

## Precognition by Cllr Martin Ford

as part of the case by Cllrs Ford, Johnston, Ross and Storr

in support of Aberdeenshire Council's decision to refuse the application by Trump International Golf Links Scotland for housing, hotel, holiday apartments, golf courses etc. at Menie, near Balmedie, Aberdeenshire

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### **1 Introduction**

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- 1.1 The application by Trump International Golf Links Scotland (TIGLS) for housing, hotel, holiday apartments, golf courses etc. at Menie near Balmedie has already been determined by the planning authority, Aberdeenshire Council. The Council's conclusion was that the application as it stood should be refused. This decision was taken by an experienced, well-informed and locally based committee of fourteen councillors, the Infrastructure Services Committee (ISC). I believe it will be helpful to this Inquiry and to the Scottish Ministers to understand the reasons that led the ISC to this conclusion, and what the committee meant by it.
- 1.2 I am Martin Ford. I have been a member of Aberdeenshire Council since 1999 and a member of its ISC for the whole time I have been a councillor. The ISC determined the TIGLS Menie application on 29 November 2007. At the time I was chair of the ISC.
- 1.3 In accordance with the Council's Scheme of Delegation, the TIGLS Menie application was considered first by the Formartine Area Committee. It decided that councillors should hold a hearing and go on a site visit. These took place on 27 September 2007 and the members of the ISC were invited to participate in both events. The councillors on the ISC (and those on the Formartine Area Committee) were also furnished with background reports, viz TIGLS Environmental Statement, Economic Impact Assessment and Financial Review and the EKOS economic impact review for Aberdeenshire Council. A comprehensive report by planners was provided to the members of both committees for their respective meetings.
- 1.4 Following consideration by the Formartine Area Committee on 20 November 2007, the TIGLS application came to the ISC on 29 November 2007. The authority to take the Council's final decision on the TIGLS application lay with the ISC. By any measure, the members of the ISC were very well informed about the application

and were comprehensively equipped to determine it. The decision of elected members to refuse the application and the reasons for that should therefore carry great weight with this Inquiry.

- 1.5 The TIGLS application was debated at the ISC for around two and a half hours. I cannot think of an important, relevant issue that was not raised during the debate. Although there has been much public comment about the division of opinion on the ISC, expressed in the votes that took place, actually there was a large measure of consensus amongst the members of the committee. No-one who spoke was opposed in principle to a golf and leisure development on the Menie estate, but almost everyone who spoke had reservations about or was opposed to elements of the TIGLS application as submitted. This, of course, would be a normal occurrence with such a large and complex application; it simply indicates that further negotiation is needed with the applicant to find an acceptable solution that protects the public interest and/or the interests of nearby residents.

## **2 The Consideration of the TIGLS Application**

- 2.1 In its discussion of the application, the ISC, rightly, placed great emphasis on the policies and principles set out in the development plan. That the TIGLS proposal breached many of the provisions of the development plan was made clear in the planners' report to the ISC. The ISC's own conclusions in regard to the areas of non-compliance with the development plan will be described in detail by my colleague, Cllr Debra Storr.
- 2.2 The ISC also considered very carefully whether there were material considerations, in particular economic benefits, that justified setting aside the development plan and granting the application. Much doubt was expressed at the ISC as to whether the claimed economic benefits were likely to be realised, and the reasons for this will be covered by my colleague Cllr Alastair Ross.
- 2.3 Recognising the huge scale of the TIGLS proposal, the debate at the ISC also extended to consideration of whether the application was at all compatible with over-arching national and Aberdeenshire Council policy commitments, in particular to sustainable development.
- 2.4 At a tactical level, debate took place as to whether refusal or deferral was more likely to result in productive negotiations with the applicant, leading to changes that would alter or remove the most damaging elements included in the TIGLS proposal, and so produce something acceptable. Members of the ISC were well aware of the applicant's unusual 'all or nothing' approach to seeking planning

permission, since this was being regularly reported in the news media.

- 2.5 In essence, the principle of a golf resort was welcomed by the ISC. The provision of holiday apartments was welcomed, albeit with concerns raised that the number was excessive and the proposed buildings were huge and intrusive. The proposal for a hotel was welcomed, though there was adverse comment about it being far too large for the setting. Two issues were of particular concern and emerged during the debate as the main reasons that led to the decision to refuse the application. The first was the inclusion of housing (for sale on the open market) on land not allocated by the development plan for this purpose, and in an inappropriate location. The argument put forward, that the housing was a funding mechanism for other elements of the development, is not supported by the development plan and accepting it would have set a very dangerous precedent. The second major concern was the proposal to build nine holes of one of the golf courses on part of the Foveran Links Site of Special Scientific Interest (SSSI). It was not disputed that developing on the SSSI would cause catastrophic damage to the site. The proposal to stabilise the dunes for the purposes of constructing a golf course contravenes environmental policies in the development plan, national planning policy guidelines and would also have set a highly undesirable precedent for other SSSIs.
- 2.6 The debate at the ISC fully took into account that it can be entirely appropriate to grant an application that does not conform with the development plan because of material considerations that justify setting aside planning policies. However, the reason advanced for going against environmental and housing policies, economic benefit, was not seen as being sufficient to justify the extremely damaging consequences of granting the application. This was partly because the damage to the SSSI was so great and the inclusion of open-market housing in the proposal so inappropriate, but partly because members of the ISC concluded that the economic benefits claimed for the development had been exaggerated and there was a significant risk of their non-delivery.
- 2.7 It was clear to members of the ISC that full compliance with the development plan was never likely with a large and complex (and unforeseen) proposal on the scale of the TIGLS application. Accordingly, during the ISC debate, members tested the TIGLS proposal against broader policy commitments to see whether, even though it did not comply with planning policies, it did fit with the overall approach of the Council and government. It was clear that the application as it stood failed this test too.

2.8 Both Aberdeenshire Council and the Scottish Government have obligations in respect of protecting the natural environment and conserving biodiversity. Both have identified caring for the natural environment as being of crucial importance.

2.9 In its vision statement, Aberdeenshire Council commits itself to:

*"Helping to create and sustain the best quality of life for all through ... our special environment"*

In its Sustainability Charter 2004-2007 (Production ISC23), the Council stated:

*"We will minimise the use of non-renewable resources"*

and

*"We will ensure that long-term and global impacts like greenhouse gases and loss of species have greater weighting than short-term, local effects. Where there is a potential threat to the environment or to communities, the precautionary principle will be given precedence."*

Pristine, natural environments are, of course, a scarce and non-renewable resource.

2.10 A few weeks before the ISC determined the TIGLS application, on 9 October 2007, the Scottish Government Minister for Environment Michael Russell had opened the UK Biodiversity Partnership Conference in Aviemore. Some of Mr Russell's speech was read out during the ISC debate on the TIGLS application. Mr Russell's remarks were highly relevant to the decision on the TIGLS application because they constituted a very up-to-date statement that highlighted the newly elected Scottish Government's strong commitment to nature conservation. Mr Russell had said:

*"Scotland is lucky to be blessed with unique biodiversity: inspiring landscapes, exciting wildlife, and opportunities all around us to enjoy them."*

*We should be deeply proud of our fantastic natural environment. It is part of our national identity, and provides the raw materials for all our lives. It is vital that we look after it properly."*

*The Scottish Government is firmly committed to safeguarding Scotland's biodiversity. However, it's clear that our natural environment faces major challenges."*

*Over generations, humans have destroyed habitat, used resources unsustainably, introduced invasive species and have failed to protect wildlife."*

*We are determined to reverse that damage wherever we can."*

In the context of the ISC debate on the TIGLS application, Mr Russell's words amounted to a call to refuse the application.

- 2.11 As with biodiversity and nature conservation, both Aberdeenshire Council and the Scottish Government recognise the need for sustainable development, rather than just development. A duty in respect of sustainability was placed on councils by the Local Government Act (Scotland) 2003. In 'Choosing our future: Scotland's sustainable development strategy' (Production ISC18) the Scottish Government set out principles for sustainable development and committed itself to adopting these. Several of the principles of sustainable development were cited by various members during the ISC's consideration of the TIGLS planning application.

*"Ensuring a strong, healthy and just society ... promoting personal well-being, social cohesion and inclusion"*

The exclusive nature of the proposed open market housing, with the affordable housing sited elsewhere, was considered to breach this principle.

*"Respecting the limits of the planet's environment, resources and biodiversity"*

*"Achieving a sustainable economy ... in which environmental and social costs fall on those who impose them"*

The destruction of natural habitat required for the TIGLS development to go ahead and its capacity to generate significant additional air travel were considered to breach these principles. Over the long term, it was argued, an irreplaceable dune system is a more valuable asset than one more golf course. A golf course, moreover, that could be built on a different site where it would not cause the destruction of a large part of an SSSI.

### **3 The Decision**

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- 3.1 When the ISC came to vote on the TIGLS application, three formal proposals had been made. The first option to be eliminated, because it gained the support of only five members of the ISC, was granting the application subject to conditions. The decision then lay between deferral and refusal. This should be seen as a choice between 'soft' and 'hard' negotiating positions for the Council. It was clear members were supportive of a golf and leisure development at Menie, but wanted significant changes to the TIGLS proposal before it was going to be acceptable to them. Given the applicant's repeated insistence that the application as submitted had to be granted in full, there seemed little point in deferring for negotiation. A

refusal would show the Council was serious about wanting changes.

- 3.2 The ISC decision was carefully considered and not taken lightly. The easy option for councillors was to grant the application, but the better option was refusal. The decision to refuse should be seen as a negotiating position by the Council. It did not mean that the ISC was opposed to any development at Menie. But it was a clear signal that, for a number of very good reasons, it was not appropriate to grant the TIGLS application as it stood. That remains the case.