shall prepare a plan to be agreed with the planning authority on actions to be taken to ensure escape/evacuation in the event of flooding. This plan shall include details of the means of achieving early flood warnings.
7. The design of the building shall be such that they are allowed to flood and details of this shall be agreed in writing with the planning authority prior to the commencement of development.
8. The applicant shall ensure that suitable mitigation measures are taken (particularly with reference to toxic materials and the electricity supply) to minimise the impact in relation to potential flooding.
9. Prior to commencement of development, full details of screen planting along the southern boundary shall be agreed in writing with the Planning Authority. The details in this respect shall include the following:
  - (i) species, size, type and density of planting.
  - (ii) the timing for the planting to take place, which shall in any case be no later than the first available planting season after commencement of development.

Any plants which are dead or dying with 5 years of the date of this consent shall be replaced in the basis of the details about.

10. Prior to the commencement of development a "Drainage Impact Assessment " (DIA) shall be carried out with details of a "Sustainable Urban Drainage Scheme" (SUDS) and agreed in writing with the planning authority in consultation with SEPA where inter alia the required details shall provide for three levels of surface water treatment rather than the two indicated in the submitted flood risk assessment.
11. No advertisement signage shall be placed within or adjacent to the trunk road boundary.
12. There shall be no drainage connection to the trunk road drainage system.

**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 the interests of visual amenity.
3. In order to ensure the uses on the site are consistent with the industrial designation applying.
4. For the avoidance of doubt, to comply with the relevant development plan policy for the Greshop Industrial Estate (policy I1, Greshop West) and so that the planning authority can give appropriate consideration to the impact of any such use.
5. In order to minimise flood risk.
6. To ensure adequate flood precautions are taken.
7. In order to minimise loss of flood storage capacity, and to reduce the cumulative impact of the development elsewhere.
8. There is a clear potential for the site to flood, and to minimise damage in this respect.
9. In order that detailed consideration can be given to the landscaping of the site.
10. In order to ensure proper provision in this respect and to minimise the impact of the development in flooding elsewhere.
11. To avoid distraction to road users.
12. To ensure that the efficiency of the existing drainage network is not affected.

**(f)09/00004/FUL  
& 09/00139/CON**

**ALTER EXISTING WORKSHOP TO CREATE TWO DWELLINGS  
ON SITE ADJACENT TO THE PUBLIC HALL, FINDHORN**

There was submitted a report by the Development Control Manager recommending that, for reasons detailed in the report, planning consent be refused in respect of an application to alter existing workshop to create two dwellings on site adjacent to The Public Hall, Findhorn for Mr Bruce Hay.

In response to a question from Councillor Hamilton as to whether the Community Council's letter was classed as a representation or an objection, the Development Control Manager confirmed that their letter had been a representation.

Councillor Hamilton, seconded by Councillor Wright moved approval of the application as an acceptable departure subject to a hearing.

There being no-one otherwise minded the Committee agreed it was minded to approve the application subject to a hearing on a date to be agreed.

**6. EXTENSION TO ROTHES WIND FARM (07/02800/S36)**

Councillor Murdoch left the meeting at this juncture.

There was submitted a report by the Director of Environmental Services inviting the Committee, in its capacity as the appropriate planning authority, to consider a recommendation in regarding to a Section 36 Consultation to the Scottish Government in regard to an application for an extension to Rothes Wind Farm, formerly known as Cairn Uish.

Mr Martin, Principal Planning Officer (Development Control) spoke to the report and gave a brief background and reminded the Committee that the Council were a consultee and not the determining authority. He advised that the proposal was assessed against the policies of the new Local Plan which came into effect in 2008 and was not considered to be a departure, therefore there was no requirement for advertisement.

Councillor Wright felt that the public were not having an opportunity to put forward their views to Members as under the current standing orders this option was not available and that he wished the standing orders amended so that planning applications for windfarms of medium/large size should be subject to a public hearing in order for both sides to put their views forward.

The Director of Environmental Services advised that the application had been made to the Energy Division of the Scottish Government who advertised the same and considered any objections received and only public consultation is carried out by the Energy Division. As far as this Authority was concerned they examined areas of landscape and noted preferred areas of search and the public had an opportunity to comment and they generally did. If the Council did decide to down to the route of hearings then it would be to make good the shortcomings in the Scottish Government's procedures and the way forward was to make views known to the Scottish Government to allow objectors to make comments to the

decision makers, which in this case is the Energy Division rather than the Council. He also questioned why an inquiry should only be generated when it was the subject of any objection from a Council as it seems that if there are substantive objections the Energy Division or the Scottish Government should want to examine these in their own right but as the legislation operates all the onus was on Authorities to object as this was the only way that there could be a certainty of a public inquiry and that was something which he had given evidence on to the parliamentary committee. If the Committee wish to adopt procedures for non-preferred areas then this could be looked at.

Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that the only reason for a hearing would be an application which was a departure from policy and windfarms were no different from any other application in that respect. Within Section 36, the Council has a different role as a consultee and is not the deciding body. The Officers have been working with the Council policies, which have already been through consultation and agreed by Committee. She also advised that she would have concerns as to what the public expectation would be if the Committee did decide to hold a public hearing with regards to an application, which was in a preferred search area. She agreed that this may be the time to put pressure on the Scottish Government regarding the process as they encourage planning to be open and transparent and that they should maybe look at their own procedures in relation to Section 36 applications.

Councillor Russell stated that he had read that "Planning Authorities can undertake a consultation of their own before submitting comments to Scottish Ministers" and that may be one way in which the Committee could have objectors here. He stated that in the Local Plan 2008 ER1 "proposals will be considered favourably if they do not result in a cumulative impact" and he felt that they had not been given enough evidence to make an informed decision on cumulative impact irrespective of what has been approved before and they have to make a judgement on behalf of Moray. He further advised that a Scottish planning application note stated "proposals should assess cumulative landscape and visual impact on existing windfarms, plus those with planning consents plus those that are subject to an undetermined planning application and those with a scoping opinion published" and as a Councillor he was not in possession of such detailed information and this would be why a hearing would be advisable. He felt that there should be preservation of the Moray landscapes and these should not be sacrificed for renewable energy of which Moray has provided its fair share.

Councillor McConachie stated that he had only received three letters of which one was from within the Ward and that for over 200 years Moray had been dependent on fossil fuels from the central belt and it was now Moray's responsibility to redress the balance.

Councillor Cree thanked Councillors for their concerns and agreed that there may be a process whereby they would get a better grasp of public's views and advised that there may be a need to look at the policies for the future but reminded the Committee, that this application was not a departure. The Planning & Development Manager advised that the policy with regard to windfarms was relatively up to date but would be looked at over the next two years. He reminded Councillors that there were two other applications pending at Aultmore and Cabrach and there requires to be a level of consistency when reporting on all three cases.

Councillor Wright advised that the Committee should take up the Director's offer to make representation to the Government.

Following consideration, the Committee agreed that the:-

- (i) Council does not object to the Section 36 consultation to the Scottish Government in regard to an application for an extension to Rothes Wind Farm subject to the conclusion of an amended legal agreement with the developer for a Community Fund, and to a series of conditions contained in the Planning Officer's report; and
- (ii) Director of Environmental Services write to the Scottish Government.

## **7. PLANNING ETC (SCOTLAND) ACT 2006: NEIGHBOUR NOTIFICATION**

There was submitted a report by the Director of Environmental Services advising the Committee of changes being introduced by the Planning etc (Scotland) Act 2006, which affect neighbour notification.

The Director of Environmental Services spoke to the report and advised that the least welcome was the passing on of neighbour notifications to Authorities and that these require to be done within 5 days of receiving the application. Councillor Cree advised that there would also be a significant impact to the Council as previously neighbour notification included properties within 4m of the site, this had now been extended to 20m of the site.

Councillor Wright felt that it was a good thing that the Council now had responsibility for neighbour notification as applications had to be deferred in the past due to developers not issuing neighbour notifications correctly but it was regrettable that this has been put upon the Council with no extra funding to cover the cost.

Following consideration the Committee noted the changes being introduced by the Planning Etc (Scotland) Act 2006, which affect neighbour notification and the staffing and budget implications attaching to these changes.

Councillor Murdoch returned to the meeting. Councillor Hamilton left the meeting at this juncture.

## **8. DRAFT SUPPLEMENTARY PLANNING GUIDANCE (SPG): HOUSING IN THE COUNTRYSIDE**

There was submitted a report by the Director of Environmental Services asking the Committee to consider and approve for consultation proposed Supplementary Guidance regarding Housing in the Countryside.

Councillor Cree advised that it was a well written report and urged all Councillors to have regard to it as it does contain information which Councillors have to consider at committee and hearings when looking at housing in the countryside.

In response to a question from Councillor Murdoch as to the timing of the consultation, the Planning & Development Manager advised that the consultation would go out the second half of July and responses would ask to be back by the end of August. The outcome would then be reported back to the next appropriate Committee.

Following consideration the Committee:

- (i) approved the proposed Supplementary Planning Guidance, and agreed to instruct that appropriate consultation be carried out; and
- (ii) noted a further report will be submitted at a future date, advising of the comments and representations received during the consultation period.

## **9. PLANNING ETC (SCOTLAND) ACT 2006 - HIERARCHY OF DEVELOPMENT**

There was submitted a report by the Director of Environmental Services advising the Committee of changes being introduced by the Planning etc (Scotland) Act 2006, which introduces a new Hierarchy of Development and associated procedures regarding pre application consultation, processing agreements, design and access statements and pre determination hearings.

The meeting noted that cases which were required to have a predetermination hearing would also have to be decided by the Full Council and consideration required to be given as to how administration of this could be done quickly. The Planning & Development Manager advised that they had spoken with a Scottish Government Official who had informed that it was for each Council to decide how they wish to run the scheme, whether they would wish to put the application to Full Council or whether the Planning & Regulatory Services Committee would consider it and make a recommendation to the Full Council for them to determine.

Mrs Scott, Principal Solicitor (Commercial & Conveyancing) advised that Committee could note concerns raised by Councillors and that consultation required to take place with Committee Services and the Monitoring Officer to ensure that appropriate Committee arrangements were put in place. Consideration would be given to the least disruptive and most effect way forward but that it would require to be looked at further.

In response to a question from Councillor Murdoch with regards to the local bodies which would require to be consulted, the Planning & Development Manager advised that regulation states that it would be every Community Council but that they would investigate current practices and practices in other Authorities. The Director of Environmental Services stated that Community Associations were relevant in Speyside and may well be consulted but that they would look at drawing up a list to circulate for consideration.

Following consideration the Committee:

- (i) noted the new Hierarchy of Developments which came into force on 6 April 2009;
- (ii) noted the new arrangements for pre-application consultation, processing agreements, design and access statements and pre-determination hearings;
- (iii) noted the resource requirements arising from the new arrangements;

- (iv) agreed that templates are prepared for processing agreements, design and access statements, and pre-application consultation reports; and
- (v) agreed that the Council inform agents and consultees on the new hierarchy, associated procedures and templates and that explanatory notes and templates are made available on the Council's website.

## **10. QUESTION TIME**

In response to a question from Councillor Stewart as to why the report on the Space Tourism Conference was withdrawn as it would have huge financial benefits to Moray, the Chair advised that with regard to the current financial restraints on the Council he had discussed the same with the Director of Environmental Services and at present could not see a benefit to the Council for a member to be involved. Councillor Stewart thought that it was a bad decision as Moray should be allowed to go and promote the area for the spaceport and Councillor Cree advised that he was not denying a case being made for a bid to allow Moray to have a spaceport but he felt that he questioned the value of the conference to that objective and it was a decision which he took.

In response to a question from Councillor Murdoch as to how the new planning regulations would be disseminated to the public either with roadshows, community groups requesting Officers to speak, the Director of Environmental Services advised that there is an intention to get as much information out to the public and agents by speaking to them and also producing explanatory notes in order for it to run as smoothly as possible.