



PRECOGNITION

of

**Dr Christine Gore
Director of Planning and Environmental Services**

in respect of

Application Reference F/APP/2006/4605

for

**Outline Planning Permission for Golf Course and Resort Development
at
Land at Menie House, Balmedie**

19 May 2008

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1.0 Qualifications and Experience

1.1 My name is Christine Gore. I hold the Degrees of Bachelor of Arts in Town and Country Planning, Bachelor of Planning, and Master of Philosophy in Town and Country Planning. I also hold a Doctorate in Business Administration. I have been a Member of the Royal Town Planning Institute since 1989.

1.2 I am the Director of Planning and Environmental Services with Aberdeenshire Council and as such I have corporate responsibility for all matters relating to land use planning, including development planning, planning policy, environmental planning, and development management. Prior to joining Aberdeenshire Council in 2004 I was a Corporate Director with Waveney District Council in Suffolk, England and from 1995 to 2000 I was Head of Planning and Community Services with South Oxfordshire District Council. Prior to this I gained 13 years experience as a planning officer at various levels of seniority with Manchester City Council, Liverpool City Council and South Oxfordshire District Council, mainly in development control.

2.0 Introduction

2.1 This inquiry has arisen as a consequence of Scottish Ministers 'calling in' planning application reference F/APP/2006/4506 for outline planning permission for a golf course and resort development at land at Menie House, Balmedie, Aberdeen.

2.2 The Direction requiring the application to be referred to Scottish Ministers in accordance with Section 46 of the Town and Country Planning (Scotland) Act 1997 was issued by the Scottish Government's Head of Planning Decisions and received by the Council's Chief Executive on 4 December 2007.

- 2.3 The reason given for issuing such a Direction was ‘in view of the proposal raising issues of importance requiring scrutiny at a national level’.

3.0 Scope of Evidence

- 3.1 The evidence that I will give to the Inquiry will include a summary of the process followed by the Council in respect of this application, a commentary upon the relevant policy considerations, including Scottish Planning Policies, Structure Plan policies and Local Plan policies and the extent to which the proposed development is in compliance or contravention of these; a discussion of the material considerations associated with the proposals including a detailed consideration of the implications of the 500 private residential units proposed for a site not allocated within the Development Plan; and an explanation of why officers recommended that planning permission should be granted for this development as a significant departure from policy.
- 3.2 Finally I will give evidence in relation to the planning conditions and Section 75 Agreement which the Council considers should be attached to any planning permission that may be granted for the development, and to any matters which remained outstanding at the time this precognition was finalised.

4.0 Processing of the Application

- 4.1 Planning application F/APP/2006/4605 was received and validated by the Council as local planning authority on 27 November 2006 following extensive pre-application discussions and a public consultation exercise undertaken by the applicant. The application was for outline planning permission and was accompanied by a supporting statement outlining the development (CP G2). At that time the application was deficient of most of the information required to allow consideration of the application to commence.

- 4.2 The Environmental Impact Assessment (CP G3), Transport Impact Assessment (CP G8), Drainage Impact Assessment and Sustainable Urban Drainage System (SUDS) proposal (CP G7), and the Economic Impact Assessment and Financial Review in support of the application were received by the planning authority on 30 March 2007. It was at this time that the full assessment of the proposal began.
- 4.3 A wide range of consultations with statutory and non-statutory consultees was undertaken and is detailed in Schedule 2 of the Council's Statement of Case. This Schedule includes both the date that the consultations were issued and the date of each response.
- 4.4 Following receipt of the majority of the consultation responses and as a result of correspondence from the planning authority the applicant submitted additional information in the form of the "Response to Aberdeenshire Council and Statutory Consultations" in mid-July 2007.
- 4.5 The application and its supporting documentation, together with the consultation responses and representations received were given detailed consideration by the Council's planning officer and internal technical advisors over a period of five months, culminating in a report to the Formartine Area Committee on 18 September 2007 (CP G9). That report sets out the background and the details of the proposal, describes the site, and summarises the pre-application discussions and the need for the project as assessed by the applicant together with their consideration of alternatives. Summaries of the Transport and Drainage Impact Assessments and the Economic Impact Assessment and Financial Review are provided. A detailed summary of the main elements of the Environmental Statement is also set out in the report. All of this documentation, with the exception of the full Economic Impact Assessment and Financial Review, which has been confidential throughout the consideration of this application, has been available on the Council's website since its submission. Paper copies of the same

information have been available for inspection at the Formartine Area Office in Ellon.

- 4.6 At the time this report was published a total of 432 letters of representation had been received by the Council and the main points, both against and in support of the application, are summarised in Section 3 of the Committee report. These were available for public inspection following publication of the report on 11 September 2007. In addition to general objections to the proposal, other issues related to matters of policy and principle, environment, landscape and design, and transport. The views of Belhelvie Community Council are also set out in detail in this section of the report.
- 4.7 A detailed summary of all consultation responses received is set out in Section 4 of the Committee report.
- 4.8 The Committee report also provides, at Section 5, a comprehensive list of planning policies relevant to the proposal, from the Aberdeen and Aberdeenshire Structure Plan 2001-2016 (North East Scotland Together) and the Aberdeenshire Local Plan 2006. Other material considerations, in the form of relevant Scottish Planning Policies, National Planning Policy Guidance and Planning Advice Notes are also summarised in this section of the report.
- 4.9 A detailed and comprehensive discussion of the application is provided in Section 6 of the report under the headings 'General', 'Golf Course and Resort', 'Housing', 'Transport' and 'Other Matters'. The planning officer's conclusions are set out in Section 7 of the report and provide a reasoned justification for the recommendation that authority to grant outline planning permission be delegated to the Head of Development Management and Building Standards, subject to the resolution of a number of matters including completion of a Section 75 Agreement, and to the imposition of relevant conditions.

- 4.10 At its meeting on 18 September 2007 the Formartine Area Committee resolved to defer consideration of the application in order to undertake a site visit and hold a departure hearing. Both of these events took place on 27 September 2007 and members of the Council's Infrastructure Services Committee were also invited to participate.
- 4.11 At the departure hearing the case officer presented her report. Following this the applicant presented the application and answered questions from members of both the Area Committee and Infrastructure Services Committee. Thereafter representatives of a number of organisations, as well as individuals, were given the opportunity of addressing the Committee. A range of views were expressed, both for and against the proposal, thus providing a balanced view of the public reaction to the application over a period in excess of 6 hours. A detailed minute of the hearing forms an appendix to the report to the subsequent meeting of the Formartine Area Committee (CP G9), held on 20 November 2007.
- 4.12 A supplementary report prepared for consideration by the Formartine Area Committee on 20 November 2007 (CP G9) deals with particular matters requiring clarification as an update or due to matters raised at the departure hearing. Specifically, it covers the following matters:
- Additional representations received since the previous report was finalised;
 - Outline planning permission, indicative nature of drawings and commitment to quality design;
 - Environmental designations on site apart from the SSSI;
 - Impact on the remaining two-thirds of SSSI outwith the application site;
 - EIA Regulations and Nature Conservation Act and Appropriate Assessment;

- Results of consultations following submission of an entomological survey and breeding and overwintering and passage bird surveys;
- Questions about excavation to create the Championship golf course;
- Public access, including by foot and vehicle, and fencing arrangements;
- Sustainability and positive environmental measures, mitigation and conditions;
- Questions concerning housing need;
- Clarification about the sale of the hotel;
- Additional assessment of the financial appraisal and economic assessment by the applicant;
- A view on the forecast national economic and financial benefits by the Planning Service incorporating independent assessment;
- A view on the nature and impact of golf tourism in particular;
- Planning gain negotiations including education and affordable housing;
- Questions concerning impact on local services;
- Clarification on roads and access issues.

4.13 On 29 November 2007 a further report (CP G9), summarising the principal policy issues arising from this planning application, was considered by the Infrastructure Services Committee, which considers and at that time determined, under the then Scheme of Delegation, all applications referred from Area Committees as development plan departures of a strategic nature. The two reports previously considered by the Formartine Area Committee, together with the minutes of the meetings held on 18 September and 20 November, and the departure hearing note were all attached as appendices to this report. The recommendation to the Infrastructure Services Committee, from both officers and the Formartine Area Committee, was that authority to grant outline planning permission be delegated to the Head of Development

Management and Building Standards, subject to the resolution of various outstanding matters, the completion of a Section 75 Agreement, and a range of conditions.

- 4.14 I believe it would be helpful to clarify the Council's position at this Inquiry. Subsequent to the application being called-in by Ministers, the full Council has on two separate occasions, 12 December 2007 and 24 April 2008 resolved that it supports the application.

5.0 Relevant Policy Considerations

- 5.1 A detailed assessment of planning policy applicable to the proposed development, including national planning policy and guidance, structure plan policy and local plan policy, is set out in the report to the Formartine Area Committee of 18 September 2007 (CP G9). Further to this it is anticipated that an agreed statement of planning policy relevant to the case will be submitted to the Public Inquiry on behalf of the applicant and the Council.

- 5.2 In my position as planning witness for the Council I shall be prepared to deal with any areas of policy as deemed necessary and appropriate during the course of the Inquiry. However, for the purposes of my evidence I shall concentrate on the three policy areas highlighted during the processing of the application, and in the Committee reports, as being most relevant to the proposed development. These three areas are environmental impact, landscape impact and housing.

5.3 Environmental Impact

- 5.3.1 Of particular relevance in this context at national level are SPP15 Rural Development (CP C12), NPPG13 Coastal Planning (CP C10), NPPG14 Natural Heritage (CP C11) and PAN43 Golf Courses and Associated Developments (CP D4). SPP15 (CP C12) encourages local authorities

to support the development of the tourism and leisure industry and acknowledges that many rural areas are special in terms of the built, historic and natural environment where change has to be managed with great care. The Council recognises this and many of the conditions proposed to be attached to any planning permission granted for this development are designed to provide that care. NPPG13 (CP C10) provides that the undeveloped coast should generally be considered for development only where, inter alia, the proposal can be expected to yield social and economic benefits sufficient to outweigh any potentially detrimental impact on the coastal environment. This is the fundamental basis upon which the Council's decision to support the application rests, that is, that the social and economic benefits of the proposed development are sufficient to outweigh its detrimental impacts and justify the grant of planning permission. NPPG14 (CP C11) deals with the natural heritage. This document identifies that the presence of a protected species or habitat is a material consideration in the assessment of development proposals. It does recognise, however, that in determining a planning application it is appropriate for the planning authority to come to the view that other material considerations may outweigh the potential damage to the natural heritage, though in such circumstances the planning authority needs to minimise and mitigate any adverse effects and consider the scope for compensating measures. Implicit in that approach is a recognition that mitigation can play an important role. The proposal to include a significant portion of the Foveran Sands SSSI in the application site, and to locate the 'back nine' holes of the proposed championship golf course upon it, has been one of the foremost material considerations relating to this application. PAN43 contains wide-ranging advice in relation to golf courses and associated developments, much of which is relevant to this application.

- 5.3.2 The proposal is in conflict with Policy 19: Wildlife, Landscape and Land Resources of the Aberdeen and Aberdeenshire Structure Plan 2001-2016 (CP A1) in terms of the well documented adverse effects it is

expected to have upon the Foveran Sands SSSI, although also in the context of this policy these have been judged by the Council to be clearly outweighed by social and economic benefits of national importance. The proposal also conflicts with Policy 29: Coastal Planning in terms of the detrimental environmental impact on an area of undeveloped coast, but again the Council has judged this to be outweighed by the social and economic benefits it will bring to the area.

5.3.3 The proposed development is significantly in conflict with Policies Env/2: National Nature Conservation Sites, Env/3: Other Recognised Nature Conservation Sites, and Env/4: Biodiversity of the Aberdeenshire Local Plan 2006 (CP A2) in terms of its environmental impact. The adverse impacts of the proposals upon the Foveran Sands SSSI and the Foveran Site of Interest to Natural Science, and upon habitats or species protected under British or European Law or identified as a priority in UK and Local Biodiversity Action Plans or on other valuable habitats and species, are well documented in the applicant's Environmental Statement, and in many of the consultation responses including, most notably, those from the Council's Planning Policy and Environment Section, Scottish Natural Heritage, Scottish Wildlife Trust, and the Royal Society for the Protection of Birds. At no time has the Council suggested that these impacts are anything other than adverse. However, each of these policies provide that development which has such adverse impacts will be refused unless, in general terms, these impacts are outweighed by social or economic benefits of a sufficient level of importance. In terms of Env/2 these must be of national importance, whilst Env/3 and Env/4 specify that these benefits must be at a local level. It is the Council's view that the social and economic benefits to be gained from the development are sufficient to outweigh these adverse impacts. Furthermore the applicant has demonstrated a willingness to take significant measures to conserve and enhance the characteristics of the site that contribute to its special environmental quality and interest, and to otherwise mitigate the impacts of the proposed development to a high standard.

5.4 Landscape Impacts

5.4.1 The landscape impacts of this proposed development relate substantially to the scale, nature and design of the built elements of the proposals, in particular the hotel building, the holiday homes, the staff accommodation block and the 500 private houses. Drawings of the main buildings other than the houses, which were submitted as part of the supporting statement accompanying the outline planning application, have been confirmed by the applicant as being for illustrative purposes only. A commitment to produce exemplary designs through a design review process, to be undertaken in consultation with the Council and with Architecture and Design Scotland, was given in writing by the applicant's agent during the processing of the application. Furthermore, the applicant has agreed to adopt established principles of sustainability in relation to the design, layout and construction of the built elements of the proposed development.

5.4.2 There is clearly the potential for the proposed development to be in conflict, in terms of its impact on the landscape of both the application site and the surrounding area, with the provisions of SPP1 The Planning System (CP C1), SPP15 Rural Development (CP C12), NPPG13 Coastal Development (CP C10) and PAN44 Fitting New Housing Development into the Landscape (CP D5). However, the commitment to a high standard and quality of design, which can be reinforced by the imposition of appropriate conditions upon any planning permission that may be granted, is considered to be sufficient to mitigate this conflict to the extent that the impact becomes acceptable. The conditions proposed by the Council are intended to achieve exactly that.

5.4.3 The proposals comply with Policies 20: Built Heritage and Archaeology and 21: Design of the Aberdeen and Aberdeenshire Structure Plan

2001-2016 (CP A1) insofar as the commitment to ensure a high standard and quality of design will ensure that the landscape impacts are minimised.

5.4.4 In terms of the Aberdeenshire Local Plan 2006 (CP A2), the proposals represent a departure from Policy ENV/5B: Areas of Landscape Significance, which states that development within or adjacent to such areas will not be permitted where its scale, location or design will detract from the quality or character of the landscape. However, it does provide that where development is acceptable in principle the highest standards of design will be required, and as indicated above the applicant has indicated a commitment to this, whilst planning conditions are suggested in order to secure it. As far as Policy E/6: Coastal Development is concerned the proposal represents a departure insofar as it states that development on undeveloped coast will be refused. It does, however provide that this is the case unless the social and economic benefits clearly outweigh any adverse environmental impact.

5.5 Housing

5.5.1 The residential element of the proposed development has been acknowledged throughout the processing of the application as a departure from Policy. Its inclusion in the proposals is in conflict with SPP3 Planning for Housing (CP C3), which promotes a plan led system for delivery in sustainable locations. It is also in conflict with Policy 12: Housebuilding in the Countryside Beyond the Green Belt of the Aberdeen City and Aberdeenshire Structure Plan 2001-2016 (CP A1) as it is not proposed to be located in an existing community, nor does it meet the criteria specified for the justification of housebuilding in the countryside. Furthermore, the housing component of the proposed development draws no support from Policy 7: A Five Year Effective Housing Land Supply, Policy 8: Housing Allocations: January 2000 to December 2005 or Policy 9: Housing Allocations: January 2006 to December 2010 of the Structure Plan.

5.5.2 In terms of the Aberdeenshire Local Plan 2006 (CP A2), the proposed development is contrary to Policy Hou/4: New Housing in the Countryside, as it fails to meet any of the criteria specified in relation to the justification for the erection of new housing in the countryside. It does comply in part with Policy Hou/8: Affordable Housing, in that the applicant has agreed to make a contribution towards the provision of affordable housing. Similarly, although this is an outline application with no detailed layouts of the proposed residential developments forming part of the submission, there is no reason to believe that the housing will not comply with Policy Hou/13: Public Open Space for Housing, in terms of the provision and maintenance of public open space.

5.6 Other Policy Considerations

5.6.1 It is the Council's view that the proposed development broadly complies with SPP2 Economic Development (CP C2) in that it provides an opportunity for economic diversification within the Aberdeen City and Shire Region. The applicant has committed to the use of renewable energy and so the proposal complies with SPP6 Planning for Renewable Energy (CP C6). The proposals also broadly comply with SPP7 Planning and Flooding (CP C7) as no specific flood risk has been identified. As far as SPP17 Planning for Transport (CP C17) is concerned, there is the prospect of a clear relationship between the proposed development and the Scottish Government's proposals to dual the A90 between Balmedie and Tippetty. NPPG5 Archaeology (CP C5) is complied with insofar as the Council's Principal Archaeologist has indicated that he is content for the development to proceed subject to the imposition of appropriate conditions on any planning permission that may be granted. SPP11 Open Space and Physical Activity (CP C9) indicates that sporting and recreational facilities are an important attraction for tourists and for inward investment, but that the use of our natural heritage for public enjoyment

should not lead to a loss of overall quality. On balance it is considered that this proposal complies with SPP11 in terms of the recreational and employment benefits that it will bring to the area. Whilst it indicates that a golf course should not provide the justification for approving associated development if it would not normally be acceptable in planning terms, it is the Council's submission that this only applies, in this instance, to the private residential element of the proposal, which is dealt with separately elsewhere in this precognition. The proposal complies with NPPG18 Planning and the Historic Environment (CP C14) as it has been judged that the impact of the proposed development on the listed Menie House and its immediate grounds will be minimal and Historic Scotland has no objection to the application. The provisions of PAN68 Design Statements (CP D12) can be complied with through the imposition of conditions requiring the submission of design statements for various elements of the development if outline planning permission is granted.

5.6.2 In terms of the Aberdeen City and Shire Structure Plan 2001-2016 (CP A1) the proposal gains a degree of support from Policy 3: Other Employment Opportunities which provides that proposed employment uses on unallocated sites shall be considered acceptable providing they respect relevant structure and local plan policies. Whilst there are clearly a number of such policies from which this proposal is a departure, in terms of the specific criteria set out in Policy 3 the proposal addresses, or will be required, through conditions, to address most of these. The tourism and related development elements of the proposal are in accordance with Policy 6: Tourism, although clearly there is an issue regarding their compatibility with policies to safeguard and enhance the built and natural environment. Conditions have been proposed to secure the maximum possible safeguarding and enhancement of the special environmental features of the site. The requirements of Policy 13: Developer Contributions and Policy 33: Sharing Responsibility for Transport will be met through the terms of the Section 75 Agreement that is proposed to be completed in relation

to the development. The recreational aspects of the development, together with the implementation of an approved access strategy for the site and its surrounding areas will meet the requirements of Policy 16: Sport and Recreation Facilities and Policy 17: Countryside and Open Space Access. The proposal largely complies with Policy 22: Water Management with Scottish Water not objecting to the application, subject to the imposition of appropriate conditions, and SEPA maintaining an objection solely in relation to the potential threat to the status of groundwater and wetlands on the site due to a lack of information in this regard.

5.6.3 A wide range of policies within the Aberdeenshire Local Plan 2006 (CP A2) are applicable to the proposed development, beyond those already referred to in relation to the environmental and landscape impacts and the housing element of the proposal. Taking these in sequential order, the proposed development complies with Policy E/8: Trees and Woodlands as it will not involve either the loss of or serious damage to any trees or woodlands, either protected or of significant value. It conflicts with Policy E/11: Agricultural Land as it will cause the permanent loss of productive agricultural land. However, the policy does provide for development on such land if its social or economic benefit clearly outweighs the agricultural value of the site. Subject to the detailed design the proposals may also conflict with Policy E/15: Aquatic Engineering Works which deals with the issues relating to the ecological status or potential of a river, wetland, standing, tidal or coastal water. The proposed development complies with Policies E/18: Listed Buildings, E/19: Archaeological Sites and Ancient Monuments and E/20: Historic Gardens and Designed Landscapes as it has been judged not to have any impact on a listed building, an Ancient Monument or archaeological site or their setting, or a Historic Garden or Designed Landscape which cannot be mitigated by the imposition of appropriate conditions upon any planning permission that may be granted. The access strategy to be developed under the terms of the proposed planning conditions will ensure that the development

complies with Policy E/22: Public Access. The proposals broadly comply with Policy Emp/3: Employment Development in the Countryside which permits new employment development in the countryside in particular circumstances, and with Emp/9: Tourist Facilities and Accommodation and Emp/10: Sport, Leisure and Recreation in relation to new tourist facilities and new sport and recreation facilities, although as with other policies, compliance with the detail will be secured at a later stage through compliance with conditions and the provisions of a Section 75 Agreement. All of the infrastructure requirements associated with the proposed development and as required by Policies Inf/1: Roads and Accesses, Inf/2: Parking, Servicing and Accessibility, Inf/4A: Foul Drainage Standards, Inf/4B: Surface Water Drainage Standards: Sustainable Urban Drainage Systems, Inf/5: Water Supply and Inf/6B: Waste Management Requirements for New Developments will be provided through conditions, Section 75 provisions, or detailed design of individual elements of the development as appropriate. The proposed development is strictly a departure from Policy Gen/1: Sustainability Principles but many of the issues covered therein are capable of being dealt with by conditions attached to any planning permission. The Council is satisfied that the applicant is committed to undertaking a development that complies so far as is reasonably possible with Policy Gen/2: The Layout, Siting and Design of New Development, or to mitigating those impacts that cannot otherwise be avoided. Policy Gen/3: Developer Contributions will be complied with through the completion of a Section 75 Agreement, and Policy Gen/5: Landscaping Standards will be met through the detailed design of the development in due course.

6.0 Material Considerations

- 6.1 This planning application essentially falls into two distinct elements, the championship golf course and associated resort development, and the

private residential development. The material considerations in relation to each of these are considered in the following paragraphs.

6.2 Golf Course and Resort Development

6.2.1 National policy acknowledges the role tourism plays in the Scottish economy as part of its essential diversification. This is further reflected in visions and strategies that have been adopted at a regional and local level, specifically in the Aberdeen City and Shire Economic Forum's Manifesto (AC 3) and the Council's own Strategic Priorities 2007-2011 (AC 1). Consistent with this, the Development Plan contains strong support for tourism related developments at appropriate locations and where they do not conflict with policies to enhance the heritage of the area including the valuable coastline around Aberdeenshire. It is recognised that large scale mixed use projects such as that proposed for Menie present a particular challenge and that siting and design are important and the overall quality of the development is seen as being critical. It is also acknowledged that in rural areas in particular, change and its potential impact upon the built and natural environment must be managed with great care.

6.2.2 It is the Council's view that the development of a world-class tourist facility based around the proposed golf course development would have significant economic benefits for both the North East of Scotland and Scotland as a whole. The National Planning Framework 2004 (CP B1, para 98 ff) has a clear priority to grow the economy of Aberdeen and its hinterland in a sustainable and environmentally sound manner consistent with its identification as an Economic Development Zone and the surrounding area of Aberdeenshire as an associated area. This is further reflected in the draft National Planning Framework 2 2007 (CP B2 para 154). The creation of jobs during the construction period and throughout the operation of the proposed development will have clear benefits for the area as will the increased training opportunities, the international marketing and the potential to hold

world famous events all of which the applicant is committed or aspires to. The consequence of this development will be a significant increase in tourist visitors to the area, with an increase in overall tourism spending and the creation of secondary business opportunities. There is evidence of a significant demand for bed spaces in the region and the development would contribute towards meeting that demand. Conference and business facilities would also increase the attractiveness of the area for business and tourism. Given the current reliance on the energy sector a clear aim of Aberdeen and Aberdeenshire is the need to diversify the economy. However, as indicated in section 5 of this precognition, national, structure plan and local plan policies are all clear that the level of impact on landscape, natural heritage and built and cultural heritage from elements within the proposal must not be compromised to an unacceptable level by developments which are otherwise desirable in economic terms.

6.2.3 In this case the development as a whole is focussed on the creation of links golf courses and this therefore meets the requirement for a specific type of coastal location. Given its distance from a settlement the proposal must deliver improvements in public transport and promote sustainable modes of travel and the applicant has indicated a willingness to meet both of these requirements by way of a Section 75 Agreement.

6.2.4 As previously described and well-documented elsewhere, a substantial part of the proposed championship golf course is located within the Foveran Links SSSI and the whole dune system is also recognised as a Site of Interest to Natural Science. Policies outlined previously seek to protect these significant sites from damage and degradation from development proposals. Only in circumstances where there are social and economic benefits of national importance and where the objectives of the designation and overall integrity of the area will not be compromised will exceptions be allowed. In terms of biodiversity any proposal which would have an adverse effect on a valuable habitat or

species must demonstrate that public benefits at a local level outweigh the value of the habitat or species, that the development will be sited and designed to minimise adverse impacts on the site and there will be no fragmentation or isolation of the habitats as a result of the development. There are others more qualified than myself who will deal with the detail of the environmental impacts of the proposals, but I understand that some of the more serious are as follows. Stabilisation of the sand dome/s would disrupt sand movement exposing bare sand and the creation of dune slacks. Many dynamic elements of the geomorphology will be lost as will associated ecological features. As stated in the Environmental Statement the development is likely to have a severely adverse effect on Foveran Links and whilst mitigation measures have been sought, there will still be a significant adverse impact from this development. It has also been questioned whether the proposed creation of dune slack habitat by scraping and habitat or plant translocation and seed collection can adequately recreate what currently exists in the area. The Environmental Statement also indicates that in respect of biodiversity, there will be an adverse impact on habitats and species. The development would result in a severe impact on a dynamic dune system and associated flora and fauna. Development of the natural habitats into managed land would result in a net loss of biodiversity both in the short and long term. The views of many environmental consultees are that the objectives of the designation and overall integrity of the site should not be compromised even given a considerable beneficial economic impact. Whilst I recognise and respect the basis of those views, based on a balance of judgement they are not shared by the Council, for the reasons set out in this precognition.

6.2.5 The protection of built and cultural heritage and the setting and character of Menie House and its surrounding landscape also forms a relevant consideration in this context. The principle of the land uses is consistent with policy but the proposal is considerable and of a significant scale unprecedented elsewhere in Scotland. Whilst this is

an application for outline planning permission, drawings submitted at an early stage provided an indication of the scale and height of the buildings. The hotel would be amongst the largest in Scotland, accompanied by nearly one thousand holiday homes/apartments in four blocks which would all be highly visible from both the coastal area and the wider landscape. From a built heritage and landscape point of view, the hotel and holiday home blocks are shown as being in prominent positions and the highest standard of design will be required to deliver an iconic group of buildings. It is recognised that from a golf course and resort design point of view the indicative locations would afford the best views of the development and surrounding countryside and seascape. The applicant has indicated a willingness to enter into extensive design discussions along with Architecture and Design Scotland and the Council is satisfied that although these buildings will undoubtedly be seen for some distance around, an appropriately responsive and iconic design could be produced. The Council believes that the development is at a sufficient distance from Menie House as illustrated by cross sections provided by the applicant, and that in addition, augmenting the existing screen planting at Menie House avoids any overly adverse impact. A full programme of archaeological work has been suggested and agreed.

6.2.6 In summary, as far as the golf course and resort element of the proposed development is concerned, the site is large and diverse and much of it is agricultural land although it contains a dune system of interest to nature conservation and a listed building set in a designed landscape. Traditional links courses tend to be on stabilised dunes rather than the dynamic dune system and there can be no doubt that this application would have attracted less adverse comment had the applicant agreed to accommodate parts of the development elsewhere within the site to address the natural heritage impacts in particular. The applicant has, however, clearly indicated that it is the specific characteristics of this part of the site that make it so attractive for his proposals, and that to remove holes from the sand dome would result

in a second rate golf course. In this regard, whilst the part of the golf course which affects the natural heritage interest has been accepted as a real difficulty in relation to this proposed development, it is accepted that the wider Menie location is wholly appropriate for the proposed development. The sheer scale of the proposal also means that there are impacts upon certain other interests but the Council is clear that the Development Plan could not have foreseen this proposal or its scale and is firmly of the view that the economic benefits do outweigh the natural and built heritage, environmental and landscape concerns because of this. It is accepted without question, however, that the proposal remains contrary to many of the environmental protection policies in the Development Plan.

6.3 Housing

6.3.1 Whilst the majority of the application seeks the approval of tourism related developments, a key feature and the most controversial aspect of the proposal aside from the impact upon the SSSI, is the proposed 500 residential units for open market sale. The Environmental Statement recognises that the 500 houses are not consistent with the aims of the Structure Plan or Local Plan, and that there is no policy which allows for the use of profit from housing to be used to enable another business to be set up and doing so for this development clearly could create an unfavourable precedent. Therefore, the housing must be considered on its own merits and not as 'enabling development' which is clearly defined in the Aberdeenshire Local Plan 2006 as being for the purpose of subsidising the restoration of specific listed buildings at risk, in order to ensure their preservation (CP A2, p31).

6.3.2 The housing element requires to be considered in the context of Aberdeenshire's housing need and the continuous search for new sites which is normally carried out through the Development Plan process. Clearly the appropriate way for housing development of this scale to come about is normally through the Development Plan system. The

Council is currently undertaking a review of the Structure Plan together with Aberdeen City Council and a draft is expected to be published for consultation towards the end of June 2008. The provisional draft of the plan, published on 2 April 2008 (AC 8), identifies significant housing need requirements for the period to 2030 and puts forward a spatial strategy for the location of development. Essentially, however, although consideration of the housing element of the proposal is premature pending publication of the draft Structure Plan, exceptional circumstances can justify its consideration ahead of the plan.

6.3.3 Aberdeen City and Aberdeenshire population forecasts as at September 2007 (AC 6) indicate that the population of Aberdeenshire is likely to continue to experience growth and housing demand is therefore also likely to increase. In order to give some idea of the scale of development required over the next Structure Plan period, to 2030, Aberdeen City and Aberdeenshire Councils have estimated the housing demand in the region as being around 72,000 homes. This is based on the extrapolation of completion rates measured over the last 6 years and the aspirations to grow and diversify the economy of the region. In the context of this scale of demand, the applicant's proposal amounts to less than 1% of this projected 25 year demand. The Structure Plan strategic options for the location of new development are also relevant to this application with the A90 corridor north of Aberdeen having been identified as a strategic growth area in recognition of the potential of Peterhead Harbour to develop, and the aspirations of the Aberdeen City and Shire Economic Forum as expressed in the developing 'Energetica' concept based on this part of the region.

6.3.4 While it is appreciated that this is an outline application, there is detail at this stage of a range of residential environments and house types. The financial appraisal indicates the type of dwelling being considered, and on this basis the Council has expressed a degree of concern about the volume of isolated executive housing which does conflict with policy

where diverse, mixed residential communities should be created. All in line with national policy, the applicant was advised to give serious consideration to masterplanning, urban design principles and sustainability and has committed to a number of initiatives in these regards, including an urban design framework which has already been received. In terms of the construction, the applicant has confirmed that local housebuilders will be used to build the units, although total control over all details including design, landscaping and infrastructure will be retained by the applicant. The Council is assured that a high quality residential environment would be created and would seek to secure this by the imposition of appropriate conditions on any planning permission that may be granted. Furthermore, the Council believes that there is an opportunity to secure an exemplar development here which would be a demonstration of best practice in relation to sustainable construction and sustainable living, in line with the Council's aspirations in this context.

6.3.5 As part of the Planning Gain negotiations, the applicant has agreed to the provision of the affordable housing requirements generated by this proposal at a site in Balmedie following discussions with a local housing association. The applicant would also build these houses. The Council believes that this is to be welcomed and would require to be controlled through the Section 75 Agreement. Again, strict design criteria would apply to this element of the overall proposals.

6.3.6 Another fundamental issue is whether the landscape has the capacity for this scale of new housing. It is recognised that undeveloped countryside will be lost and there will be landscape and visual impacts created by the introduction of such a significant number of houses into a coastal setting. However, this must be seen against the backdrop of what would be a major tourism destination and with the layout, design and sustainability initiatives promised by the applicant. Significant strategic landscaping and the use of appropriate materials to be agreed at a later date by the Council via a development brief is normal practice

in such circumstances, and again appropriate conditions should be imposed to ensure that this occurs.

6.3.7 In summary, as far as the proposed housing is concerned, it is clearly contrary to policy and acceptance of housing development which would effectively cross-subsidise the resort element of the proposal does have the potential to be viewed by other developers as a precedent for other similar applications. However, the Council is firmly of the view that the sheer scale of the proposal and the very unique and prestigious circumstances are such that any argument regarding precedent can be robustly defended. Although limited weight can be given at this time to the pending Structure Plan, and the likelihood of this being one of the chosen locations for strategic housing development, this possibility is relevant to the consideration of this application. There is no doubt that there will be a need for housing in the area in the future, and the numbers are such that, particularly given the buoyancy of the market in the region, permitting this development will have no impact on the current housing allocations as provided for in the Structure Plan. It is also extremely probable that the A90 corridor from Aberdeen to Peterhead will be a focus area for new housing development in association with economic development priorities which this proposal fits with. There are therefore reasons why the housing part of the proposal can be accepted, subject to strict layout and design controls. Indeed, in these exceptional circumstances, the Council has indicated that it is willing to accept the business case for the proposed housing given the size of the development as a whole and the scale of funding required to make it a serious proposition.

6.4 Economic Impact of Proposals

6.4.1 In relation to the impact of the proposed development, and specifically the precise location of the Championship Golf Course upon the Foveran Sands SSSI, the only material consideration in the context of national, structure plan, and local plan policy which would justify

planning permission being granted is the economic and social benefit of the proposal being of an appropriate level of significance as required by the aforementioned policies.

- 6.4.2 As indicated in paragraph 4.5 of this precognition the applicants submitted an Economic Impact Assessment and Financial Review in support of the applications. At no time has the full version of this document been in the public domain and thus it cannot be relied upon in this precognition. The executive summary of this document has been in the public domain and both it and the independent assessment of it undertaken on behalf of the Council (which has also remained confidential) were provided to members of the Formartine Area Committee to assist with their deliberations upon the application.
- 6.4.3 A summary of the main economic and financial impacts of the development, as set out in the executive summary of the applicant's full review of these factors, is set out in paragraphs 2.22 to 2.25 of the report to the Formartine Area Committee of 18 September, 2007 (CP G9). The validity of the Economic Impact Assessment and Financial Review was assessed, in the first instance, by officers in the Council's Economic Development, Estates and Finance Sections and a summary of their views is set out in paragraph 4.22 of the same report.
- 6.4.4 At paragraph 6.15 of that Committee report the planning officer discusses the economic benefits of the proposed development and at paragraph 6.49 she concludes that these are of a magnitude such as to benefit the Aberdeenshire and Scottish economies greatly.
- 6.4.5 Following the departure hearing on 27 September, 2007 and on the basis of detailed questions that had been raised there regarding the economic impact of the proposed development, the Council commissioned an independent assessment of the potential economic and financial impacts of the proposed development from EKOS Limited, an economic development and regeneration consultancy. This

is briefly referred to in paragraph 6.13 of the report to the Formartine Area Committee of 20 November, 2007 which indicates that 'although the EKOS report has marginally more pessimistic forecasts (than the applicant's own assessment), this is clear evidence that the proposal will have a significant impact on the economy of the area'.

- 6.4.6 Following the call-in of the application by Scottish Ministers, and in preparation for this public inquiry, the Council has commissioned further, more detailed work by EKOS Limited. The methods used in, and the outcomes of, this work will be covered in detail by Ms Donaghy of EKOS in her precognition. In summary, however, this further work provides additional confirmation that the economic and financial impacts of the proposed development will be significant at a local, regional and national level.
- 6.4.7 The report to the Formartine Area Committee of 20 November, 2007 (CP G9) also makes reference, at paragraph 6.14, to reports published by Visit Scotland (AC 10) and the Scottish Council for Development and Industry (AC 11) regarding 'investing for growth'. This proposed development is highlighted as an example of the vision and innovation that will be required if Scotland is to grow both in reputation and in its success as a tourism destination for both recreation and business. The economic potential to be gained from this development, and the international profile it will generate for Scotland, and the north-east of Scotland in particular, are seen as significant.
- 6.4.8 Both the Visit Scotland and the SCDI reports are clear that the quality and standards that can be expected to be achieved in relation to this development are such that the location of such a facility in Scotland will send out a very strong message globally about Scotland, and what it can offer as a visitor destination.

7.0 Justification for Recommendation

- 7.1 As indicated consistently throughout the reports to the Council's Formartine Area Committee and the Infrastructure Services Committee (CP G9), and this precognition, the planning officers' recommendation ultimately rested upon the weight to be given to the environmental impacts and the housing element of the proposal, both of which represent significant departures from policy, as against the economic and social benefits to be gained from it, which in turn have also consistently been shown to be significant.
- 7.2 Throughout the processing of the application the applicant was asked to consider moving the championship golf course to accommodate the fundamental concerns of the majority of the environmental consultees. The applicant declined to do so, indicating that it was the specific location chosen that made the golf course spectacular enough to be a world class championship course.
- 7.3 The applicant was also asked to consider either removing, or substantially reducing in numbers, the private residential element of the proposal, which is contrary to all of the relevant housing policies applicable to this site. The response to such requests was consistently that this amount of housing was required in order to support the level of investment necessary to secure the golf course and resort development. This has been confirmed, so far as possible, by the Council's in-house advisors on such matters.
- 7.4 Ultimately, therefore, the planning officer had to arrive at her recommendation on the application as it stood. The conclusions to her deliberations are set out in paragraphs 6.48 to 6.56 of the report to the Formartine Area Committee of 18 September 2007 (CP G9). The economic development impacts are assessed as considerable in both the local and national contexts. The environmental impacts are recognised as being significant but it is also noted that with appropriate

mitigation and management, and via strict conditions and a legal agreement, the development has the potential to add to the quality of the environment and the species it supports. The design and scale of the buildings proposed as part of the development are seen as critical and there is a real opportunity to make a positive statement through the built form. The applicants commitment to this, and to a sustainable form of development, is welcomed. The development is seen as an opportunity to diversify the economic base of the area. In terms of the housing element of the proposals, the stark choice is to accept it and gain a £1 billion investment in Aberdeenshire consistent with the need to diversify the economy and support tourism, as identified in a range of strategies and policy documents adopted locally and regionally, or to not accept it and lose that opportunity.

- 7.5 The argument put by the planning officer to the Formartine Area Committee was that whilst the proposal conflicts with a range of landscape, natural, built and cultural heritage considerations, these are not compromised to such an unacceptable degree as to justify refusing the application. She saw this as an occasion where the social and economic benefits are of national importance and as such do override the adverse environmental impacts, including the severe adverse impact on the SSSI and some of the wider environmental and biodiversity issues. The housing element is acknowledged as not sitting comfortably with current policy, but it represents the 'cost' of the wider economic and tourism investment and as such it cannot be seen as a precedent but as a justifiable and extreme exception to policy. Finally she concludes that 'there is no doubt that for the area to continue to prosper in light of changes in the oil industry in particular, diversification is required and this proposal can only add to the prosperity of the area....' Having balanced the issues one against the other the ultimate recommendation was firmly one of approval.
- 7.6 It would be entirely wrong to believe that this recommendation was arrived at lightly or easily. The application has generated significant

volumes of information, consultation responses and representations, and officers have had to put a vast amount of effort into assimilating these and arriving at a recommendation that could be made confidently. On the basis of the discussion summarised above, I was pleased to support the case officers recommendation when she advised me what it was to be; to put my own name to it when the report to the Infrastructure Services Committee was prepared; and to present the application, with both the officers and the Formartine Area Committee's recommendation of a delegated grant, to that Committee on 29 November, 2007.

- 7.7 Each recommendation to a Council Committee in relation to this application, whether the Formartine Area Committee or Infrastructure Services Committee, has been 'that authority to grant outline planning permission be delegated to the Head of Development Management and Building Standards subject to' a range of matters where further information is required, completion of a Section 75 Agreement, and a substantial number of conditions.
- 7.8 A valid question in this context, and similarly in view of the fact that the only plan submitted with the application is, in effect, 'a red line on a map', is whether the Council has had sufficient information in front of it to be able to come to a competent view.
- 7.9 As already referred to in paragraph 6.5.5, and as will be self-evident from the documentation produced for this inquiry, a great deal of information has been provided in relation to this application. It is an application in outline only and it is the Council's view that, given the scale of the development proposed and the investment associated with it, it is entirely appropriate for the applicant to seek a formal indication of the Council's position in relation to the principle of the development proposed. A great deal more investment will be required by the applicant to satisfy the terms of any outline permission that may be granted if the suggested conditions are imposed thereupon. In my

position as Director of Planning and Environmental Services and with my professional background in planning, I am firmly of the view that with any major application there comes a point when officers are able to make a judgement in terms of the principle of a development and formulate a recommendation to elected Members, thus providing any applicant with a clear indication of how their proposal is viewed, before they are required to invest any further in developing their proposal. I was clear at the time that the officer first made her recommendation to the Formartine Area Committee that that point had been reached in this case, and that the outstanding matters were capable of resolution thereafter. Both the applicant and the Committee clearly understands in such cases that if any of these matters are not or cannot be resolved, then the development either simply cannot go ahead, or cannot progress without further consideration at the relevant level, whether that be by officers or elected Members. The conditions attached to a planning permission thereafter, in such circumstances, should provide the planning authority with a suitable means of influencing the final form of the development and in this particular case, to secure a development which achieves the aspirations which have been presented to the Council. That is, a world class facility that will bring significant economic benefits and an enhanced international profile to the North East of Scotland.

- 7.10 In this particular instance the applicant has progressed matters since the call-in, in the spirit of such a position being adopted, by continuing to negotiate with, for instance, Transport Scotland, SEPA and Scottish Natural Heritage to progress outstanding issues to a point where a satisfactory conclusion either has been, or is close to being achieved in relation to specific aspects of the proposed development.

8. Outstanding Matters

8.1 Conditions

8.1.1 A comprehensive list of conditions proposed to be attached to the outline planning permission was agreed by the Formartine Area Committee on 20 November 2007 as part of its resolution to recommend a 'delegated grant' to Infrastructure Services Committee, and can be found in the report to the latter Committee, dated 29 November 2007 (CP G9).

8.1.2 As the application currently under consideration is for outline planning permission and is literally intended to establish the principle of the proposed development taking place within 'a red line on a map', the list of conditions is long and comprehensive, covering all matters over which the Council requires to have further control through the development management process. In particular, those conditions which address the phasing of the development are intended to ensure that real progress is made with the golf course and resort element of the development ahead of any of the private residential properties being constructed.

8.1.3 The applicants have indicated their agreement in principle to the conditions as proposed by the Council. These have also been circulated to all other parties to the Inquiry and as required by the Reporters a comprehensive list incorporating any further conditions required by those parties, insofar as they can be agreed by all concerned, will be available by 2 June 2008. I shall be pleased to deal with the detail of conditions as required at the Public Inquiry.

8.2 Section 75 Agreement

8.2.1 The Council is firmly of the view that a Section 75 Agreement is necessary in order to secure the off-site infrastructure and other

mitigation measures that are required in relation to this application. Such an agreement should cover matters including planning gain contributions, affordable housing, training programmes, details of environmental and sustainability measures and the setting up and operation of the Menie Environmental Management Advisory Group.

8.2.2 The Council's Planning Gain Coordinator has been progressing negotiations with the applicant separately from consideration of the planning application and the agreed package so far contains several elements that will be addressed in kind by the developer, thus negating the requirement for financial contributions in certain areas. In respect of the proposed residential development, the applicant has agreed to the provision on site of a general store, a range of meeting rooms, public house, nursery/crèche, tennis courts as well as the golf and fitness related activities and other general everyday facilities to address sustainability issues and reduce vehicle journeys to neighbouring settlements wherever possible. The developer intends putting forward measures to ensure that the resort is a low consumer of energy as well as being low carbon in construction and operation by reducing demand through improved construction methods and use of sustainable materials. A car park on site for the use of visitors with signed formalised walkways together with information boards and a direct foot/cycle link to Balmedie avoiding the A90 will be provided. The local Universities will be involved with training programmes for staff and the recreational requirements of the substantial workforce required during construction are also being discussed. Any Section 75 Agreement would contain measures which endeavour to employ locally based contractors and personnel throughout the development wherever it is practical and economically viable to do so. Provision will be made for bus services to stop at the site. A package of public arts measures will be incorporated into the development. An environmental management regime will also form part of any legal agreement.

8.2.3 It is intended that education requirements will be met off site and the developer has agreed to construct, under the supervision of the Council, the necessary accommodation that will be required and the Council's Property Service is agreeable to this arrangement. For affordable housing, discussions are ongoing with relevant parties including a Registered Social Landlord for the provision of a substantial number of units off site in Balmedie. These will comprise mixed tenure, type and size and will address the needs of a wide range of those in housing need. The Housing Service has been consulted and is in agreement that the off site provision is by far the most practical arrangement in order to assist in the ongoing management of the units as well as placing residents as close to schools, public transport, employment, community and social services as practicable. Negotiations pertaining to financial contributions would be agreed to augment these facilities to address the needs of residents should permission be granted.

8.2.4 It is anticipated that the Heads of Agreement in relation to the above may be available at the Public Inquiry if this is considered to be necessary and appropriate.

8.3 Other Matters Requiring Resolution

8.3.1 The report to Infrastructure Services Committee on 29 November 2007 (AC G9) recommended 'that authority to grant outline planning permission be delegated to the Head of Development Management and Building Standards subject to' a number of matters being resolved apart from the imposition of conditions and completion of a Section 75 Agreement as outlined above. For completeness these are each considered in turn below in terms of their current status and suggested way forward.

8.3.2 Details regarding the provision and maintenance of open space – to be dealt with by the imposition of an appropriate condition.

- 8.3.3 Details regarding the provision and maintenance of Sustainable Urban Drainage System - to be dealt with by the imposition of an appropriate condition.
- 8.3.4 Conclusion of transportation requirements – to be dealt with in evidence from Transport Scotland and by the imposition of appropriate conditions.
- 8.3.5 The submission of an environmental management plan for the resort and the housing areas – to be dealt with by the imposition of an appropriate condition.
- 8.3.6 The submission of a landscaping bond and a to cover the restoration of the area of the Championship Golf Course - to be dealt with by the imposition of an appropriate condition.

9.0 Conclusion

- 9.1 On the basis of all of the above, and of the information provided to this Inquiry, it is the Council's view that whilst the significant adverse impacts of this development cannot be ignored or dismissed, and whilst neither the impact on the SSSI nor the fact that the housing element of the proposal falls outwith policy can be denied, it is the case that its regional and national economic benefits are both considerable and sufficient to outweigh these concerns. It is an exceptional application which has required a great deal of thought by everyone involved with it, and will no doubt continue to do so.
- 9.2 The Council therefore has no hesitation in respectfully requesting that the Reporters recommend to Ministers that outline planning permission be granted, subject always to the resolution of any matters which remain outstanding, to the conclusion of the necessary Section 75

Agreement, and to the imposition of the necessary and appropriate conditions.