

ABERDEENSHIRE COUNCIL

WOODHILL HOUSE, ABERDEEN, 12 DECEMBER, 2007

Present: Councillors H L Al-Kowarri, Amanda J Allan, Anne M Allan, P J Argyle, P W Bellarby, A A Bews, G W Carr, P J Chapman, G J Clark, K L Clark, L Clark, S Coull, R Cowling, J B Cox, M P Cullen, A J C Cullinane, I Davidson, J B Dick, A C Duncan, J G Duncan, T A Fleming, M A Ford, J N Gifford, A S Grant, I W Gray, A Hendry, F C P Hood, W Howatson, A G Howie, J M M Humphrey, M F Ingleby, P K Johnston, M C Kitts-Hayes, S M Lonchay, J K Loveday, B J Luffman, C R McKail, F McRae, J A Mair, S Mair, P J Melling, R J Merson, I J Mollison, C H Nelson, A K Norrie, G L Owen, S W Pratt, M J Raeburn, A M Ritchie, E A Robertson, D A Ross, G S Saluja, N J Smith, S W Smith, D M Storr, J J Strathdee, S Stronach, R C Stroud, B H Stuart, M J D Sullivan, I S Tait, R H Thomas, B A Topping, M Watt and J Webster.

Apologies: Councillors W A Agnew, A S Buchan and M Burnett.

Officers: Chief Executive, Directors of Finance, Planning and Environmental Services, Transportation and Infrastructure, Area Manager (Formartine) and Head of Law and Administration (Mr Davidson).

CHAIRMAN

Councillor W Howatson, Provost of the Council, presided.

DECLARATION OF MEMBERS' INTERESTS

The Provost asked members if they had any interests to declare in terms of Standing Order 2 and the Councillors' Code of Conduct. Councillor S W Smith declared an interest as a member of an organisation which had made representations to the Council in respect of the application for Outline Planning Permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen.

ORDER OF BUSINESS

The Provost explained that this special meeting of the Council had been called on the signed requisition of at least one fourth of the whole number of members of the Council in the following terms:-

"We, the undersigned, being elected members of Aberdeenshire Council, give notice that we require a Special Meeting of Aberdeenshire Council to be called within fourteen days of receipt of this notice, all in terms of Standing Order 3(2)(b).

The business we wish to be transacted is as follows:-

- (a) to review the way in which the Council deals with major planning applications in the future,
- (b) to consider, in the context of the Council's Scheme of Delegation and Standing Orders, the decision taken by Infrastructure Services Committee on 29 November, 2007, in regard to the planning application by Trump International Golf Links Scotland for Outline Planning Permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen, and

- (c) to circulate papers presented to Infrastructure Services Committee on 29 November, 2007, for the information of all Councillors.”

The Provost referred to the reports which had been circulated to members in response to the terms of the requisition and subsequent developments in relation to the planning application. He advised that the order of business would be (a) to review the way in which the Council deals with major planning applications in the future, (b) to consider, in the context of the Council’s Scheme of Delegation and Standing Orders, the decision taken by Infrastructure Services Committee in regard to the planning application, (c) to agree the process to be followed in response to the issue of a Call-In Direction by the Scottish Government in relation to the planning application, and (d) to consider the emergency notice of motion from Councillor Cox.

1. REVIEW OF SCHEME OF DELEGATION IN RELATION TO MAJOR PLANNING APPLICATIONS

With reference to the Minute of Meeting of 25 April, 2002 (Item 5, Page 4), a report dated 5 December, 2007, by the Chief Executive had been circulated commenting on issues arising from the Scheme of Delegation in relation to how the Council might wish to deal with major planning applications in the future and proposing amendments to the Scheme of Delegation to provide for major planning applications of regional or national significance being decided by the Full Council.

The report stated that the Infrastructure Services Committee was currently the final decision making body of the Council in relation to planning applications and that the effect of this had been to exclude the majority of the Council from having a say on the application for Outline Planning Permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen. This was against the spirit of the Planning White Paper “Modernising the Planning System”, which indicated that proposals which departed from the provisions of the Development Plan should be subjected to an enhanced level of scrutiny compared to those that were in accordance with it.

The Council **agreed**:-

- (1) the following proposed amendments to the Scheme of Delegation to reserve the right for the Full Council to determine major planning applications of regional or national significance, all as set out in the report, with a view to a report being submitted to the next meeting of the Council for a final decision:-
 - (a) addition of a new Section A16 to the Scheme of Delegation (and renumbering of the existing Section A16 as A17),
 - (b) amendments to the renumbered Section A17(f) of the Scheme of Delegation,
 - (c) amendment to Section D2 of the Scheme of Delegation, and
- (2) that a 14 member working group be established to review the Scheme of Delegation at the appropriate time, having regard to the content of the Planning White Paper and the results of consultation on it.

2. INFRASTRUCTURE SERVICES COMMITTEE DECISION

The Head of Law and Administration advised the Council that the signed requisition had been received before the Scottish Government had decided to call in the application for Outline Planning Permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen. He commented on the extent to which consideration of the

decision taken by Infrastructure Services Committee on 29 November, 2007, in terms of the Scheme of Delegation and Standing Orders, could now be further debated.

He stated that the decision by Infrastructure Services Committee had been taken in a procedurally appropriate manner in accordance with the Scheme of Delegation. Counsel's opinion had been sought on whether the Full Council at any Special Meeting had any locus in the matter and whether they could intervene to review or even reverse the decision of the Infrastructure Services Committee. The opinion obtained confirmed that Full Council (while Aberdeenshire was the Planning Authority) could not properly look into the matter again and as the Scheme of Delegation stood at present the matter effectively stopped with the Infrastructure Services Committee. The effect of the decision by Scottish Ministers to call in the application put Scottish Ministers in the same position as the Council in coming to determination of the proposal. It was, therefore, technically not possible for the Full Council to come to any view as planning authority in relation to the proposal as the Council was no longer the Planning Authority for the application. The Council now had the status of an enhanced consultee and might wish to express a more general view on the application, but any view it came to would be seen in that context.

The Leader of the Council then spoke on the circumstances surrounding the planning application since the decision taken by Infrastructure Services Committee on 29 November, 2007. She reminded members that the Formartine Area Committee had previously accepted the Planning Service's recommendations to approve the application, and the decision of the Infrastructure Services Committee had been to overturn the Area Committee's decision and to refuse the application. She referred to the unprecedented, strong and divided public and press reaction to the refusal decision and the subsequent decision by the Scottish Ministers to call in the application, which meant that the Scottish Government was now effectively the Planning Authority for the purposes for the application.

She stated that the Council still had an important part to play in the process of determining the application, particularly having regard to its wider role in representing the interests of the community of Aberdeenshire, and it was important for the Council in its wider role to express a view in relation to the application, notwithstanding that the final decision would be taken elsewhere. She commented that, in expressing a view on the application, the Council was entitled to take into account all its objectives, including those set out in its overarching vision and recently adopted strategic priorities, and those it had signed up to in partnership with other agencies, such as the Aberdeen City and Shire Economic Forum, and not just those in the Development Plan, which were particularly centred on land use objectives.

Thereafter, the Council **agreed** that the view of the Council to be communicated to Scottish Ministers was that the Council supported the grant of planning permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen, subject to the various delegated matters, conditions and agreements proposed by the Formartine Area Committee.

3. PROCESS FOLLOWING ISSUE OF CALL-IN DIRECTION BY SCOTTISH GOVERNMENT DATED 4 DECEMBER, 2007

A joint report by the Directors of Law and Administration and Planning and Environmental Services had been circulated advising 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 application for Outline Planning Permission for Golf Course and Resort Development at Land at Menie House, Balmedie, Aberdeen.

The Head of Law and Administration advised that the Council would be asked what kind of hearing it would like to propose as part of the call-in process and that the options for the Council's further participation in determination of the planning application were (a) to request

the opportunity of appearing before, and being heard by, a person appointed by Scottish Ministers for the purpose of determining the application, (b) to continue the Council's involvement on the basis of written submissions and a site inspection, or (c) a hybrid process involving a mixture of written submissions and a hearing on specific topics.

The Leader of the Council then spoke on the circumstances surrounding the Call-In Direction and commented that the Council would wish to be party to a process which was transparent, inclusive and comprehensive. She stated that hybrid process made best use of time by adopting a variety of techniques so that issues which were agreed were not debated, which allowed greater concentration on the areas of contention, In this option some aspects of evidence would be dealt with by way of written submissions while other contentious matters could be dealt with by a hearing on that specific matter. This process was much more inclusive and would facilitate the involvement of all parties. It was also less intimidating than a traditional public inquiry.

Thereafter, the Council **agreed** to request, in terms of Section 46(5) of the Town and 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, and to indicate that the Council's preference was for the hybrid process.

4. EMERGENCY NOTICE OF MOTION

From Councillor Cox:-

"Following recent public comments made by Councillor M Ford, I believe his position as Chair of Infrastructure Services Committee is no longer tenable.

I move that Councillor Ford is replaced as chair of Infrastructure Services Committee to ensure that Aberdeenshire Council debates and makes decisions which benefit residents and visitors to the North East of Scotland and are not constrained or influenced by Councillor Ford's stance towards developments which do not meet his personal objectives."

Councillor Cox spoke to his motion and was seconded by Councillor Strathdee.

As an amendment, Councillor Storr, seconded by Councillor G J Clark, moved that no action be taken.

Before discussion, the Leader of the Council made a statement that the Council recognised that the decision of the Infrastructure Services Committee on 29 November, 2007, had been reached properly and was in accordance with the Council's procedures, and acknowledged the integrity of all members of the Committee who had made the decision. The Council also recognised that there was a clear division of public opinion on the planning application and affirmed its commitment to working closely and constructively with its partners in the future.

After discussion, the Members of the Council voted:-

for the motion	(26)	Councillors Amanda J Allan, Anne M Allan, Bews, G J Clark, L Clark, Cox, Dick, A C Duncan, Grant, Gray, Hendry, Hood, Howie, McRae, S Mair, Merson, Pratt, Ritchie, N J Smith, S W Smith, Strathdee, Stronach, Stuart, Tait, Topping and Watt.
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for the amendment	(10)	Councillors Bellarby, Coull, Cullen, Ford, Johnston, J A Mair, Norrie, Ross, Saluja and Storr.
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declined to vote

(29)

Councillors Al-Kowarri, Argyle, Carr, Chapman, K L Clark, Cowling, Cullinane, Davidson, J G Duncan, Fleming, Gifford, Howatson, Humphrey, Ingleby, Kitts-Hayes, Lonchay, Loveday, Luffman, McKail, Melling, Mollison, Nelson, Owen, Raeburn, Robertson, Stroud, Sullivan, Thomas and Webster.

The **motion was carried** and the Council **agreed** that Councillor Ford be replaced as Chair of the Infrastructure Services Committee.