

MORAY COUNCIL

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

THURSDAY 17 AUGUST 2017

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors C Feaver (Chair), W Wilson (Deputy), D Bremner, J Divers, T Eagle, R Edwards, D Gatt, L Laing, M Macrae and A Patience

ALSO PRESENT

Councillor F Brown, G Cowie and S Morrison

APOLOGIES

Apologies for absence were intimated on behalf of Councillor A McLean

ALSO PRESENT BY INVITATION

Ms B Aitken (Applicant) and Mr Nick Brown, NB Planning and Architecture.

Those who submitted representations on the application:-

Pastor William Aitken

Ms Maureen Burrows (also representing Ms Susan Blake, Ms Christine Bracken, Mr Allan Cowie, Ms Debbie Easton, Ms Liz Knight, Ms S McLennan, Ms Clair Slater, Mr Douglas Wilson and Ms Elaine Wilson)

Mr Jed Watt (also representing Mr Jake Burrows and Mr Jeremy Burrows)

Ms Christine Fairbairn (also representing Ms Rhonda McIntosh and Mr Daniel Fairbairn)

IN ATTENDANCE

The Manager (Development Management), Mr N MacPherson, Principal Planning Officers (Development Management), Mr Craig Wilson, Planning Officer, Ms Diane Anderson, Senior Engineer Transport Development, Mrs Aileen Scott, Legal Services Manager (Property and Contracts) as Legal Adviser to the Committee and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS

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 nor any declarations of Member's Interest in respect of any item on the Agenda.

2. PUBLIC HEARING

17/00154/APP **APPLICATION TO EXTEND ICEHOUSE TO FORM COFFEE SHOP**
and **AND WELL-BEING CENTRE WITH MANAGRESS FLAT AT**
17/00155/LBC **GOLLACHY ICE HOUSE, PORTGORDON FOR MS B AITKEN**

Reports were submitted by the Head of Legal and Democratic Services and the Appointed Officer in regard to an application to extend an ice house to form a coffee shop and well-being centre with a manageress flat at Gollachy Ice House, Portgordon for Ms B Aitken.

The report by the Head of Legal and Democratic Service advised that the application had been referred to a Hearing in terms of the Council's Scheme of Delegation to afford those submitting representation and the Applicant the opportunity to state and explain their cases before this Committee prior to it determining the application. The report also set out the proposed procedures for the Hearing and advised that Members of the Committee visited the site of the application on 26 May 2017.

The Chair welcomed those present and advised them that submissions must be restricted to those already submitted. She further advised 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 Committee noted that the Applicant, Ms Aitken was in attendance along with Mr Nick Brown, NB Planning and Architecture who was representing her.

The Clerk advised the Committee that, of those submitting representations on the application as listed on page 6 of the Appointed Officers report, Pastor William Aitken, Ms Maureen Burrows, Mr Jed Watt and Ms Christine Fairbairn had accepted the invitation to address the Committee.

The Committee also noted that Ms Burrows would also be representing Ms Susan Blake, Ms Christine Bracken, Mr Allan Cowie, Ms Debbie Easton, Ms Liz Knight, Ms S McLennan, Ms Clair Slater, Mr Douglas Wilson and Mrs Elaine Wilson; that Mr Watt would also be representing Mr Jake Burrows and Mr Jeremy Burrows; and that Ms Fairbairn would also be representing Ms Rhonda McIntosh and Mr Daniel Fairbairn.

The Clerk further advised that, of those submitting representations on the application, Mr Dietmar Schulz was unable to attend however had submitted a statement which had been circulated to Members of the Committee prior to the meeting and placed online with the agenda and reports.

Thereafter, the Chairman outlined the procedure to be followed for the Hearing, which was accepted by the Committee, Ms Aitken and Mr Brown and all those in attendance who had submitted representations on the application.

Ms Aitken and Mr Brown addressed the Committee on the application. There were no questions from the Committee in respect of their presentation.

Pastor Aitken, Ms Burrows, Mr Watt and Ms Fairbairn addressed the Committee on their stated representations and those of whom they were representing. There were no questions from the Committee in respect of any of their presentations.

The main reasons for supporting the application were as follows:

The Development would:

- boost tourism
- provide job opportunities
- encourage people to live in Portgordon
- improve and enhance the area
- enhance the seal viewing area

At this stage of proceedings, the Chair queried if all parties were satisfied with the conduct of the proceedings of the Hearing. In response, Ms Aitken, Mr Brown, Pastor Aitken, Ms Burrows, Mr Watt and Ms Fairbairn intimated that they were satisfied with the conduct of the proceedings of the Hearing.

Councillor Macrae stated that, having carefully considered the application and the views of those who had addressed the Committee and other constituents in the area, in his opinion, the development would encourage coastal tourism and bring a variety of opportunities to the local community. He acknowledged that there had been a small number of objectors however stated that overall the proposed development was supported by the wider community and whilst it was considered by the Appointed Officer not to comply with the current Local Development Plan, he did not agree with that. He stated that the development works would preserve the heritage of the area and add a new dimension to the coastal trail and therefore moved that the Committee grant planning permission in respect of 17/00154/APP and listed building consent in respect of 17/00155/LBC.

In response, the Legal Adviser sought clarification from Councillor Macrae in relation to his planning reasons for moving the grant of planning permission and listed building consent.

Councillor Macrae stated that in his opinion, in terms of the scope and scale, the proposed application does not detract from the Coastal Protection Zone and complies with policies E8 and IMP1 however asked that a condition be included to ensure that the residential part of the development is tied to the business.

The Manager (Development Management) advised that, as both the applications were recommended for refusal, the report did not contain the standard conditions that would usually accompany a grant of planning permission and listed building consent asked if Councillor Macrae was willing to amend his motion to include that delegation be given to the Appointed Officer to draft the standard conditions.

Councillor Macrae agreed to amend his motion accordingly.

Councillor Bremner seconded Councillor Macrae's motion.

The Chair stated that, whilst she accepted that there was a need for a café in the area and acknowledged the support in the local community and the potential benefits for tourism, she was of the opinion that a single storey, small scale development would be more appropriate as it would not dominate the Icehouse and moved that the applications for planning permission and listed building consent be refused as per the Appointed Officer's recommendation in both reports. This was seconded by Councillor Patience.

On a division there voted:

For the motion (7): Councillors Macrae, Bremner, Divers, Eagle, Edwards, Laing and Wilson **Page: 4**

For the amendment (3): Councillors Feaver, Patience and Gatt

Abstentions (0)

Accordingly, the motion became the finding of the Committee and it was agreed to grant, on the basis that the proposal complies with policies E8 and IMP1:

- (i) planning permission in respect of 17/00154/APP, subject to the following conditions and reasons;
- 1 The residential manageress flat shall remain ancillary to the café use and not become a separate residential dwelling house.
 - 2 Prior to any works commencing, the developer shall secure the implementation of a Level 1 archaeological standing building survey of the extant structures, to be carried out by an archaeological organisation acceptable to the planning authority. The scope of the archaeological standing building survey will be set by the Aberdeenshire Council Archaeology Service on behalf of the planning authority. The name of the archaeological organisation retained by the developer shall be given to the planning authority and to the Aberdeenshire Archaeology Service in writing not less than 14 days before the survey commences. Copies of the resulting survey shall be deposited in the National Record of the Historic Environment and in the local Sites and Monuments Record upon completion.
 - 3 The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any ground breaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service.

The name of the archaeological organization retained by the developer shall be given to the planning authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.
 - 4 Prior to development commencing details of the proposed core path realignment shall be submitted to and approved in writing by this Council, as Planning Authority, in consultation with The Moray Access Manager.

(**NOTE:** the core path to be realigned shall be a minimum 2.5m wide and constructed of aggregate and quarry dust).
 - 5 Prior to any development works commencing, full details of the proposed access onto the public road shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The details shall include the following:

- a) Width of the vehicular access to be a minimum of 5.5 metres with the first 15m of the access, measured from the edge of the public road, constructed to the Moray Council specification and surfaced with bituminous macadam.
- b) Access radii of 10.0m which shall be kerbed using 254 x 127mm half battered precast concrete kerbs to the Moray Council specification.
- c) Dropped kerbs and tactile paving to provide pedestrian crossing points for the existing footway alongside the public road.
- d) Longitudinal sections of the access ensuring that the maximum gradient of 1:20 for the first 10 metres measured from the edge of the public road.
- e) Details of all retaining structures, including ground conditions and structural calculations.
- f) Drainage infrastructure.
- g) Measures to ensure that no water or loose material shall be permitted to drain or be carried onto the public footpath/carriageway for the life time of the development.
- h) Method for closing and removing the existing access onto the public road. Thereafter the access shall be constructed in accordance with the approved details prior to the completion of the development.

6 Prior to any development works commencing:

- a) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the visibility splay 4.5 metres by 215 metres and a schedule of maintenance for the splay area shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
- b) the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
- c) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

7 Parking provision shall be as follows:

- A minimum of 20 car parking spaces for the café and workshop space;
- 2 car parking spaces for the flat;
- 3 motorcycle spaces; and
- A minimum of 2 cycle stands (4 cycles)

The car, motorcycle and cycle parking spaces shall be provided within the site prior to the occupation or completion of the development, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

8 No works shall commence on any phase of the development until a Construction Traffic Management Plan for the respective phase has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme;

- number of vehicle movements (i.e. materials, plant, staff, components);
- anticipated schedule for delivery of materials and plant;
- full details of any temporary construction access;
- full details of construction traffic routes from the A941 and A96 to the site, including any proposals for temporary haul routes;
- measures to be put in place to prevent material being deposited on the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- parking provision, loading and unloading areas for construction traffic.

Thereafter, the development shall be implemented in accordance with the approved details.

- 9 The temporary caravan shall be removed from the site within 2 years or upon occupation of the residential flat/completion of the building works hereby approved (whichever is the sooner).

The Council's reasons for imposing the above conditions are:-

- 1 To ensure that the flat remains an ancillary use to the commercial business located within the Coastal Protection Zone
- 2 To record features of the historic environment of the structure. Please note an archaeological organisation is required to undertake this work.
- 3 To record items of archaeological interest.
- 4 To ensure acceptable infrastructure at the development access through the provision of details currently lacking.
- 5 To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.
- 6 To ensure an acceptable development in terms of parking provision and amenity of the area.
- 7 To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
- 8 To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
- 9 In order to ensure that the caravan is retained on the site on a temporary basis only in accordance with policy H11 of the Moray Local Plan 2008 and to minimise the period during which there are any adverse effects on the appearance of the locality.

The Council's reason for making this decision is:-

In terms of scope and scale the proposed application does not detract from the Coastal Protection Zone and complies with policies E8 and IMP1 and is subject

to a condition that the residential part of the development is tied to the business.

- (ii) listed building consent in respect of 17/00155/LBC, subject to the following conditions and reasons
- 1 Prior to any works commencing, the developer shall secure the implementation of a Level 1 archaeological standing building survey of the extant structures, to be carried out by an archaeological organisation acceptable to the planning authority. The scope of the archaeological standing building survey will be set by the Aberdeenshire Council Archaeology Service on behalf of the planning authority. The name of the archaeological organisation retained by the developer shall be given to the planning authority and to the Aberdeenshire Archaeology Service in writing not less than 14 days before the survey commences. Copies of the resulting survey shall be deposited in the National Record of the Historic Environment and in the local Sites and Monuments Record upon completion.
 - 2 The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any groundbreaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service.

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In terms of scope and scale the proposed application does not detract from the Coastal Protection Zone and complies with policies E8 and IMP1 and is subject to a condition that the residential part of the development is tied to the business.