

DEVELOPMENT MANAGEMENT SUB COMMITTEE

ABERDEEN, 6 December 2012. Minute of Meeting of the DEVELOPMENT MANAGEMENT SUB COMMITTEE. Present:- Councillor Milne, Convener; and Councillors Boulton, Corall, Cormie, Finlayson, Grant, Greig (substituting for Councillor Delaney), Lawrence, MacGregor, McCaig, Jean Morrison MBE, Sandy Stuart (substituting for Councillor Jaffrey) and Thomson.

The agenda and reports associated with this minute can be found at:-

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=2554&Ver=4>

LOCAL DEVELOPMENT PLAN APPEAL BY TESCO

1. The Sub Committee was addressed by Dr Bochel, Head of Planning and Sustainable Development, who advised that Tesco had submitted an appeal to the Supreme Court against the decision of the Inner House of the Court of Session to refuse its application to quash the Aberdeen Local Development Plan. Tesco had been unsuccessful regarding both an interim suspension and a full appeal in front of three judges in the Inner House and the Council had received robust advice from Counsel that the reasoning of the Inner House was sound and there were strong grounds to resist the appeal.

Dr Bochel stated that planning applications would continue to be determined in line with the Aberdeen Local Development Plan however the appeal was a material consideration and the Council would have to take into account the basis for the legal challenge when determining applications. Dr Bochel highlighted that in the opinion of the Court of the Inner House, if Tesco's arguments had found favour the Court would have been inclined to quash the plan only in so far as it related to "Issue 64" (Allocated Sites: Woodend...Summerhill...etc.) and that it would be disproportionate to quash the whole plan.

Dr Bochel advised that the reports before the Sub Committee this day had been prepared in advance of the current legal challenge however determination of the applications still required to take account of the challenge, although none of the policies or material considerations which applied to the applications would be affected by the terms of Tesco's challenge, and the recommendations therefore remained unchanged.

The Sub Committee resolved:-

to note the position.

MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT SUB COMMITTEE OF 8 NOVEMBER 2012

2. The Sub Committee had before it the minute of its previous meeting of 8 November 2012.

The Sub Committee resolved:-

to approve the minute.

MINUTE OF MEETING OF THE DEVELOPMENT MANAGEMENT SUB COMMITTEE (VISITS) OF 15 NOVEMBER 2012

3. The Sub Committee had before it the minute of meeting of the Development Management Sub Committee (Visits) of 15 November 2012.

The Sub Committee resolved:-

to approve the minute.

PLANNING APPEALS PANEL - 8 NOVEMBER 2012 - BROADFORD WORKS, MABERLY STREET - 120048

4. The Sub Committee had before it the minute of meeting of the Planning Appeals Panel of 8 November 2012 pertaining to the appeal against refusal of planning permission in respect of Broadford Works, Maberly Street.

The Sub Committee resolved:-

in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the press and public from the meeting during consideration of this item of business (Article 12 of this minute refers) so as to avoid disclosure of exempt information of the class described in paragraph 12 of Schedule 7(A) of the Act.

QUEENS LINKS, QUEENS LINKS LEISURE PARK - 120909

5. The Sub Committee had before it a report by the Head of Planning and Sustainable Development in respect of an application for planning permission for a proposed drive-thru restaurant unit.

The Sub Committee resolved:-

to note that the report had been withdrawn.

HAZLEHEAD CAFÉ, HAZLEHEAD PARK - 121258

6. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve unconditionally the application in respect of planning permission for the erection of a single storey extension to the rear of the property including the creation of a new second entrance to the café building and the reconfiguration of the existing internal layout.

The Sub Committee resolved:-

to approve the recommendation, and to instruct officers to request the applicant to provide replacement trees to be planted elsewhere in the vicinity of the site.

466 UNION STREET - 121287

7. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission for a change of use of the premises from Class 1 (retail) to Class 3 (café/snack bar), subject to the following conditions:-

(1) That no cooking operations (including deep fat frying and shallow frying) or hot food preparation shall be carried out on the premises other than the re-heating of pre-cooked produce by means of a microwave oven or the preparation and toasting of sandwiches and paninis, unless the planning authority has given prior written approval for a variation; (2) That the premises shall not operate or be open to the public outwith the hours from 7.00am until 8.00pm on any day, unless the planning authority has given prior written approval for a variation; (3) That no part of this development shall take place unless a detailed assessment of the likely sources and levels of noise arising within, and those audible outwith, the premises has been submitted to, and approved in writing by, the planning authority. The noise assessment shall be carried out by a suitably qualified independent noise consultant. All noise attenuation measures identified by the noise assessment which are required in order to prevent any adverse impacts on the amenity of residents in the surrounding area shall be installed prior to commencement of the use hereby approved, unless the planning authority has given prior written approval for a variation; (4) That the use hereby granted planning permission shall not take place unless provision has been made within the application site for refuse storage and storage of recyclates in accordance with a scheme which has been submitted to and approved in writing by the planning authority; and (5) That no development shall take place pursuant to this planning permission unless details of the proposed ground floor site layout and treatment of the display windows has been submitted to and approved in writing by the planning authority. The use shall not take place other than in accordance with such approved details or such other details as may subsequently be approved.

Councillor Cormie moved:-

That the Sub Committee refuse the application on the grounds that there was already an overprovision of Class 3 premises within the area.

Councillor Cormie's motion failed to attract a seconder and therefore was not put to the vote.

The Sub Committee resolved:-

to approve the recommendation subject to condition 2 being amended to allow the hours of operation to be from 7.00am to 11.00pm Thursday to Saturday, with all other days 7.00am to 8.00pm.

DECLARATION OF INTEREST

The Convener declared an interest in relation to the following item by reason of a personal connection, and considered that the nature of his interest required him to leave the meeting and take no part in the deliberations thereon.

In the absence of the Convener, Councillor Jean Morrison MBE took the Chair.

7 HARLAW TERRACE - 121239

8. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve the application in respect of planning permission, retrospective in part, for the erection of a domestic car port on site, subject to the following condition:-

- (1) That the carport hereby granted planning permission shall not be used for any purpose other than that which is ancillary to the domestic use of the dwellinghouse.

Councillor Thomson, as one of the local members, indicated that he would like a site visit to be undertaken.

Councillor Greig moved as a procedural motion:-

That the Sub Committee determine the application this day.

Councillor Greig's procedural motion failed to attract a seconder and therefore was not put to the vote.

The Sub Committee resolved:-

to defer consideration of the application meantime to enable members to visit the site. The reasons for visiting the site were the perceived overdevelopment of the site and to enable members to get a clearer idea of the size and scale of the development.

Councillor Jean Morrison MBE vacated the Chair in favour of the Convener upon his return.

5 AUCHLOASSAN COURT, BRIDGE OF DON - 121424

9. The Sub Committee had before it a report by the Head of Planning and Sustainable Development **which recommended:-**

That the Sub Committee approve unconditionally the application in respect of planning permission for an extension at first floor level, a rear (wrap around) extension and new front porch.

The Sub Committee resolved:-
to approve the recommendation.

PLANNING ENFORCEMENT ACTIVITY - EPI/12/278

10. The Sub Committee had before it a report by the Director of Enterprise, Planning and Infrastructure which advised of the planning enforcement work that had been undertaken by the Planning and Sustainable Development Service from 1 April to 30 September 2012.

The Sub Committee resolved:-
to note the report and thank officers for their work.

HOPECROFT PLANNING BRIEF - EPI/12/279

11. The Sub Committee had before it a report by the Director of Enterprise, Planning and Infrastructure which presented the Hopecroft Planning Brief, which had been prepared as a framework for the future development of land identified in the Aberdeen Local Development Plan as Opportunity Site OP20.

The report recommended:-
that the Sub Committee -

- (a) approve the Hopecroft Planning Brief as interim planning advice; and
- (b) instruct officers to implement the process to ratify the Planning Brief as Supplementary Guidance, which would include a six week public consultation with the results reported to committee prior to submission to the Scottish Government.

The Sub Committee resolved:-
to approve the recommendations subject to the Head of Planning and Sustainable Development liaising with the relevant parties on the length and start date of the public consultation.

In accordance with the decision recorded under Article 4 of this minute, the following item was considered with the press and public excluded.

PLANNING APPEALS PANEL - 8 NOVEMBER 2012 - BROADFORD WORKS, MABERLY STREET - 120048

12. The Sub Committee had before it the minute of meeting of the Planning Appeals Panel of 8 November 2012, pertaining to the appeal against refusal of planning permission in respect of Broadford Works, Maberly Street. The Planning Appeals Panel had resolved to refer the matter to a future meeting of the Development Management Sub Committee with a recommendation that the Council do not resist the appeal in this case.

The Sub Committee received legal advice from Mrs Fiona Selbie, Senior Solicitor, who provided background information in relation to previous planning appeals.

The Convener moved, seconded by Councillor Jean Morrison MBE:-

That the Council do not resist the appeal in this case and instruct officers in Legal and Democratic Services to contact the Reporter requesting that the conditions recommended in the original report be applied, along with the additional condition contained within the unsuccessful motion at the Development Management Sub Committee meeting of 19 July 2012, subject to the Council securing a suitable contribution from the applicant towards educational provision as stated within the unsuccessful motion.

Councillor Greig moved as an amendment, seconded by Councillor Cormie:-

That the Council resist the appeal and instruct officers in Legal and Democratic Services to continue with defending the Council's case (1) seeking affordable housing of 25% overall across the site; (2) pushing for planning gain and the provision of community and educational facilities; (3) seeking to incorporate community/public use of the main buildings; and (4) emphasising the traffic and road safety concerns, with further analysis required to demonstrate that the local road network could cope prior to the development of the Berryden corridor.

On a division, there voted:- for the motion (11) - the Convener; and Councillors Boulton, Corall, Finlayson, Grant, Lawrence, MacGregor, McCaig, Jean Morrison MBE, Sandy Stuart and Thomson; for the amendment (2) - Councillors Cormie and Greig.

The Sub Committee resolved:-

to adopt the motion.

- RAMSAY MILNE, Convener.