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Our ref: CIN/ABS/001
3 November 2008

Dear Ms Faulds

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
APPLICATION FOR OUTLINE PLANNING PERMISSION: GOLF COURSE AND RESORT
DEVELOPMENT AT LAND AT MENIE HOUSE, BALMEDIE, ABERDEENSHIRE**

1. This letter contains the Scottish Ministers' proposed decision on the outline planning application which was lodged on behalf of your clients, Trump International Golf Links, Scotland, for the above-mentioned development. The Scottish Ministers are minded to grant outline planning permission for this proposed development subject to conditions and the satisfactory conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.
2. On 4 December 2007 the Scottish Ministers issued a direction, under Section 46 of the Town and Country Planning (Scotland) Act 1997, requiring the above application to be referred to them for determination. This was in view of the proposal raising issues of importance requiring scrutiny at a national level.
3. The application was subsequently considered at a public local inquiry held between 10 June and 4 July 2008 by James McCulloch, Karen Heywood and Michael Cunliffe, reporters appointed by the Scottish Ministers. A copy of the reporters' report to the Scottish Ministers is enclosed for your information. A summary of the report is contained at pages 5 to 9. Within the preamble, a list of those who appeared at the inquiry is given at pages 17 to 19 of the report. Chapter 1 describes the application site and provides information on the proposed development, along with planning policies, guidance and consultations relevant to the application.

Evidence at the Inquiry

4. Chapters 2 and 3 contain a summary of the evidence led at the inquiry, along with points raised in written representations, both in support and opposing the proposed development.

Consideration by the reporters

5. The reporters' findings of fact and related conclusions are contained in Chapter 4. Their reasoning and recommendation that outline planning permission be granted are set out in Chapter 5. The reporters have provided a set of planning conditions (at Appendix 1B) and heads of agreement (Appendix 2) that they recommend should form part of the consent.

Post-inquiry evidence

6. On 28 July 2008, i.e. following the end of the public local inquiry, the Scottish Government published Scottish Planning Policy (SPP) 3: *Planning for Homes*, which replaced the previous SPP 3 (2003). SPP 3 is a material consideration to be taken into account before reaching a decision on the planning application. In this regard, we received a letter on behalf of Councillors Ford, Johnston, Ross and Storr, who had appeared and given evidence at the inquiry, and who sought to highlight matters within the new SPP 3 which they considered to be relevant to the determination of the planning application. In reaching a decision on the application, the Scottish Ministers have taken the policy contained within SPP 3, and the contents of the councillors' letter, into account. Neither has led the Scottish Ministers to disagree with any recommendation made by the reporters.

7. The Scottish Ministers have also received additional correspondence from a number of individuals since the public local inquiry closed on 4 July 2008, both supporting and opposing some or all aspects of the proposed development. With the exception of the matter of the recently published SPP 3 referred to above, all of this correspondence raised issues which had already been known to the reporters and had been considered through the inquiry process. Therefore the post-inquiry correspondence has not led the Scottish Ministers to disagree with any recommendation made by the reporters.

The Scottish Ministers' Decision

8. The Scottish Ministers have carefully considered the evidence presented at the inquiry, the consultation responses and representations, the reporters' findings of fact and their reasoning and recommendation thereon. They accept the reporters' findings of fact, agree with their reasoning and recommendation and adopt them for the purpose of their own decision. In doing so, the Scottish Ministers accept the reporters' conclusions, as informed by material provided by your clients and Scottish Natural Heritage, that the proposed development would not have a significant impact on the Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area, subject to certain conditions being attached to the outline planning permission (conditions 21 and 22).

9. Accordingly, the Scottish Ministers hereby give notice that they are minded to grant outline planning permission for a golf course and resort development at land at Menie House, Balmedie, Aberdeenshire.

10. The granting of formal outline planning permission will be subject to:
- (i) the conditions set out in Appendix 1B of the report, as replicated in Annex A to this letter; and
 - (ii) the satisfactory conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 between your clients and Aberdeenshire Council, to deliver the heads of agreement set out in Appendix 2 of the report, as replicated in Annex B to this letter.

11. Formal outline planning permission will not be granted until the Section 75 Agreement has been concluded, to the satisfaction of the Scottish Ministers, and thereafter entered in the Land Register or the Register of Sasines. The Scottish Ministers therefore propose to defer their formal decision on the planning application, in the first instance for a period of 3 months, to enable these actions to be completed.

12. Copies of this letter and of the inquiry report have been sent to Aberdeenshire Council and to the other parties who appeared at the public local inquiry. These documents are also available on the Scottish Government's website at:
www.scotland.gov.uk/Topics/Built-Environment/planning/publications/foi/MenieEstate.

Yours sincerely

ANDY KINNAIRD
Planning Decisions Manager

APPLICATION FOR OUTLINE PLANNING PERMISSION: GOLF COURSE AND RESORT DEVELOPMENT AT LAND AT MENIE HOUSE, BALMEDIE, ABERDEENSHIRE

PROPOSED CONDITIONS

General

1. Application for approval of reserved matters shall be made to the planning authority within 3 years beginning with the date of this outline planning permission.

Reason: pursuant to sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

2. The development hereby granted shall be begun on or before whichever is the latest of the following two dates:

- (i) the expiration of 5 years beginning with the date of the outline planning permission; or
- (ii) the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason: pursuant to sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

3. No works in connection with the development hereby approved shall take place unless full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the 'reserved matters') have been submitted to and approved in writing by the planning authority. The reserved matters shall include:

- (i) a masterplan for the whole development;
- (ii) details of all cut and fill operations in the construction of the golf courses;
- (iii) for the championship golf course, a full topographical survey of the site as existing and as proposed, including all engineering works, site levelling and any other works required for the formation of the course;
- (iv) for the remainder of the site, a detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
- (v) full details of the proposed means of disposal of foul and surface water from the development;
- (vi) a phasing plan for the whole site;
- (vii) the siting, design, height and external materials of all buildings or structures;
- (viii) the details of all roads, footpaths and cycleways throughout the development;
- (ix) details of any screen walls/fencing to be provided;

- (x) measures to maximise environmental sustainability through design, orientation and planting or any other means, including an Index 21 assessment; and
- (xi) details of all landscaping, planting and screening associated with the development.

Reason: permission for the development has been granted in principle only and subsequent approval is required for the reserved matters in accordance with sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

4. The masterplan to be submitted under the terms of condition 3 shall include all elements of the proposed development and in addition shall:

- (i) include the provision of appropriate community facilities, such as general store, nursery/crèche, and such other community facilities as are agreed to be necessary by the planning authority and the developer;
- (ii) identify and safeguard the favoured foraging routes and areas for badgers and connections to their setts; and
- (iii) safeguard the sites identified for artificial otter holts together with otter foraging routes and areas, and resting places.

In addition, the detailed design and construction methods for the built elements of the development shall implement the advice of the planning authority, in consultation with SNH, in relation to provisions for bats and for barn owls.

Reason: in the interests of protecting the environmental sensitivity of the site and enhancing the habitat of protected species and to ensure that proper provision is made within the development to accommodate these requirements.

5. Prior to the commencement of any works in connection with the development hereby approved (apart from the formation of the championship golf course) and to allow for an appropriate design framework, the developer shall enter into a design review process with the planning authority, in consultation with Architecture and Design Scotland. Once a design has been approved following this process, the development shall be carried out in accordance with the approved design.

Reason: in order to ensure a responsive and robust design framework is created for the site.

6. Notwithstanding the details on the indicative masterplan (Figure 3.1 of the environmental statement) and prior to the commencement of any works in connection with the area covered by the particular brief (apart from the formation of the championship golf course), two development briefs, as detailed below, shall be prepared for the further approval of the planning authority. The briefs shall specify:

- (i) the height and appearance of all new structures;
- (ii) the use of appropriate external materials including walls, fences and other boundary enclosures;
- (iii) the surfacing of all new roads, parking areas, cycleways and footpaths;
- (iv) the lighting of all streets and footpaths; and
- (v) the maintenance of all open space and treed areas not included in private house plots.

The briefs shall be prepared for the following areas within the site:

- (vi) the areas proposed for private housing for sale; and
- (vii) all other buildings within the development site.

The briefs shall incorporate the outcome of the design review process required under condition 5 above. Once approved, all development in the respective areas shall be carried out in accordance with the approved briefs.

Reason: in order to give further consideration to those details which have still to be submitted.

Phasing

7. Prior to the start of any work on the site, an agreed construction programme shall be submitted to and approved in writing by the planning authority. The construction programme shall accord with the phases outlined below. For the avoidance of doubt, phase 1 of the development comprises the championship golf course, maintenance building, clubhouse, starter's hut, caddy shack, practice facilities, driving range, hotel, 36 'golf villas' and staff accommodation and phase 2 of the development comprises the first block of holiday apartments to be completed:

- (i) phase 1 of development must be complete before the start of construction of any of the private houses on the site;
- (ii) one of the blocks of holiday apartments (phase 2) shall be completed prior to work commencing on the construction of any of the private houses;
- (iii) the construction of the second block of holiday apartments shall commence prior to the completion of the 101st private house and shall be completed prior to work commencing on the construction of the 151st private house;
- (iv) the construction of the third block of holiday apartments shall commence prior to the completion of the 201st private house and shall be completed prior to work commencing on the construction of the 251st private house;
- (v) the construction of the fourth block of holiday apartments shall commence prior to the completion of the 301st private house and shall be completed prior to work commencing on the construction of the 401st private houses.

Once approved, the development shall proceed in accordance with the approved construction programme, unless otherwise agreed in writing by the planning authority.

Reason: in order to ensure the implementation and completion of the golf course resort components of the proposal, as these are the elements of the proposed development which the planning authority considers will bring economic and social benefits to the area.

Provision of Bonds

8. No works in connection with the development hereby approved shall take place until such time as bonds have been concluded to the satisfaction of and lodged with the planning authority. The bonds shall be in such terms and of sufficient value to ensure that:

- (i) the landscaping works required under condition 29 below can be completed in full. The value of this bond shall be determined following approval of the landscaping works under the terms of that condition; and
- (ii) to ensure that any land upon which works have been undertaken to construct the championship golf course can be restored in accordance with a scheme to be agreed by the planning authority in consultation with SNH. The value of this bond shall be determined by the planning authority in consultation with SNH.

Reason: to ensure the completion of the agreed landscaping scheme in the interests of the visual amenity of the area; to give effect to the evidence given by the developer; and to ensure that, in the event of the championship golf course not being completed, the site can be restored appropriately to a natural state.

Championship Golf Course Details

9. The championship golf course hereby permitted shall be constructed in accordance with the drawing entitled Golf Masterplan, drawn by Hawtree Ltd, dated February 2008, submitted as a document to the public inquiry as plan T2, unless otherwise agreed in writing by the planning authority, in consultation with SNH.

Reason: because the environmental implications of plan T2 have been assessed by the planning authority in consultation with SNH.

10. No provision shall be made for mechanical/electrical golf buggies to be used on the championship golf course.

Reason: to give effect to the evidence given in support of the development by the developer and to protect the environmental sensitivities of this part of the site.

Environmental/ecology

11. Prior to any works commencing in relation to either golf course, an Environmental Management Plan prepared to an industry-recognised standard (either IS400001 or the European standard EMAS) shall be submitted to and approved in writing by the planning authority, following consultation with SNH. The Plan shall relate to both the construction and operational phases of the development and shall include full details of:

- (i) methods and areas of stabilisation within the dune systems;
- (ii) routing of the course including reference to tracks, paths and any other ancillary requirements;
- (iii) specification of grass types, vegetation and seed mixes to be used and identification of planting areas;
- (iv) compliance with best practice standards in relation to soil and turf stripping and storage and provision of details on areas for storage;
- (v) identification of areas and methods for translocation of habitats;
- (vi) a phasing plan, specifying timings and durations of construction aspects in relation to each course;
- (vii) a turf management plan, with full details of fertilisers, herbicides and pesticides, including type, rates of application, duration and method;

- (viii) management of areas of fairway, greens, tees, transition rough and rough, including mowing/grazing regimes, with details of disposal of mown clippings;
- (xi) water irrigation and abstraction rates; and
- (x) identification of the proposed number of rounds per annum, by an agreed date per annum for the first 10 years of operation of each course.

The development of each golf course shall thereafter be undertaken in accordance with its approved Environmental Management Plan, which shall also include a formal reporting and review process.

Reason: in order to protect the environmental sensitivity of the site.

12. Prior to the commencement of any works in connection with the development hereby approved, the developer shall submit the terms of reference for an Ecological Clerk(s) of Works for the written approval of the planning authority, following consultation with SNH. Such terms of reference shall include the length of time that the Ecological Clerk(s) of Works shall be appointed. Thereafter the developer shall appoint a suitably qualified Ecological Clerk (or Clerks) of Works (to be funded by the developer). The person(s) who is/are appointed shall be approved in writing in advance by the planning authority, in consultation with SNH. Subsequently, the developer shall maintain the appointment of the Ecological Clerk(s) of Works for the site, who shall act in accordance with their approved terms of reference.

Reason: in order to ensure that all works relating to the ecological interests of the site are undertaken in the appropriate and agreed manner.

Protection of Specified Areas

13. Prior to the commencement of any works in connection with the development hereby permitted, the extent of the coastal dune ridge shall be defined on a plan to be submitted to and approved in writing by the planning authority, in consultation with SNH. Thereafter, the coastal dune ridge, as defined on the approved plan, shall be protected from all works associated with the creation of the golf courses and their future management, and shall remain as such in perpetuity to the satisfaction of the planning authority.

Reason: in the interest of protecting the environmental sensitivity of the site.

14. Tree surveys shall be carried out and submitted for the consideration and written approval of the planning authority for the area of the championship golf course and for the remainder of the site. In the case of the championship course, the survey shall be submitted prior to the start of work on that part of the site. The other survey shall be submitted prior to the start of work on the remainder of the site. The tree surveys shall identify existing tree species, including an estimation of their height and spread of branches, and plot their location within the site accurately, to the satisfaction of the planning authority. Those trees which it is proposed to retain or to fell and remove shall be separately identified. No tree shall be removed without the express consent of the planning authority.

Reason: in the interests of visual amenity and to safeguard as many trees as possible on the site.

15. No work shall start on the relevant parts of the site unless the trees to be retained as identified in the surveys to be submitted and approved pursuant to condition 14 above have been protected by suitable fencing in accordance with BS5837 2005 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the planning authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the planning authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: to ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

16. Prior to the commencement of any works in connection with the development hereby permitted and notwithstanding the details on the submitted plans, a plan showing the extent of a buffer zone to be created around the area of ancient woodland shall be submitted to and approved in writing by the planning authority and thereafter no development shall take place within the area so defined.

Reason: to ensure the retention of important habitat and landscape features and preserve the character of the area.

17. Prior to commencement of any works on site a plan showing the location of pond PN8 as labelled in the environmental statement and a 20 metre wide protection zone around it shall be submitted to and approved in writing by the planning authority and thereafter no development shall take place within the area specified.

Reason: to protect the environmental sensitivity of the site.

Species and habitats

18. Prior to the commencement of any works on site a bryophyte survey and mitigation plan(s) shall be submitted to and approved in writing by the planning authority, following consultation with SNH. Once approved, the mitigation plan(s) shall thereafter be complied with.

Reason: in order to give adequate protection to bryophytes, details of which have yet to be submitted.

19. Prior to the commencement of any works on site and with reference to condition 4 above, management plans for otter and badger shall be submitted to and approved in writing by the planning authority, in consultation with SNH. Thereafter the approved plans shall be complied with during the construction works and during the operation of the golf resort.

Reason: to safeguard the habitats of these protected species.

20. Prior to the commencement of any works on site and with reference to condition 4 above, habitat management and enhancement plans, incorporating mitigation and compensatory measures for birds, bats, invertebrates and plants, shall be submitted for the further written approval of the planning authority, in consultation with SNH. For bats, the works on site shall include the felling of any trees, which shall first be surveyed for the presence of bats. Thereafter, the approved plans shall be complied with during the construction works and during the operation of the golf resort.

Reason: in the interests of protecting the environmental sensitivity of the site and to enhance habitats.

21. Prior to the commencement of any development on the site, details of a goose management scheme for pink footed geese shall be submitted to and approved in writing by the planning authority, following consultation with SNH and CAA. The approved scheme shall be implemented in its entirety in accordance with the approved details.

22. Prior to the commencement of any development on the site, details of mitigation measures to reduce bird disturbance in the Ythan Estuary, Sands of Forvie and Meikle Loch SPA shall be submitted to and approved in writing by the planning authority, following consultation with SNH and BAA. Amongst other things, these measures shall comprise: the provision within the application site, or other areas owned or controlled by the developer, of appropriate forms of open space; the improvement of access on the Menie Estate; and the enhancement of the recreational attraction and capacity of existing semi-natural open space on the estate. The measures shall thereafter be implemented in their entirety in accordance with the approved details.

Reason for 21 and 22: to ensure that there would not be an adverse effect on the integrity of the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and the Ythan Estuary and Meikle Loch Ramsar site and to safeguard aviation at Aberdeen airport.

Water and Drainage

23. Prior to the submission of any application for reserved matters for any of the buildings, development impact assessments for foul drainage and water supply shall be submitted for the further written approval of the planning authority, in consultation with Scottish Water. Thereafter, no development pursuant to this planning permission shall take place until plans indicating all details of: the proposed sewage disposal/drainage facilities; provision for surface water disposal; and the proposed water supply have been submitted to and approved in writing by the planning authority, in consultation with Scottish Water and SEPA.

Reason: in the interests of public health and to prevent pollution.

24. Site water management plans for: (a) the championship golf course; and (b) the remainder of the development site; shall be submitted to and approved in writing by the planning authority in consultation with SEPA and SNH. In the case of the championship golf course, the plan shall be submitted and approved prior to the start of work on that part of the site. The other site water management plan shall be submitted and approved prior to the start of work on the remainder of the site. The plans shall include: full details of foul water



disposal; the proposed means of disposal of surface water from the development; any water abstraction; and any irrigation. Unless otherwise agreed in writing by the planning authority, surface water shall be disposed of via the use of sustainable urban drainage systems. Once approved, the works shall be implemented in accordance with the agreed plans.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area and for protection of the water environment.

25. Foul drainage from the site shall be drained to the mains sewerage system by means of adoptable sewerage and plant, the details of which shall be submitted to and approved in writing by the planning authority in consultation with Scottish Water, and thereafter complied with.

Reason: in the interests of public health and to prevent pollution.

26. Details of the location and configuration of all sustainable urban drainage systems to be provided on the site and the arrangements for the maintenance thereof, shall be submitted and approved in writing by the planning authority, in consultation with SEPA and Scottish Water. In the case of the championship golf course, the details shall be submitted and approved prior to the start of work on that part of the site. Details for the remainder of the site shall be submitted and approved prior to the start of work on the remainder of the site.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area and for the protection of the water environment.

27. Where any watercourse crossings are required, watercourses will be bridged and not culverted. No part of the bridge structure shall lie within the banks or bed of the watercourse. Details of the proposed water crossings shall be submitted as part of the reserved matters application(s).

Reason: to ensure the integrity of the existing watercourses on the site.

28. Prior to the commencement of any development, a scheme for monitoring, evaluation and mitigation measures in relation to local water quality shall be submitted to and approved in writing by the planning authority, following consultation with SEPA. Once approved, these measures shall be complied with during construction works and the operation of the golf resort.

Reason: in the interests of protecting the water quality within the site.

Landscaping Details

29. Schemes of hard and soft landscaping works shall be submitted to and approved in writing by the planning authority. In the case of the area covered by the championship golf course, the scheme for that area shall be submitted and approved before works start on that part of the site. In the case of the rest of the development area, the scheme for the whole remaining area shall be submitted and approved before any work

starts on any part of the rest of the site. The landscape schemes shall be linked to the agreed phasing plan submitted and approved pursuant to condition 7 above.

Details of the schemes shall include:

- (i) existing and proposed finished ground levels relative to a fixed datum point;
- (ii) existing landscape features and vegetation to be retained;
- (iii) existing and proposed services including cables, pipelines and substations;
- (iv) the location of new trees, shrubs, hedges, grassed areas and water features;
- (v) a schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) the location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment;
- (vii) an indication of existing trees, shrubs and hedges to be removed;
- (viii) a programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site, or such other date as may be agreed in writing with the planning authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: to ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

30. No works in connection with the development hereby approved (with the exception of the championship golf course) shall take place unless details of the location and nature of public open space to be provided within the development as a whole, and the arrangements for the maintenance thereof, have been submitted to and approved in writing by the planning authority.

Reason: to ensure that public open space is provided and maintained to an acceptable standard throughout the development.

Public Access

31. As part of the masterplanning exercise required by condition 3(i), a plan shall be submitted to and approved in writing by the planning authority, in consultation with the relevant recreational and community interests, which sets out both the broad approach and details of how the developer will meet its obligations under section 3 of the Land Reform (Scotland) Act 2003. This plan shall ensure that public rights of access are maintained over the development area in accordance with that Act. In particular, the plan shall:

- (i) describe action to compensate for losses arising from conversion of land to golf course use;
- (ii) describe how existing routes across the sites used by the public at present will be affected and how they will be retained or replaced;
- (iii) integrate provision for access across all sectors of the public who are participating in open-air recreation – those at the resort, the visiting public and local residents;
- (iv) show any routes proposed for promoted public access, and provide details on how these routes will be constructed and implemented;
- (v) provide details of how cyclists, horse-riders and all ability use will be accommodated;
- (vi) provide details and specifications for the provision of ancillary facilities such as parking, information boards and way-marking;
- (vii) provide details of a maintenance regime for the foregoing, including a mechanism for liaison over access with the local authorities, local community interests and the local access forum, as appropriate;
- (viii) describe in general terms how access might be affected by any special events taking place at the resort;
- (ix) describe in general how the needs of any community events that impinge on the development area will be accommodated; and
- (x) address how access will be accommodated during the construction phases.

Reason: in order to promote compliance with Part 1 of the Land Reform (Scotland) Act 2003, and to secure and enhance existing public access at Menie.

Housing and Holiday Accommodation

32. No more than 500 houses for private sale shall be built under the permission hereby granted.

Reason: for the avoidance of doubt and in order to comply with the proposals as submitted.

33. The 'golf villas' and holiday apartment buildings hereby approved shall be occupied on a holiday letting or fractional ownership basis only, and none of these units of accommodation shall be occupied by any group or individual for more than a total of 12 weeks in any calendar year.

Reason: in order to give effect to the evidence given by the developer and to retain control over the occupation of these buildings as holiday accommodation.

Transport and Roads

34. No development shall commence (except works related to the construction of the championship golf course) until the following details are submitted to and approved by the planning authority, in consultation with Transport Scotland:

- (i) plans showing the extent of the modifications proposed on the A90(T), necessary to mitigate the traffic implications of phases 1 and 2 of the development (as defined in condition 7 above), including mitigation works at the

- A90(T) Parkway/A956 roundabout, the A90(T) Ellon Road/B999 roundabout and the A90 (T) Parkway/ Scotstown Road roundabout;
- (ii) the provision of new or extended bus services to serve the development, including details of operating hours, frequency of service, route and timescale for introduction, together with evidence of an agreement with a public transport operator to provide the service(s), (in accordance with the proposed service outlined within the Fairhurst Transport Report, dated April 2008);
- (iii) a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car, which shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan; and
- (iv) the road lighting/ road drainage.

35. The development hereby permitted shall not be occupied until the existing A90(T)/ Hill of Menie Access has been permanently closed and the A90(T) road properly reinstated.

36. No additional development on the remainder of the site shall be occupied over and above that identified in phase 1 and phase 2 (as defined in condition 7 above) until after the opening of the new A90(T) Balmedie to Tipperty dual carriageway upgrade and the construction of an additional grade separated junction in the vicinity of Orrock House, north of Balmedie village, to serve the development directly from the new dual carriageway. Plans showing the additional grade separated junction shall be submitted to and approved by the planning authority, in consultation with Transport Scotland, prior to the start of development on the remainder of the site.

37. Prior to the occupation of Phase 1 of the development hereby permitted (as defined in condition 7 above), the following road works shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, and in accordance with detailed plans first approved by the planning authority under condition 34 above:

- (i) the proposed A90(T)/development access roundabout;
- (ii) the modifications to the A90(T) Ellon Road/B999 roundabout; and
- (iii) the approved mitigation proposals to the A90(T) Parkway/A956 roundabout.

38. Prior to the occupation of Phase 2 of the development hereby permitted the approved mitigation proposals to the A90(T) Parkway/Scotstown Road roundabout, shall be implemented to the satisfaction of the planning authority, in consultation with Transport Scotland and in accordance with detailed plans first approved by the planning authority under condition 34 above.

39. Before each phase of the development is first occupied, the agreed bus services referred to in condition 34 above shall be introduced.

Reason for conditions 34-39: to ensure that the development proposals will not have a significant detrimental impact on the operation of the trunk and local road network.

Archaeology

40. No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, as agreed by Aberdeenshire Council Archaeology Service and approved by the planning authority. Thereafter the developer shall ensure that the approved programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the planning authority, in consultation with Aberdeenshire Council Archaeology Service.

Reason: in the interests of recording and preserving such items of historical importance that exist within the site.

Lighting

41. Details of any external lighting installation that may illuminate any part of the golf courses and any other golf related development shall be submitted to and approved in writing by the planning authority, in consultation with SNH, prior to its installation. Once approved, the approved lighting installation shall be implemented as part of the works on site.

Reason: to prevent adverse impacts on wildlife, at night, in the coastal environment.

42. A lighting scheme for the remainder of the development site, other than the golf courses and ancillary golf facilities, shall be submitted to and approved in writing by the planning authority before the installation of any such lighting. Once approved, the approved lighting installation shall be implemented as part of the works on site.

Reason: in the interests of the amenity of the area.

Miscellaneous

43. Waste management plans, incorporating on-site disposal, shall be submitted to and approved in writing by the planning authority, in consultation with Environmental Health. These plans shall be prepared for:

- (i) the championship golf course; and
- (ii) the remainder of the development site.

In the case of the championship golf course, the plan must be submitted and approved before works start on that part of the site. In the case of the remainder of the development site, the plan must be submitted and approved before works commence on any part of the site, apart from the championship golf course. Once approved, the provisions of the approved plans shall thereafter be complied with.

Reason: in the interests of the sustainable disposal of waste.

44. Details of any micro wind turbines to be installed as part of the development hereby approved shall be submitted for the further approval of the planning authority in consultation with the CAA and thereafter complied with.

Reason: in the interests of aviation safety.

45. Any plant and equipment, such as air conditioning, mechanical extraction, air receivers etc, must be designed and installed so as to prevent noise disturbance to adjoining properties.

Reason: to prevent disturbance from noise.

Construction Requirements

46. Prior to works commencing on any part of the site, a detailed construction method statement, which shall take account of the environmental management plan for the site and the individual species and habitat management plans, shall be submitted to and approved in writing by the planning authority, following consultation as appropriate with SNH, SEPA, Environmental Health and Transport Scotland.

The method statement shall include:

- (i) details of buffer zones, public access arrangements during construction, signage details and car parking for construction workers;
- (ii) details of storage areas to be utilised during the construction period, which shall not be on the site access or any other access roads serving the development;
- (iii) details of the installation of an effective wheel washing facility, which shall be retained in working order throughout the construction period on a particular part of the site, and used such that no vehicle shall leave the site carrying earth and mud in its wheels in such a quantity which causes noise or hazard on the road system in the locality;
- (iv) details of dust suppression measures to be employed at the site during the construction period;
- (v) proposed hours of working;
- (vi) details of any proposed construction access routes; and
- (vii) details of a soil and sand management plan, which shall include maximum reuse of sand and soil within the site.

Once approved the construction of the development on the site shall be undertaken entirely in accordance with the provisions of the approved method statement, which shall be reviewed prior to the commencement of each phase of development and amended as required with the written approval of the planning authority and following appropriate consultation.

Reason: to ensure that all construction activity is undertaken so as to protect the environmental sensitivity of the site and the residential amenity of neighbouring properties.

APPLICATION FOR OUTLINE PLANNING PERMISSION: GOLF COURSE AND RESORT DEVELOPMENT AT LAND AT MENIE HOUSE, BALMEDIE, ABERDEENSHIRE

HEADS OF AGREEMENT

1. Affordable Housing

Definitions:

"Affordable Housing Units" will mean 98 residential units to be constructed to a specification to be confirmed by the Council in accordance with the Communities Scotland document 'Housing for Varying Needs Standards'

"The Affordable Housing Site" will mean a site or sites within Balmedie to be provided by the Council or a body to be nominated by the Council.

"The Menie housing units" will mean the 500 open market private residential housing units to be constructed by the Applicant on the application site.

"The Balmedie housing units" will mean the private residential housing units comprising 98 affordable units and 52 open market entry level housing units in accordance with PAN 74 to be constructed by the Applicant within Balmedie as set out in this Agreement.

"The Occupation Date" will mean the date following three months after the service of a Notice by the Applicant on the Council confirming the Applicant's intention to commence construction of the some or all of the Affordable Housing Units on any Affordable Housing Site. For the avoidance of doubt there may be more than one Occupation Date if the Council provides more than one Affordable Housing Site.

"The First Affordable Housing Delivery Date" will mean the date of issue of the habitation certificate for the 125th open market residential unit within either separately or cumulatively the Menie housing units or the Balmedie Housing units.

"The Second Affordable Housing Delivery Date" will mean the date of practical completion of the 250th open market residential unit within either separately or cumulatively the Menie housing units or the Balmedie Housing units.

Obligations:

- a) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the relevant Affordable Housing Site on the relevant Occupation Date, the Applicants will procure the construction of 50 Affordable Housing Units on the relevant Affordable Housing Site or Sites to the stage of practical completion by the First Affordable Housing Delivery Date.
- b) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the relevant Affordable Housing Site on the relevant Occupation Date, the Applicants will procure the construction of 48 Affordable Housing Units on the relevant Affordable Housing Site or Sites to the stage of practical completion by the Second Affordable Housing Delivery Date.

- c) The Council will ensure that each Affordable Housing Site is decontaminated or 'clean' with the benefit of all usual utilities and services to its perimeter on the relevant Occupation Date.
- d) The Council will be responsible for determining the size and mix of the Affordable Housing Units and they will so advise the Applicant in writing at least three months before any contract for the construction of each tranche of the Affordable Housing Units is let by the Applicant.
- e) At the stage of practical completion of each tranche of the Affordable Housing Units, the Council or its nominees will take over the control and management of the units for letting or sales purposes and the Applicant will have no further liability in relation to the units for the purposes of this Agreement.
- f) Subject to obtaining all necessary statutory consents, including planning permission, the Applicant will be entitled to construct and subsequently to sell on the open market a total of 52 open market units forming part of the Balmedie housing units on an Affordable Housing Site.

2. Education Facilities

Definitions:

"the School" will mean a primary school and associated playing fields, playground and car parking to accommodate a maximum of 225 pupils, the specification for which is attached as Appendix [].

"the School Site" will mean a site within Balmedie to be provided by the Council.

"The Menie housing units" will mean the 500 open market private residential housing units to be constructed by the Applicant on the application site.

"The Balmedie housing units" will mean the private residential housing units comprising 98 affordable units and 52 open market units to be constructed by the Applicant within Balmedie as set out in this Agreement.

"The Occupation Date" will mean the date following three months after the service of a Notice by the Applicant on the Council confirming the Applicant's intention to commence construction of the School.

"The School Delivery Date" will mean either (1) the second anniversary of the date of commencement of any one of the Balmedie housing units or (2) such other later date as may be notified to the Applicant by the Council prior to completion of the 250th unit within the Menie housing units.

Obligations:

- a) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the School Site on the Occupation Date, the Applicants will procure the construction of the School on the School Site to the stage of practical completion by the School Delivery Date.
- b) The Council will ensure that the School Site is decontaminated or 'clean' with the benefit of all usual utilities and services to its perimeter on the Occupation Date.
- c) The Council will supervise the construction of the School to the stage of practical completion, at which stage the Council will take over the control and

3. Community Facilities

Definitions:

"The Community Contribution" will mean a financial contribution of £500,000 in total.

"The Due Date" will mean a date no later than 28 days after the date of practical completion of the 52nd open market unit forming part of the Balmedie housing units.

Obligations:

- a) The applicant will pay the Community Contribution to the Council quarterly in arrears on the basis of being liable to make a payment of £9,615 for each one of the 52 Balmedie open market units, which reaches the stage of practical completion.
- b) The Council will use the Community Contribution for the purposes and functions of the Council's Education Learning and Leisure Service.
- c) If the Council has not spent or committed to spend all or any part of the Community Contribution by the date of the fifth anniversary of the last payment to the Council, any unspent or uncommitted sum will be refunded to the Applicant within 30 days with interest payable at the base lending rate.

4. Off site road improvements

Definitions:

"Phase 1 of the development" will mean the development of the championship golf course, the maintenance building, the clubhouse, starters hut, caddy shack, practice facilities and driving range, the hotel, 36 golf villas, staff accommodation and the first block of holiday apartments.

"The A90(T) project" will mean the design, construction and procurement of the proposed upgrade of the Balmedie to Tippetty dual carriageway by Transport Scotland.

"The A90 (T) access" will mean the construction of a new access off the proposed grade separated junction forming part of the A90 (T) project, which access will serve the development directly from the upgraded dual carriageway.

Obligations:

- a) No development additional to Phase 1 of the development shall be occupied until the A (90) project has been completed and opened to general traffic.
- b) Subject to obtaining the necessary statutory consents and permits to construct the A90 (T) access, no development additional to Phase 1 of the development shall be occupied until the A90 (T) access has been completed and opened to general traffic.

5. MEMAG

Definitions:

"MEMAG" will mean the Menie Environmental Management Advisory Group;

Obligations:

- a) Prior to the carrying out of the masterplanning exercise required in terms of Condition 3 of the outline planning permission, the Applicant will establish MEMAG in consultation with the Council.
- b) The remit of MEMAG will be to provide advice to the Applicant and the Council on
 - a. 'best practice' environmental management and operation;
 - b. monitoring of environment including ecology;
 - c. the minimisation of unanticipated adverse changes in addition to those already recognised in the main Environmental Impact Assessment that accompanied the application for outline planning permission;
 - d. Full compliance with the relevant conditions attached to the outline planning permission and related reserved matters' approvals;
- c) The membership and structure of MEMAG will be as set out in Appendix 6 – 6 of the Environmental Statement. A copy of Appendix 6 -6 will be annexed to the Section 75 Agreement or its terms incorporated therein.
- d) The policy committee of MEMAG will agree the locus and maximum estimated costs of their operations and activities, including the cost of administrative and secretarial support on a three year rolling basis.
- e) For the avoidance of doubt, MEMAG will operate as an advisory body only and will not have the power to veto any proposal or action proposed by the Applicant or the Council. The Council, as planning authority, will remain responsible for the statutory development management of the application site.

6. Local Training and Staff Recruitment Programme

Definitions:

"A Training and Employment Strategy" will mean a strategy to promote and develop local training and education opportunities in disciplines to be employed within the application site with specific objectives, an action plan and monitoring arrangements.

"Development" will mean the development approved by the outline planning permission under exception of the construction of the championship golf course.

Obligations:

- a) Prior to commencement of the Development, the Applicant shall agree a Training and Employment Strategy in consultation with the Council.
- b) During the construction of the Development the Applicant will take reasonable steps to ensure that full and fair employment opportunities are given to persons

resident within a 50 mile radius of the Application Site before advertising for staff outwith that radius.

- c) During the construction of the Development the Applicant will take reasonable steps to ensure that full and fair opportunities in relation to Construction contracts and sub-contracts are given to suppliers of goods and services trading or having a depot within a 50 mile radius of the Application Site before advertising for the supply of goods and services outwith that radius.
- d) The Applicant will notify the Council of (1) the nature of the goods and services which they intend to procure for the purpose of carrying out the development and (2) businesses with a principal base or depot with a 50 mile radius of the application site that may reasonably be able to tender for the supply of the specified goods and services.
- e) The Applicant will provide advice to prospective tenderers regarding contract procedures, standards and requirements.
- f) The Applicant will record relevant information in relation to these obligations on a monthly basis for submission to the Council on a six monthly basis starting with the date of commencement of development. Such information will be agreed as part of the Training and Employment Strategy.
- g) The Applicant will notify all job vacancies to Job Centres, a schedule of which Centres will be agreed as part of the Training and Employment Strategy, before advertisements are place elsewhere to determine if suitable local labour is available prior to the employment being offered elsewhere.
- h) The Applicant will not be required to do anything in relation to these obligations that could be construed as a breach of European Employment Law.
- i) The Applicant will provide a contact person to liaise with the Council in relation to the implementation of these obligations and the Training and Employment Strategy.

GENERAL

- a) All financial contributions will be index linked to the Retail Price Index from 1 January 2008.
- b) The Applicant will be liable for their own and the Council's reasonable legal expenses in relation to the preparation of the Section 75 Agreement.