

Statement of Case

by Cllrs Ford, Johnston, Ross, and Storr

in support of Aberdeenshire Council decision of 29th November 2007 to refuse application by Trump International Golf and Leisure Scotland (TIGLS) for Outline Planning Permission for golf courses, hotel, holiday apartments, golf villas, staff accommodation and residential housing at Menie, Aberdeenshire.

1. Parties

Cllr Martin Ford
Cllr Paul Johnston
Cllr Alastair Ross
Cllr Debra Storr

2. Introduction

2.1 Aberdeenshire Council's Infrastructure Services Committee determined the application on 29th November 2007 and decided to refuse the application after a series of votes. This followed a site visit and a departure hearing and a recommendation to approve from the Formartine Area Committee.

3. Case to be advanced

- 3.1 The refusal was based on the fact that the application significantly departed from the Structure and Local Plans in many aspects, and in particular
- using open market housing to fund commercial development
 - large scale development in the Undeveloped Coast and in an Area of Landscape Significance
 - development on a SSSI
- that were not outweighed by any other material considerations.
- 3.2 The parties will argue that the proposal also conflicts with Council and Scottish and UK Government policies for sustainable development.
- 3.3 The parties will argue that while recognising that some development at Menie could deliver benefits, the Council was clear that this particular proposal was not the best that could be achieved to protect the undoubted high quality environment of the dunes and other surroundings at Menie, and potentially deliver economic benefit to the north east of Scotland.
- 3.4 The applicant had made it clear that they wished the application to be granted in its entirely unaltered or it would not proceed.
- 3.5 The parties will describe the history of the application and set the context of the refusal.

- 3.6 The parties will argue that there is no justification in any local, regional or national policies for the open market housing to cross-fund the development.
- 3.7 The parties will argue that a range of policies do not support this open market housing.
- 3.8 The parties will argue that the proposed off site affordable housing element is not supported by policy.
- 3.9 The parties will argue that the staff accommodation has not been justified in terms of ALP Hou/4.
- 3.10 The parties will argue that the total mix of open market housing and staff accommodation fails to meet requirement for diverse mixed sustainable communities.
- 3.11 The parties will argue that "total loss" of the SSSI and the impact on the SINS has not been justified by the application and that proposed mitigation measures are unlikely to compensate for this loss.
- 3.12 The parties will argue that the totality of the proposals have a severe impact on the Undeveloped Coast and an Area of Landscape Significance
- 3.13 The parties will argue that the confidential economic case presented to the Council did not outweigh the planning reasons for refusal and that the published economic case was insufficient.
- 3.14 The parties will argue that any recommendation to grant this application could only be based on overwhelming economic benefit and that therefore the claimed economic benefits must be subject to full public scrutiny and the data must be made available in time to allow independent analysis to take place, otherwise it can not have been established that the economic benefits are sufficient.
- 3.15 The parties will argue that planning conditions at the Outline stage are to be preferred to Planning agreements reached later or conditions on reserved matters if it is matters of broad principle in numbers, intensity, and therefore affecting design, and layout elements that relate to this.
- 3.16 The parties will also argue that approval of reserved matters should avoid where possible issues of principle of development and conditions are appropriate at the earliest stage.
- 3.17 The parties will argue that the development is reliant on international economic factors, therefore partial development may be a consequence. Conditions which require bonds for partial development, changed circumstances, or redundancy of development, are required.
- 3.18 The parties will argue that due to the sensitive nature of the site, if the application is granted whether in full or part, then additional conditions will be required covering such matters as detailed master-planning and design codes including controls on the scale and massing of individual components of the proposals are necessary, the provision of a grade separated junction on the A90T, the provision of a separate waste treatment provision and the provision of a fire station.
- 3.19 Furthermore, if the development is not economically viable conditions should cover mechanisms to ensure the restoration of the ecology of the dunes.
- 3.20 The parties will also argue that any economic case is specific to the applicant and that therefore the permission should be personal to the applicant and his company.

4. Representation and Length of Evidence

- 4.1 The parties will have no legal representation.
- 4.2 Depending upon the format of the sessions for the various topics the Parties expect to present their evidence within half a day.

5. List of Documents

- 5.1 The Parties will produce documents referenced as ISCxx but are assuming that other documents listed will be regarded as Core Documents which we will refer to but not produce.

- 5.2 Applicant's Information : Planning Application Ref: F/APP/2006/4605

- Landscape and Visual Impact Assessment,
 - TIGLS Environmental Statement.
 - Masterplan
 - Response document from TIGLS, dated July 2007
 - Economic Impact Assessment and Financial Review, Executive Summary
 - *Economic Impact Assessment and Financial Review

- Note:** We are aware that item marked * has not been placed in the public domain by TIGLS but this and the EKOS report referenced below were advanced to Councillors as the cornerstone of the case for approval and subsequently formed part of the reasons for refusal by Aberdeenshire Council on 29th November 2007.

- 5.3 Aberdeenshire Council Committee Reports and Extracts of Minutes for

- Formartine Area Committee 18th September 2007
 - Formartine Area Committee 20th November 2007
 - Infrastructure Services Committee 29th November 2007

- 5.4 Aberdeenshire Local Plan (ALP)

- Appendix 1 of ALP
 - Appendix 5 of ALP.
 - Chapter 8 of ALP
 - Emp\3 Employment Development in the Countryside
 - Emp\9 Tourism Facilities and Accommodation
 - Emp\10 Sport, Leisure and Recreation
 - Env\2 National Nature Conservation Sites
 - Env\3 Other Recognised nature Conservation Sites
 - Env\4 Biodiversity
 - Env\5B Areas of Landscape Significance
 - Env\6 Coastal Development
 - Env\11 Agricultural Land
 - Env\20 Historic Gardens and Designs Lnadscapes
 - Env\22 Public Access
 - Gen\1 Sustainability Principles
 - Gen\2 Layout, Siting and Design of New Development
 - Gen\3 Developer Contributions
 - Hou\4 New Housing in the Countryside
 - Hou\8 Affordable Housing
 - Inf\1 Roads and Accesses
 - Inf\2 Parking, Servicing and Accessibility.
 - Inf\10 Community Facilities

- 5.5 North East Scotland Together (NEST)

- Policy 6: Tourism
 - Policy 11: General Housing Considerations,
 - Policy 12: House Building in the Countryside beyond the Green Belt and
 - Policy 13: Developer Contributions and

Policy 14: Affordable Housing of NEST
Policy 19: Wildlife, Landscape and Land Resources of NEST
Policy 29: Coastal Planning of NEST
Policy 20: Built Heritage and Archaeology of NEST
Objective 5

- 5.6 Scottish Planning Policies (SPP) National Planning Policy Guideline (NPPG), etc
- ISC 1 SPP1 The Planning System. Paragraphs 4,7,8,9,10,15,16,20,21,50,51,52,53,54,55,57
 - ISC2 SPP2 Economic Development. Paragraphs 2,7,11,31,47,51
 - ISC3 SPP3 Planning for Housing. Summary and paragraphs 4,5,7,10,11,24,28,35,36,38
 - ISC4 SPP6 Renewable Energy. Paragraphs 9,10,11..
 - ISC5 NPPG13 Coastal Planning. Paragraphs 1,3,8,15,16,22,23,36,42..
 - ISC6 NPPG14 Natural Heritage. Paragraphs 4,5,6,9,10,14,15,16,18,19,20,23,24,25,46,47,48,80.
 - ISC7 SPP15 Planning for Rural Development. Paragraphs 4,14,24.
 - ISC8 National Planning Framework for Scotland (March 2004) Paragraphs 26,34,39,54,93,94.
- 5.7 Planning Advice Notes
- ISC9 PAN43 Golf courses Paragraphs 9,10,11,20,21,26,29,30,31,44,45,59,60,61,62,63,75
 - ISC10 PAN51 Planning, Environmental Protection and Regulation. Paragraphs 6,13,26
 - ISC11 PAN60 Planning for Natural Heritage. Paragraphs 3,4,5,6,8,9,12,23,29,34,38,40,41.
 - ISC12 PAN73 Rural Diversification. Paragraphs 27,28,31,32,44,45,46,54.
 - ISC13 PAN74 Affordable Housing. Paragraphs 37,38,39,40,48,55.
 - ISC14 PAN84 Reducing Carbon Emissions in New Development. Paragraphs 8,29,30.
- 5.8 Circulars
- ISC15 Circular 12/1996 Planning Agreements
 - ISC16 Circular 4/1998 The Use Of Conditions In Planning Permissions
- 5.9 Consultation responses
- ISC17 Planning Policy & Environment Service relative to Planning Application Ref: F/APP/2006/4605
- 5.10 Aberdeenshire and Scottish Sustainability
- ISC18 Choosing our Future: Scotland's Sustainable Development Strategy, Section 1. <http://www.scotland.gov.uk/Publications/2005/12/1493902/39052>
 - ISC23 Aberdeenshire Council Sustainability Charter, Action Programme to 2007.
- 5.11 Other
- ISC19 Vanity Fair, May 2008 edition, article by Alex Shoumatoff titled "the Thistle and the Bee" <http://www.vanityfair.com/culture/features/2008/05/trump200805>
 - ISC20 Prospectus for ITO campus at Kyushu University, <http://suisin.jimu.kyushu-u.ac.jp/en/guide/summary03.html>
<http://suisin.jimu.kyushu-u.ac.jp/en/guide/summary04.html>
<http://suisin.jimu.kyushu-u.ac.jp/en/showcase/photo/biodeversity/ot.html>
 - ISC21 16/01/2006 Note of meeting on 16 January 2006 between Aberdeenshire Council, Jenkins & Marr and Jim Mackinnon <http://www.scotland.gov.uk/Resource/Doc/216107/0057771.pdf>
 - ISC22 The Menie House Estate Preliminary Feasibility Study May 2006
- * EKOS report 'Menie Estate Development Economic Impact Review' dated 19th October 2007.

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5.12 The parties reserve the right to add to this list as appropriate as a result of the evidence to be led by other parties to the Inquiry.

6. Witnesses

Cllr Martin Ford, context of case and sustainability

Cllr Paul Johnston, planning issues and conditions

Cllr Alastair Ross, economic case

Cllr Debra Storr, planning issues