

## **THE MORAY COUNCIL**

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

**TUESDAY 6 APRIL 2010**

**COUNCIL OFFICE, ELGIN**

#### **PRESENT**

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

#### **APOLOGIES**

Apologies for absence were intimated on behalf of Councillor J. Hamilton and A McKay.

#### **IN ATTENDANCE**

The Director of Environmental Services, Head of Development Services, the Planning & Development Manager, the Transportation Manager, the Environmental Health Manager in respect of Items 8 & 9, J Martin, Principal Planning Officer (Development Control) in respect of Item 3 & 4, M Cross, Principal Planning Officer (Planning & Development) in respect of items 3, 4, 5 & 6, A Scott, Principal Solicitor (Commercial and Conveyancing) and the Senior Committee Services Officer, Clerk to the Meeting.

#### **1. DECLARATION OF GROUP DECISIONS**

In terms of Standing Order 20 the meeting noted that there were no 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.

#### **2. WRITTEN QUESTIONS**

There were no written questions.

#### **3. SCOTTISH PLANNING POLICY (SPP)**

Prior to considering the planning applications the Head of Development Services gave a brief overview of the new SPP which came into force in February 2010. The meeting noted that the new combined SPP supersedes the previous 21 SPP guidance documents and can be used a material consideration in the consideration and determination of planning applications.

#### 4. PLANNING APPLICATIONS

##### SPEYSIDE GLENLIVET : WARD 1

- (a) 10/00210/ADV **ERECT HISTORICAL INFORMATION BOARD AT THE SQUARE ARCHIESTOWN FOR ARCHIESTOWN VILLAGE COUNCIL**

There was submitted a report by the Appointed Officer recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application for advertisement consent the erection of historical information board at the Square, Archiestown for Archiestown Village Council.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the information board is to be erected on land in which the Council, as planning authority, has a financial interest. The meeting also noted that the application had been advertised under current Listed Buildings and Conservation Area Regulations to which no objections had been received.

Following consideration the Committee agreed to approve the application for advertisement consent, subject to the following reasons:-

1. (a) The consent hereby granted will expire 5 years from the date of this decision notice;
  - (b) All advertisements displayed, and any land for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the local Planning Authority;
  - (c) Any hoarding or similar structure, or any sign, placard, board or device erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition to the reasonable satisfaction of the local Planning Authority;
  - (d) Where any advertisement is required under the Act to be removed, the removal thereof shall be carried out to the reasonable satisfaction of the local Planning Authority;
  - (e) Before an advertisement is displayed the permission of the owner of the land, or of any other person entitled to grant such permission, is obtained.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

**Reasons:**

1. In order to retain control over the display of the advertisements approved in accordance with the provisions of the Town and Country Planning (Control of Advertisements)(Scotland) Regulations 1984 (as amended).
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.

**KEITH & CULLEN : WARD 2**

**(b) 09/01471/OUT OUTLINE APPLICATION FOR THE FORMATION OF DEVELOPMENT PLATFORM AND ESTABLISHING AN ELECTRICITY CONVERTER STATION AT BLACKHILLOCK KEITH FOR SCOTTISH AND SOUTHERN ELECTRICITY TRANSMISSION LIMITED**

Councillor G McDonald declared a personal interest in this application on the grounds that, whilst not part of the application, he understood that the proposed undergrounding of the power cable from Portgordon to the proposed converter station would be passing his house.

There was submitted a report by the Appointed Officer recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an outline application for the formation of a development platform and establishing an electricity converter station at Blackhillock for Scottish and Southern Electricity Transmission Limited.

The meeting noted that the application had been referred to Committee, in terms of the Scheme of Delegation, as a major development. The meeting also noted that the application was advertised as a departure from the Moray Structure Plan 2007 and Moray Local Plan 2008. The report also advised that as the application was received prior to the 3rd of August 2009 it was registered as an outline application as opposed to planning permission in principle (PPP) and there was no requirement to undertake Pre-Application Notification and community consultation. Members of the Committee visited the site of the application on Monday 5 April 2010.

Prior to considering the application the Appointed Officer advised the meeting that subsequent to the preparation of the report more details had emerged in regard to the application and it had become apparent that whilst the scale of the land take is significant, the element of departure from the Development Plan is not. Therefore Officers were now recommending that the application be not accorded 'significant departure' status negating the need to delay a decision for referral to a pre-determination hearing, at which there would be no objectors to be heard, and, whilst still a departure, the application be approved as an acceptable departure.

Following consideration the Committee agreed to approve the application for outline consent, as an acceptable departure, subject to the following conditions:-

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.
2. The grant of planning permission hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 3-7 below.
3. Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 2 above.
4. The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 2 above.
5. Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 2 above.
6. Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 2 above.
7. Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 2 above.
8. Prior to the commencement of development, a detailed survey of the chosen route for delivery shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and abnormal load vehicle movements. The applicants shall discuss and agree any roads improvements/strengthening required as a result of the survey prior to any movements of any construction and abnormal load traffic.
9. Traffic Management Plan shall be provided to show the methods of dealing with the large delivery vehicles. This plan shall include vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network.
10. An abnormal load trial run must be undertaken prior to the commencement of construction and deliveries to identify any restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas. Representatives from Highland and Moray Council Transportation (Traffic), the Trunk Road Authority and Grampian Police must be invited to the trial run.

11. The applicant must run 'before and after' condition video surveys of the proposed delivery and construction traffic routes, provide a copy of the survey to Moray Council Transportation (Traffic) and make good any damage which may be caused to the road network, including the verge, as a result of the construction traffic and passing vehicles.
12. The detailed drawings of all construction accesses onto the public road shall be provided as part of any detailed planning application. The drawings must demonstrate the provision and control of appropriate visibility splays at each proposed construction access along with any works required to facilitate and improve the necessary visibility splays.
13. A programme for the works associated with the laying of the cable, including the timing of any temporary road closure to facilitate the opening of any road, shall be submitted to Moray Council Transportation (Traffic). Road opening permits will be required for any works in the public road, including the verge.
14. The new access junction onto the U43H Blackhillock Road shall have visibility splays of 4.5m x 120m. A temporary speed limit, restricting vehicle speeds to 40 mph, shall be in operation at the access location for the duration of the construction and decommissioning of the electricity sub-station. The full details of the temporary Road Traffic Order required for temporary speed limit shall be agreed with Moray Council Transportation (Traffic). The costs associated with the promotion and implementation of the temporary Road Traffic Order will be met by the applicant.
15. The new access shall be kerbed to a minimum radius of 15m using 254mm x 127mm h.p.c.c. kerbs.
16. The proposed new access shall be surfaced using Hot Rolled Asphalt for a minimum distance of 30m or the length of the longest vehicle and load, whichever is greater, if the access is not to be constructed to an adoptable road standard.
17. A 50m length of Hot Rolled Asphalt shall be provided on the U43H Blackhillock Road (25m either side of the centreline of the new junction) and the U43H Blackhillock Road widened to at least 6.0m over the length of the Hot Rolled Asphalt including appropriate tapers, such that the delivery/construction vehicles do not have to mount the verges when negotiating the access junction.
18. A scheme for appropriate road signs at the proposed access junction shall be submitted for approval by Moray Council Transportation (Traffic).
19. Dedicated parking areas shall be provided during construction to prevent vehicles parking on the public road verge, the locations of which shall be agreed with Moray Council Transportation.
20. Prior to the commencement of construction the diversion routes for local footpaths and cycleways during the construction period shall be agreed with Moray Council Planning (Core Paths). All signage associated with the diversion routes shall be agreed with Moray Council.

21. Suitably located, intervisible passing places and on-coming vehicle holding areas to accommodate construction traffic, abnormal load delivery vehicles and on-coming traffic shall be provided along the U43H Blackhillock Road, between the A96/ U43H Blackhillock Road junction and the site access junction, on ground over which the applicant has or can obtain control at location(s) agreed with and constructed in accordance with The Moray Council specification.
22. Only single abnormal loads shall be transported along the U43H Blackhillock Road between the A96 and the site. A holding area for the other vehicles in the convoy shall be provided near the A96/U43H junction on ground over which the applicant has or can obtain control at location(s) agreed with by Moray Council Transportation (Traffic) and constructed in accordance with The Moray Council specification.
23. Verge hardening shall be undertaken at any locations determined by the vehicle swept path analysis and abnormal load trial run to accommodate the wide turning circle of the abnormal load vehicles transporting sub-station components over the areas determined within the Traffic Management Plan. Any dropped kerbs required must be installed during the construction period to enable over running onto the hardened verge.
24. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
25. Any existing ditch, watercourse or drain under any access or passing place or holding area shall be re-routed or piped using a suitable diameter of pipe, in agreement with the Moray Council Transportation (Roads Maintenance Manager). Any pipe shall be laid to a self-cleansing gradient.
26. A detailed operational noise impact assessment will be required in support of any detailed application for the site.
27. Any detailed application for development of the site shall be supported by comprehensive site plans and design drawings showing the locations of and justification for all the proposed watercourse realignment and engineering works and the proposed design of any watercourse crossings by cables or access tracks and attenuation ponds.
28. Any detailed application for development of the site shall include a full and detailed drainage plan taking into account SUDS provision and the potential for spillage through handling, transfer and/or maintenance of any dielectric fluids/oils which may be utilised on site.
29. That all interceptor and attenuation ponds shall be removed on the completion of construction.
30. Any detailed application will be supported by a Project Environmental Management Plan (PEMP) which should set out the measures for protecting the environment (including pre-construction surveys for protected species) and will address the following aspects:

- landscaping and planting
  - building form and design
  - lighting
  - maintenance and management
  - reinstatement
31. Any detailed application for development of the site shall be supported by information detailing where and how the temporary storage of soils will be achieved, including mitigation measures to reduce the risk of pollution to surface and groundwater, and incorporating best practice guidelines provided by SEPA.
32. That the Project Environmental Management Plan (PEMP) shall include details of all works in connection with the installation of the underground cable.

**Reasons:**

1. In order to ensure that the matters specified can be fully considered prior to the commencement of development.
2. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
3. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
4. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
5. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
6. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
7. As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
8. In the interests of road safety.
9. In the interests of road safety.
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24. In the interests of road safety.
25. In the interests of road safety.
26. In the interests of amenity and effective planning control.
27. In the interests of amenity and effective planning control.
28. In the interests of amenity and effective planning control.
29. In the interests of amenity and effective planning control.
30. In the interests of amenity and effective planning control.
31. In the interests of amenity and effective planning control.
32. In the interests of amenity and effective planning control.

#### **FOCHABERS LHANBRYDE : WARD 4**

**(c) 10/00081/APP                      CHANGE OF USE OF AMENITY GROUND TO PRIVATE GARDEN  
GROUND AND ERECT NEW DOMESTIC SHED AT 5 WEST HIGH  
STREET, PORTGORDON FOR MRS F WILSON-BRINTON**

There was submitted a report by the Appointed Officer recommending that, for reasons detailed in the report, planning consent be approved in respect of an application for the change of use from Council ground to garden ground and erect new domestic shed at 5 West High Street, Portgordon for Mrs F Wilson-Brinton.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application related to land, in which the Council, as planning

authority, has a financial interest. The meeting also noted that members of the Committee visited the site of the application on Monday 5 April 2010.

Following consideration the Committee agreed to approve the application for full planning consent, subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of 3 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 work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.
4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.

**Reasons:**

1. The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
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 planning authority is aware that development is about to commence and any suspensive conditions can be followed up.
4. To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.

**HELDON AND LAICH: WARD 5**

**(d) 09/02337/APP PROPOSED EXTENSION AND INTERNAL ALTERATIONS TO FORM PUBLIC LIBRARY AT HOPEMAN PRIMARY SCHOOL ROAD HOPEMAN FOR THE MORAY COUNCIL**

There was submitted a report by the Appointed Officer recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application relating to the proposed extension and internal alterations to form a public library at Hopeman Primary School, School Road, Hopeman for The Moray Council

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the Council is the applicant. It was also noted that members of the Committee visited the site of the application on Monday 5 April 2010.

During discussion Councillor Divers expressed his concern that during the site visit it was noted that it appeared that work may have commenced, on site, prior to the consideration of the application by this Committee. In noting the concerns the Principal Solicitor (Commercial & Conveyancing) undertook to investigate the matter, internally with Educational Services, and advise members of the outcome.

Following consideration the Committee agreed to approve the application for full planning consent, subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of three 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 work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority
4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to 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. To ensure that the planning authority is aware that development is about to commence and any suspensive conditions can be followed up.
4. To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.

**FORRES : WARD 8**

**(e) 09/02350/APP PROPOSED NEW ACCESS TO IMPROVE VISIBILITY ON EXIT AT TOR AVON FINDHORN FORRES FOR MR DAVID BELL**

There was submitted a report by the Appointed Officer recommending that, subject to conditions detailed in the report, planning consent be granted in respect of an application for a proposed new access to improve the visibility on exit at Tor Avon, Findhorn, Forres for Mr David Bell.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the Council, as planning authority, is the Agent. The meeting also noted that the application, which relates to a Cycling, Walking and Safer Streets project, had been advertised under the Town & Country Planning (Development Management Procedures) (Scotland) Regulations 2008 to which no objections had been received.

Following consideration the Committee agreed to approve the application for full planning consent, subject to the following conditions:-

1. The development to which this permission relates must be begun not later than the expiration of 3 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 work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.
4. Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.
5. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.
6. The width of the vehicular access shall be 2.4m - 3.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway/verge shall be to The Moray Council specification and surfaced with bituminous macadam.
7. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
8. Drop kerbs shall be provided across the access to The Moray Council specification. A road opening permit must be obtained from the Roads Authority before carrying out this work.
9. A visibility splay of 2.4m x 60m shall be provided and maintained at the access in both directions.

**Reasons:**

1. The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

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 planning authority is aware that development is about to commence and any suspensive conditions can be followed up.
4. To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.
5. In the interests of road safety.
6. In the interests of road safety.
7. In the interests of road safety.
8. In the interests of road safety.
9. In the interests of road safety.

**(g) 10/00124/PPP PLANNING PERMISSION IN PRINCIPLE TO ERECT GOLF CENTRE INCORPORATING TRAINING FACILITIES 5 HOLIDAY LODGES TENNIS COURT AND 5 DWELLINGHOUSES AT KINLOSS COUNTRY GOLF CLUB KINLOSS FORRES FOR KINLOSS COUNTRY GOLF**

There was submitted a report by the Appointed Officer recommending that, for reasons detailed in the report, planning permission in principle be refused in respect of an application to erect a golf centre incorporating training facilities, 5 holiday lodges, tennis court and 5 dwellinghouses at Kinloss Country Golf Club, Kinloss, Forres for Kinloss Country Golf.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as a similar proposal was refused, following a vote, at the meeting of the Committee on 24 November 2009 (para 4 (h) of the Minute refers). 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 therefore, were the Committee minded to approve the application, it was recommended that it be delegated to the Director of Environmental Services to approve the application, subject to the receipt of satisfactory comments from the MOD and Environmental Health, to resolution of the objections from SEPA and to standard conditions and others recommended by consultees. Members of the Committee visited the site of the application on Monday 5 April 2010.

There was also circulated to members of the Committee, prior to the meeting, a copy of an additional representation received subsequent to the publication of the Committee papers.

The Principal Planning Officer and the Appointed Officer spoke to the report on the application and the meeting noted that the application had been advertised as a departure to policy H8 of the Development Plan and under neighbour notification regulations and whilst no objections had been received letters of support had been received from Highlands and Islands Enterprise (Moray), Visit Scotland, The Findhorn Golf Society, Clubgolf Scotland

Limited and Moray Tourism Executive. Reference was also made to the submission of an Economic Impact Assessment which highlighted the potential benefits to the business itself, and to the local economy. The Officers also referred to the new SPP which, although it carries forward the previous supportive policy for small scale housing in rural areas, includes a new statement “or in support of new businesses by providing funding” which is a significant departure from previous national advice and policy on housing in the countryside and is at odds with Moray Council's long-held stance in its successive Local Plans. Whilst the applicant sought justification for the housing element of this proposal based on the new SPP statement, which is a material consideration in the determination of the application, it did not, in the opinion of Officers, override the adopted policies of the 2008 Moray Local Plan. Approval of the application would, in their opinion, establish an undesirable precedent for further developments of this nature in countryside locations. Whilst it may be possible to approve those parts of the application relating to golf and tourist accommodation only, it is quite clear from the supporting Economic Impact Assessment that the housing element is inextricably linked and therefore the recommendation was one of refusal of the application on the grounds that the proposed development is contrary to policies H8 and CF4 of the Moray Local Plan. The Officers also recommended that were the Committee minded to approve the application consideration of appropriate conditions be deferred to allow officers the opportunity to consider and draft appropriate conditions.

During discussion concern was expressed that approval of this application could set a precedent for further housing development linked to this development, which could be determined under delegated powers and it was noted that should such an application(s) be received then, given the history of the site the application(s), this would be referred to Committee for consideration.

On the invitation of the Chairman the Clerk read out a statement from Councillor J Hamilton, one of the four Ward members and member of the Committee who was unable to attend the meeting. The meeting noted the terms of the statement which urged members to support the application on the grounds that it is an acceptable departure from the Local Plan.

Thereafter Councillor Russell expressed the view that, in his opinion, the SPP on Rural Redevelopment was a material consideration of such weight to justify departing from the Local Plan and for this reason moved approval of the application for planning permission in principle, subject to draft conditions being submitted to the next meeting of the Committee for consideration and determination. The motion was seconded by Councillor Bell.

As an amendment Councillor Murdoch, seconded by Councillor Cree, moved refusal of the application, as recommended, for the reasons detailed in the report on the application.

On a division there voted:-

For the Motion (7)	Councillors Bell, Coull, Divers, McConachie, Russell, Stewart & Wright.
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For the Amendment (4)	Councillors Cree, G McDonald, A McDonald & Murdoch
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Abstentions (0)	
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Accordingly the motion became the finding of the meeting and it was agreed that the application for planning permission in principle be approved, as an acceptable departure, subject to draft conditions being submitted to the next meeting of the Committee for consideration and determination.

## **5. POLICY INTERPRETATION FOR WIND TURBINE DEVELOPMENTS**

There was submitted a report by the Director of Environmental Services inviting the Committee to consider various aspects regarding the current wind energy guidance as it applies to developments of up to 3 individual wind turbines. The report also invited the Committee to consider proposed Permitted Development arrangements for domestic micro-renewable wind energy.

The meeting noted that National and local policy and guidance is made with regard to larger scale wind energy proposals and do not seem to cater well for the current demand for smaller scale single turbines or groups of up to three. It was proposed that current policy should be interpreted to allow such proposals to be considered "on merit" and a comprehensive review undertaken during the preparation of the new Local Development Plan in 2011-12.

During discussion concerns were expressed in regard to minimum distances from neighbouring properties, potential impact on television reception and the inclusion of any installation being subject to MCS products and installer as this was not appropriate as planning criteria.

Following consideration the Committee agreed to the interpretation of national and local policy as follows:-

- (i) any proposals of over 20Mw, or over 3 turbines will be treated as windfarms, and should be located within a Preferred Search Area (PSA). Proposals outwith will be treated as Departures with a presumption against approval;
- (ii) applications for single, or small groups of up to 3 'commercial' turbines under policy should be located within PSA. Proposals outwith will still be treated as Departures, but considered "on their merits", depending upon impact on the landscape, other environmental criteria, the Development Plan, and any other material considerations, in a similar way to any other development application in the countryside;
- (iii) domestic or own use turbines will not be regarded as 'commercial', and thus under policy are not required to be located within PSAs;
- (iv) cumulative impact will be a prime consideration, and take account of existing windfarms/turbines and those which have permissions. New proposals will be considered on a "first come" basis; and
- (v) comments on proposed Permitted Development criteria, as set out in Section 5 of the report, be forwarded to Scottish Government as the Council's response to the consultation document on proposed permitted development rights for domestic micro wind turbines, subject to:-

- (a) the inclusion of a request for the withdrawal of the reference to 'subject to MCS product and installer' as this is not appropriate as planning criteria; and
- (b) expanding on the concerns expressed in regard to the issue on maximum distances from neighbouring properties and the potential for impact on television reception.

## **6. NON-MATERIAL VARIATIONS TO PLANNING CONSENTS**

There was submitted a report by the Director of Environmental Services inviting the Committee to consider revisions to the criteria for allowing non-material variations to planning consents in order to comply with The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 and Planning Circular 10/2009 which have brought about changes requiring amendment of the criteria used to assess changes to consents which are permissible, on account of being minor (non material variations).

During discussion clarification was sought in regard to what was considered a material or non-material variation and whether applicants should be required to submit plans and have these approved prior to any changes taking place.

On the advice of officials it was agreed that the recommendation that details of any proposed changes should be submitted in advance although this would not be a requirement. It was also noted that officers undertook to prepare an Advice Note for applicants clarifying the difference between material and non-material variations and procedures for dealing with such requests.

Following consideration the Committee agreed:

- (i) that the following criteria be met before such a variation to a consent is accepted;-
  - details of any changes must be stated clearly, identified upon 2 sets of scaled plans and should be submitted to and agreed upon by The Moray Council prior to the changes taking place (retrospective requests are to be assessed with no less scrutiny against the remaining criteria than pre-emptive requests);
  - the change complies with development plan policy;
  - the change does not affect any part of a development which has been specifically referred to in objections;
  - the change does not require neighbour notification in its own right; and
  - the change does not require any additional planning conditions
- (ii) requests for non-material variations will continue to be dealt with under delegated powers, as is the case at present;
- (iii) this change should take effect immediately from the Committee decision date; and

- (iv) to note that an Advice Note for applicants will be produced clarifying the difference between material and non-material variations and the procedures for dealing with requests.

## **7. DEVELOPMENT PLAN SCHEME**

Under reference to Paragraph 4 of the Minute of this Committee dated 17 March 2009 there was submitted a report by the Director of Environmental Services inviting the Committee to consider the proposed timescale for the preparation of the Council's next Development Plan, as required by the Planning etc (Scotland) Act 2006, details of which were set out in Sections 2.1 & 3.3 of the report.

The meeting noted that the legislation requires Planning Authorities to annually prepare a Development Plan Scheme, which sets out a timetable for this review including proposals for consultation and engagement. The meeting also noted that it was not proposed to alter the timetable approved at the meeting on 17 March 2009.

Given the next Council elections would be held in May 2012, consideration was given to amending the proposed timetable so that the Draft Plan would not be submitted to Committee for consideration until after the Council elections so that the new Council could take ownership of the Draft Plan prior to consulting with stakeholders. The meeting also noted that the Moray Local Plan 2008 requires to be replaced within 5 years of its adoption and as the current Plan was adopted in December 2008 the new Plan would require to be adopted by December 2013.

Following consideration the Committee agreed to approve the following amended timetable:-

- Main Issues Report    January 2011
- Proposed Plan         June 2012
- Adopt New Plan        August 2013

## **8. CONSUMER DIRECT SCOTLAND : LETTER OF SUPPORT**

There was submitted a report by the Director of Environmental Services updating the Committee on the provision of Consumer Direct Scotland (CDS) services provided by Comhairle nan Eilean Siar and inviting the Committee to consider showing its' support for the continued provision of the service provided to Moray residents and citizens of Scotland by formally conveying this support, in writing, to Comhairle nan Eilean Siar in its involvement in any formal bids for the future provision of the service.

The meeting noted that CDS, launched in 2004, provides first tier basic consumer advice to Scottish consumers by telephone and online. Comhairle nan Eilean Siar has been successfully delivering the Consumer Direct Scotland contact centre, in partnership with local council Trading Standards services, and currently employs 30 staff.

Following consideration the Committee agreed to:

- (i) reaffirm its' support to Comhairle nan Eilean Siar and its' current provision of the Consumer Direct Scotland service; and

- (ii) confirm the Committee's written support for Comhairle nan Eilean Siar in its bid to be involved in the future delivery of the Consumer Direct service, as set out in appendix 1 to the report, subject to including reference for the need for a continued service based in Scotland given the differences in consumer legislation between Scotland and the rest of the United Kingdom and for the introduction in the letter to be amended to read:

'The Moray Council welcomes and reaffirms its support for the aims of Consumer Direct and for Comhairle nan Eilean Siar to remain as the provider of the Consumer Direct contact centre service for Scotland'.

On the determination of this item Councillor McConachie left the meeting.

## **9. GRAMPIAN JOINT HEALTH PROTECTION PLAN 2010 – 2012**

There was submitted a report by the Director of Environmental Services seeking Committee approval of the first Grampian Joint Health Protection Plan for the period 1 April 2010 to 31 March 2012, a copy of which was appended to the report as Appendix 1.

The meeting noted that The Public Health etc (Scotland) Act 2008 places a duty on Health Boards and Local Authorities to co-operate and produce a Joint Health Protection Plan and that the Grampian Joint Health Plan, which been prepared by NHS Grampian in collaboration with The Moray Council, Aberdeenshire and Aberdeen City, will make a significant contribution to the Health and Wellbeing of the people in Moray.

Following consideration the Committee agreed:-

- (i) to approve the Grampian Joint Health Protection Plan 2010-2012, as set out in Appendix 1 to the report, and to refer the report to the Community Planning Partnership Healthier Strategic Group for information; and
- (ii) that, in future, the draft Plan is submitted, in the first instance, to the Community Planning Partnership Healthier Strategic Group prior to submission to this Committee.

## **10. PROGRESS REVIEW AGAINST PERFORMANCE INDICATORS AND REVENUE BUDGETS FOR THE PERIOD OCTOBER TO DECEMBER 2009**

There was submitted a report by the Director of Environmental Services updating the Committee on service performance against indicators relating to the Development Services Section within the Environmental Services Department for the period October to the end of December 2009. The report also provided the Committee with progress against annual revenue budgets and an overview of Development Services complaints.

In regard to the reported decrease in performance relating to processing planning applications the meeting noted that the Appointed Officer was reviewing the workload and caseload of officers within the Development Management Section with a view to increasing the throughput of planning applications, in particular householder and major applications. He also advised that he would be reorganising staffing levels and pull in resources from the

Planning & Development Section to assist in major applications and would be undertaking a process benchmarking exercise with other well performing local authorities.

Following consideration the committee agreed to:-

- (i) note the update of Service Performance regarding the Performance Indicators relating to Development Services; and
- (ii) note progress against departmental budgets.

## **11. ROYAL ENVIRONMENTAL HEALTH INSTITUTE OF SCOTLAND ANNUAL CONFERENCE**

There was submitted a report by the Director of Environmental Services inviting the Committee to consider an invitation for the Council to be represented at the Royal Environmental Health Institute of Scotland's (REHIS) 27<sup>th</sup> Annual Conference to be held in Renfrew on 19 & 20 May 2010. A copy of the conference programme was appended to the report as Appendix 1.

Following consideration the Committee agreed that there be no Member representation at the forthcoming REHIS Conference on 19 and 20 May 2010.

## **12. QUESTION TIME**

Councillor Stewart sought clarification in regard to an article in today's Press & Journal relating to the recently renovated Lossiemouth Library being allowed to open without a proper Building Warrant or completion certificate being in place. He also expressed his concern that the matter was brought to the attention of the media by a Moray Council employee and that the Ward Members had not been informed of this issue.

The Director of Environmental Services advised the meeting that he had only become aware of the issue prior to the meeting and understood that Building Standards staff had visited the site and all works had been proceeding in accordance with the submitted plans and that given the nature of the works there was no requirement to close during the renovations. Notwithstanding that however he undertook to investigate the matter internally and take whatever action as deemed necessary.

Under reference to Paragraph 7 of the Minute of this Committee dated 9 February 2010 Councillor Divers sought an update on the submission of a report to Committee on the possibility of applying a planning condition on housing developments to ensure that until roads within the development are adopted by the Council the Developer is responsible for ensuring that the roads and pavements within the development are gritted during periods of heavy snow and ice. The Director of Environmental Services apologised for the delay and advised that a report on the matter will be submitted to the next meeting of the Committee.