

To all relevant persons and those with an interest in the inquiry

7 May 2008

Dear Sir or Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)  
(SCOTLAND) DIRECTION 2007  
OUTLINE PLANNING PERMISSION FOR GOLF COURSE AND RESORT  
DEVELOPMENT ON LAND AT MENIE HOUSE, BALMEDIE, ABERDEEN**

I refer to previous correspondence in connection with the arrangements for this outline planning application to be considered at the public local inquiry scheduled to start on 10 June in Aberdeen.

The reporters have considered the statements of case and make the following observations and requests for action.

- There is an implication in several of the statements that planning conditions are regarded as a work in progress to be finalised potentially “at the inquiry”. This is inappropriate since it does not provide clarity for those wishing to prepare with certainty, particularly members of the community. It is also inconsistent with the Scottish Ministers’ policy contained in SODD Circular 17/1998 on which the reporters comments at the pre-inquiry meeting were based.
- The final opportunity for parties to adjust their views concerning planning conditions and the suggested heads of any agreements to be struck under section 75 of the Act will be at the stage at which rebuttal statements are circulated – June 2. The reporters may question witnesses during the course of the inquiry concerning those suggestions.
- The reporters note the submissions made in respect of Trump International Golf Links Scotland (TIGLS) concerning the scope of the outline planning application – particularly paragraphs 4 and 18 and the letter of 17 April. There is also reference under the council’s suggested condition 3 to the matters that are proposed to be reserved for the subsequent approval of the planning authority should outline planning permission be granted. But that suggested condition does not appear to address the preferred method of securing mitigation of the environmental effects of the Championship Golf Course in the recently circulated indicative layout. The means of achieving this mitigation needs to be clarified in the suggested planning conditions.
- A similar issue applies to the proposed golf maintenance building and caddy shack which is the subject of the outline planning application; a suggested planning

condition; and a detailed application for planning permission for the same development.

- As indicated at the pre-inquiry meeting the identity of the prospective developer is not a material planning consideration, but the evidence – at least in part – that it is suggested will be led at paragraph 13(1)(a) of the TIGLS statement of case is not consistent with the fact that any outline planning permission granted in this case would run with the land and not with TIGLS. Of the issues suggested only “the vision for a world class golf resort on the Menie Estate” appears to fall within scope.
- In respect of the evidence connected with the Economic and Financial Benefits referred to at paragraph 13(ii) (a) of the TIGLS statement, the reporters seek clarification of whether the documents made available to Aberdeenshire Council under a confidentiality agreement have any continuing relevance to the economic case that TIGLS will make to Scottish Ministers. If there is no such relevance it would be best for that to be made clear now.
- TIGLS are reminded of the reporters’ request, contained in a letter of 30 April and which remains outstanding, for an analysis showing how the environmental effects of the revised layout for the championship golf course differ from those assessed in the Environmental Statement.
- The final sentence of paragraph 17(d) of the TIGLS statement refers to any preference that the reporters may have concerning evidence on access issues – whether this is dealt with by oral evidence is a matter for TIGLS.
- Paragraph 18 refers to a legal audit of the proposed [planning] conditions. This audit should be completed, and any results relevant to the inquiry should be circulated by 2 June.
- Document 18 of the list contained in Appendix 1 to the TIGLS statement is omitted from the sequence of numbered productions.
- TIGLS are asked to update the expected duration of the case that will be made to the inquiry – a period of 4 days was mentioned at the pre-inquiry meeting.
- In Aberdeenshire Council’s statement of case there is a missing word in the penultimate line of paragraph 9.
- Aberdeenshire Council are requested to clarify the meaning of sub-paragraph 10(e).
- Aberdeenshire Council refer at paragraph 1, sub paragraph 1, under “Evidence” to the report commissioned by them from EKOS. It was the reporters’ understanding that this report remains confidential to the council; it has not been disclosed to the inquiry. It appears that the economic case in favour of the development is no longer based on the Economic Impact Appraisal prepared for TIGLS, which Ms Donaghy analysed as the basis for that report. The reporters seek clarification of the council’s position, particularly given the comments made in their statement at 4(a), (b) and (c); the Schedule of Information – which refers to the private and confidential report; and Schedule 4, which lists the EKOS report.
- All parties would be assisted if the Council in future numbered each page of their submissions irrespective of whether the paragraphs also are numbered.
- Aberdeenshire Council are asked to update the expected duration of the case that will be made to the inquiry – a period of 1½ days was mentioned at the pre-inquiry meeting.
- Paragraph 4.2(ii) of the Statement of case for Scottish Natural Heritage (SNH) refers to their view that the imposition of “certain conditions / legal agreement” could ensure the absence of an adverse effect on the integrity of the SPA. The terms of such

conditions must be available to the inquiry in advance, preferably within precognitions, and at the latest by 2 June.

- The reporters note the position of SNH at paragraphs 4.2(iii) and (iv) concerning otters, bats and badgers. The written submissions disclose that the potential effect on these animals remains a matter of concern for the community, and others. SNH, in conjunction with TIGLS, are requested to make available to the inquiry as a written submission the background information that led to the withdrawal of their concern.
- SNH suggest at paragraph 8 that documents will be circulated as e-mail attachments. Apart from National Planning Policy and Guidance the reporters will require 3 hard copies; a full set should be made available to Aberdeenshire Council; and other parties should provide and receive hard copies unless they have otherwise agreed to electronic transmission.
- The reporters draw attention to the apparent distinction in the evidence proposed to be led by SNH and RSPB (and others) concerning otters and bats on the site – paragraph 4.4 of the RSPB/SWT/BSIB statement refers.
- The reporters are concerned by the proposal of the Ramblers' Association (and others) to circulate during the second week of the inquiry the report of a conference that is yet to be held. The documents on which parties' cases are expected to be based are intended to be circulated by 12 May.
- Councillor Ford (and others) refer at paragraphs 3.13 and 3.14 and in Councillor Storr's e-mail of 2 May to the basis of the economic argument in favour of the development that was contained in the confidential information submitted to, and considered by, Aberdeenshire Council. The TIGLS statement of case indicates that they will rely on information to be made available to the inquiry and produced by the Fraser of Allander Institute. Clarification has been sought, as indicated earlier in this letter, concerning any continuing relevance of the information that was before the council and which remains regarded as confidential.
- The reporters would appreciate further information to augment the statement of case submitted for the Aberdeen & Grampian Chamber of Commerce in respect of: the identity and specialisms of the witnesses to be called; the detail of the documents on which reliance will be placed; and whether the duration of the case to be presented remains consistent with less than half a day as estimated at the pre-inquiry meeting.
- Transport Scotland have indicated that they "will be advising Scottish Ministers" but it is not clear whether the written statement submitted on 1 May represents their final word. Given the terms of some of the representations, oral clarification of the Agency's qualified position may be required during the inquiry - such as the issue of direct access to the proposed A90 dual carriageway. The reporters acknowledge that some of these matters may be clarified when they see the Transport Assessment.
- The e-mail of 2 May from SEPA to Colin Bell refers to some matters having been resolved to the satisfaction of SEPA. Since the issues to which SEPA have responded are before the inquiry as written submissions it will be necessary for a written submission to be produced detailing the Agency's response and their reasons. The reporters note the position concerning the additional information which SEPA has received only recently and appreciate the attempts to ensure that their responses are made available by 21 May, or as soon as possible thereafter.
- It is evident that, despite the request at the pre-inquiry meeting for parties to agree on a list of core documents, several intend producing the same material, but under different reference numbers. Only one copy of any document should be circulated and all are asked to co-operate to ensure that this happens.

The issues identified in this letter should not be left for resolution at the inquiry but should instead be clarified or resolved, as requested, no later than 2 June.

The reporters intend to consider the production of a timetable for the inquiry on receipt of parties' precognitions. Further information is therefore sought from TIGLS and Aberdeenshire Council (taking account of the position of the Chamber of Commerce) concerning their proposal to accommodate the limited availability of an SNH witness. That information is requested when precognitions are submitted on 19 May.

Yours faithfully

**COLIN BELL**