

Summary Precognition by Cllr Paul Johnston

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

My name is Paul Johnston, I have been an elected member on Aberdeenshire Council since its formation in 1995. In all that period I have been a member of the Formartine Area Committee and the Council's Infrastructure Services Committee dealing with all the Council's adoption of planning policies since its inception.

My precognition relates to firstly, the decision of the Infrastructure Services Committee and what might have been brought about by negotiation on conditions; and secondly, those conditions that should be imposed in the event of any form of approval, partial or otherwise, that meets the purposes of controlling the development in the public interest that have been identified both by the Councillors at the meeting on the 29th November and by Belhevie Community Council.

1 Planning conditions

- 1.1 At the outset I refer to SDD Circular 4/1998 The Use of Conditions in Planning Permissions. The consideration of these conditions is against the six tests as laid out in the Circular.
- 1.2 Planning conditions should only be imposed where they are:-
 - ◆ necessary
 - ◆ relevant to planning
 - ◆ relevant to the development to be permitted
 - ◆ enforceable
 - ◆ precise
 - ◆ reasonable in all other respects.
- 1.3 The imposition of planning conditions at the outline stage, where issues of principle might be debated, is to be preferred to the use of planning agreements or to the later imposition of conditions on reserved matters, as it allows fuller consideration of objections and public perception. So with all the proposed conditions it is argued

that it is best to cover the broad area now and not have arguments of principle on the detail later.

- 1.4 Accountability is a vital consideration. This application has certainly raised many people's awareness of the planning process and I don't think it would be too controversial to say that it has done little to dampen public cynicism about the way planning applications are dealt with.
- 1.5 While a number of items are best dealt with by the use of planning agreements Circular 12/1996 advises that in principle where they can be dealt with by a condition, it is to be preferred.
- 1.6 With this in mind in summary I would be suggesting to the Scottish Ministers to look at Conditions relating to the following points:
 - 1.7 **Master-plan for the whole development.**
 - 1.7.1 My precognition suggests this is unclear as to the provenance of such a plan. Clarity of definitions and ownership as well as its process and consultation are required.
 - 1.8 **Cut and fill operations**
 - 1.8.1 Overall, the maximum amount of cut and fill that should be allowed should be determined and limited by condition at the outline stage. This should be kept to a minimum. An overall cap to the extent of cut and fill, imposed at the Outline stage, would inform designers well in advance of a key parameter that they would have to satisfy at the reserved matters stage.
 - 1.8.2 Development permitted in a SINS site should respect the 'no species loss' principle. Golf need not be high impact grass monoculture. If it can use existing landforms, respect dune movement, allow for the dynamism of the place and be low density, then movement of sand as cut and fill could be very low.
 - 1.8.3 The sum could be substantially less than that suggested by the applicant.
 - 1.9 **Foul and surface water**
 - 1.9.1 The details of surface water and foul drainage are best left in most circumstances to the detailed reserved matters stage. The ownership and management of desirable SUDS scheme should be tied to the operation and ownership of the Hotel and Golf Course.
 - 1.9.2 If, Ministers are to grant housing, it should be Conditioned that the Council are provided with Capitalised sums to maintain SUDS in private housing areas in perpetuity.

1.9.3 For foul drainage, there should be no residual impact to the existing settlements. A development outwith all the policies and plans like this should wholly provide its own foul drainage and not remove any existing capacity planned. The use by the development of capacity is in effect public subsidy and its replacement would require new public investment when this capacity was already planned for.

1.10 Phasing

1.10.1 It would be important for the public to know the nature of future development and its likely time-scales, such vague ideas as "future golf development" should be further clarified before permission of any sort is granted.

1.11 Siting and design

1.11.1 The process of design review should be informed by a condition restricting the height of the development relative to a datum point on the top of the escarpment. This relates specifically to public concerns regarding the prominence of the development as a landscape feature in the coastal area.

1.11.2 Scottish Ministers should restrict the height to 15 metres within 200 metres of the escarpment edge and 25 metres beyond 200 metres, to protect the visual amenity of the coastal area and reduce the impact of the built landscape on the environment.

1.11.3 Ministers should ask the future design process to adhere to the basic principles proposed by the Campaign for dark skies, which seeks to minimise light pollution. It would be to maintain the amenity of the area, preserve dark skies and minimise the impact on the wild spaces along the coast. It is also to reduce the prominence of the night time and dusk, coastal view.

1.11.4 Because this is a development of considerable profit, the elements of public economic benefit should be developed first. A condition preventing the construction of the first house until the completion of the Holiday Apartments hotel and golf course is the best option. It will allow the impact of the commercial development to be further assessed, and ensure sufficient time for services such as education, health, Leisure and road access to be integrated within the development.

1.12 Holiday Accommodation, and Separate Independent Dwellinghouses

1.12.1 The use of the terms needs clarification and definition. Occupancy control is a problem related to ownership and therefore it is suggested that Scottish Ministers impose a condition. The Council's condition fails to control the development.

1.12.2 Control of the development in terms of ownership will be key to enforceability of conditions. A total of 950 holiday flats will create possible enforcement problems if they are in individual ownership. If ownership and control of the holiday apartments are retained with the business of the golf course and hotel, effective control is maintained for the use of these villas and apartments as holiday accommodation. It also has benefits in other management of the development.

1.12.3 The Scottish Ministers should condition this development upon the decisions to tie the 950 holiday apartments and golf Villas; their control over their use and occupancy to the Trump International Hotel and Golf Course. A further condition should be that no single period of occupancy agreement can be more than six weeks in order to prevent residential encroachment.

1.13 Environment

1.13.1 Environmental considerations can be broadly dealt with at this stage and not all left to arguments later. A “No Species Loss” policy could be conditioned that would inform all further detailed considerations. If it can be done in complex large sites elsewhere then this development could also display those high standards. Equally, while development should not be allowed on an SSSI site, the protection of the remaining SINS site is covered with such a policy as a condition to inform all the detailed work required.

1.13.2 The dune edge and access arrangements should be considered for outline stage conditions as a matter of public interest.

1.14 Transportation

1.14.1 The problems of the impact of the development's key stated objective, Golf events needs to be taken into account. This has been a matter of many objections. Capacity needs to be considered at this point, not just for major events but also likely future growth such as Energetica etc. This leads me to the conclusion that Scottish Ministers should impose a condition for the development to provide a grade separated Junction to the North of Balmedie Village. In any event an impact of major events assessment needs to be done before any detailed approval.

1.15 Other Considerations at the Outline stage

1.15.1 A fire station should be provided.

1.15.2 The Community Council locally, has expressed concern at partial development as it was economically risky even if the development will be immensely profitable. The use of Bonds is supported at the Outline stage as a condition to ensure all aspects, not just the golf course and hotel, are dealt with. If holiday accommodation turns into general housing or staff accommodation into saleable flats - all require a bond

to prevent this being a sudden drain on the public purse. These are better as conditions than legal agreements later. Such bonds should address all the principle areas of conditions we have outlined as well as restoration of dunes habitat.

1.16 The Case Specific to the applicant

- 1.16.1 The Council officials case to the members has always been that the development breaches Structure and Local Plans, SPP, PANs and other guidance, however, it is of such an economic nature that this should warrant its approval. The applicant has said clearly that only he - and I mean Trump International - could do this development. The representations from other bodies in support all revolve around the applicants standing and brand.
- 1.16.2 While planning permission is about appropriate land use, the land use proposal in this case is that Trump International carry out the development. Scottish Ministers should use their powers to impose the condition that the permission is personal to Mr Trump and Trump International.

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