

**ABERDEENSHIRE COUNCIL – SPECIAL MEETING – 12 DECEMBER 2007**

**PROCESS FOLLOWING THE ISSUE OF CALL-IN DIRECTION BY THE SCOTTISH GOVERNMENT DATED 4 DECEMBER 2007**

**1. Purpose of Report**

To advise Council of the process to be followed following the issue of a Call-in Direction by the Scottish Government dated 4 December 2007 in relation to the outline planning application for golf course and resort development at land at Menie House, Balmedie, Aberdeen.

**2. Background**

- 2.1 Reference is made to (a) the Minutes of the Special Meeting of Formartine Area Committee of 20 November 2007 (Item 1) when it had been agreed, following division, to delegate the grant of outline planning permission to the Head of Development Management, subject to negotiation and conclusion of appropriate agreements, submission of further details and conditions, as detailed in the report, with the referral of the application to Infrastructure Services Committee for its consideration and, thereafter, to the Scottish Government and (b) the Infrastructure Services Committee of 29 November 2007 (Item 8) when it had been resolved following division to refuse outline planning permission for the reasons detailed in the said Minute.
- 2.2 On 4 December 2007 the Scottish Government served Notice on Aberdeenshire Council of a Direction given by them under Section 46 of the Town & Country Planning (Act) 1997 requiring the planning application to be referred to them for determination. A copy of the relative covering letter and direction is appended hereto.

**3. Effect of Direction**

- 3.1 Section 46 (4) of the Town & Country Planning (Scotland) Act 1997 provides that where an application is referred to Scottish Ministers as a result of a Direction given by them, certain provisions of the Act then apply which are all intended to put the Scottish Ministers in the same position as the Planning Authority had been regarding determination of the application.
- 3.2 Paragraph 21 of the General Development (Procedure) Scotland Order 1992 requires action on the part of the Council when such a direction has been given. The Planning Authority is to serve upon the applicant, a Notice dealing with the following:-
- (i) the terms of the Direction

- (ii) any reason given by Scottish Ministers
- (iii) that the application has been referred to Scottish Ministers
- (iv) that Scottish Ministers will afford to the applicant an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for that purpose and that the decision of Scottish Ministers will be final in respect of the application.

3.3 Circular 5/2007 requires, on receipt of the relative Direction, that the Planning Authority forward to Scottish Ministers:-

- (i) a copy of the planning application, accompanying plans and associated documentation.
- (ii) a copy of any environmental impact assessment
- (iii) a copy of any appropriate assessment made under the Habitats Regulations
- (iv) copies of all observations submitted by consultees and all representations and petitions received, including pro-forma representations.
- (v) the Planning Authority's comments in relation to these

This last point has been addressed by forwarding also, the relative Committee Reports and associated Minutes. It has been indicated when sending the information to Scottish Ministers that the Council will provide any such other information, as they require.

3.4.1 In addition, and by virtue of Section 46 (5), before determining an application referred to them under that Section, the Scottish Ministers shall, if either the applicant or the Planning Authority so wish, give to each of them an opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for that purpose.

#### **4. Proposal**

4.1 It is proposed that the Council consider the options for their involvement in further process by either:-

- (a) requesting in terms of Section 46 (5) of the Town & Country Planning (Scotland) Act 1997 the opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose of determining the application or
- (b) to continue the Council's involvement on the basis of Written Submissions and a site inspection, as set out in the letter from the Scottish Government of 04 December 2007.

**5. Implications**

- 5.1 There are no Area, Policy or Sustainability implications arising directly from the contents of this report.
- 5.2 There will be Financial and Staffing implications, dependent on the level of involvement in any further processes before Scottish Ministers.

**6. Consultations**

- 6.1 Consultations have taken place between the Law & Administration and Planning & Environmental Services in the compilation of this report.

**7. Recommendations**

- 7.1 **It is proposed that the Council consider the options for further participation in determination of the application by Scottish Ministers by either:-**

- (a) requesting in terms of Section 46 (5) of the Town & Country Planning (Scotland) Act 1997 the opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose of determining the application or**

- (b) to continue the Council's involvement on the basis of Written Submissions and a site inspection, as set out in the letter from the Scottish Government of 4 December 2007.**