

FACT SHEET ABOUT SCOTTISH GOVERNMENT INTENTION TO GIVE PLANNING PERMISSION IN PRINCIPLE FOR THE PARK OF KEIR DEVELOPMENT

AIM OF FACT SHEET – to give enough information for Objectors to the proposals to write letters to or discuss with local councillors/MSPs/Ministers.

I have tried to highlight key points in each section of the Ministers Notice of Intention letter and suggest some questions/points to raise. The paragraph numbers in bold type refer to the notice of intention letter and all other paragraph numbers are from the reporter's report. Quotes from the Notice of Intention letter are in italics.

Obviously not everyone has full knowledge of the case from the beginning and it is not practical to provide this all here without creating an even longer and more complex document. I have included a link to the case on the Scottish Government Planning and Environmental Appeals Division (DPEA) website. <https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=117318>

The best summaries of the Public Inquiry can be found in the Conclusion sections of The Closing Submissions from RAGE, Stirling Council, Arnbathie Developments, Dunblane Community Council and Brodies LLP (representing the Park of Keir Partnership). They can all be found on page 3 of the DPEA documents. All dated 26th September 2016 except Brodies LLP which is dated 30th September 2016.

The Ministers Notice of Intention and the Reporters Report are both on page 1 of the DPEA documents dated 30th August 2017.

At the end of the Key Points from Ministers Notice of Intention I have included a list of the main grounds of objection raised at the Public Inquiry.

This fact sheet obviously isn't an exhaustive list of points to raise. It's important that people add their own thoughts on, and feelings about, this decision to maximise the potential impact on councillors, MSPs and Ministers.

I have included a list of councillor's emails addresses and a link to Stirling Council Website for more information about councillors.

I have also included email addresses for Nicola Sturgeon and Kevin Stewart and a link to the full list of Scottish MSPs/Ministers.

If there is any other information you need or you need help finding documents please email me kathydpidgeon@hotmail.co.uk

KEY POINTS FROM MINISTERS NOTICE OF INTENTION

Scottish Ministers Decision

5 ‘*Scottish Ministers accept and agree with the reporter’s conclusions that the development does not comply with the Local Development Plan. However, Ministers consider that there are material considerations which indicate that planning permission in principle should be granted. In reaching this view Ministers do not agree with the reporter’s conclusions in relation to the weight to be given to some of the material considerations, and have attached weight to the economic value of the proposed development and the regional and national importance of the sports facility.*’

There are surely Inconsistencies in this decision as - they are placing heavier weight than the reporter on the economic value and regional and national importance of the development whilst at the same time acknowledging that ‘*appellants proposed funding model contains assumptions some of which, may be optimistic or not specifically proven*’ (Para 20) and ‘*Ministers accept the reporter’s conclusion that it has not been proven that an alternative site does not exist.*’ (Para 22) Ministers also ignore the fact that ‘*The reporter notes that the appeal proposals do not form part of a published national strategy for tennis*’ (Para 14)

Development Plan

9 ‘*The reporter goes on to conclude that, because of the scale and potential impact of the proposed development on the green belt and on a protected landscape, and the likelihood it would be predominantly accessed by unsustainable modes of travel, that overall the proposals are not in conformity with the development plan.*’

The reporter notes that there are potential recreation, health, tourism and economic benefits of the proposed development, but nevertheless concludes that it would be in the wrong location to comply with key provisions of the development plan, even taking into account the previous planning permission for a hotel and golf course on the land. (paragraph 10.115).’

10 ‘*Ministers accept the reporter’s reasoning and conclusion that, overall, the proposed development is not in conformity with the development plan.*’

Ministers have ignored the reasons given by the reporter in **Paras 7 -9** ‘*the proposals are contrary to policies which aim to protect the green belt and special landscapes, avoid inappropriate development in the countryside, reduce dependency on the private car and promote sustainable forms of development* (paragraph 10.113).’

Material Considerations

Planning History

11 ‘*Although the 2005 consent was not implemented, and the section 75 agreement associated with the renewal application in 2008 was not concluded, the reporter notes that it is reasonable to take the 2005 consent as the baseline for consideration of the current proposals. The reporter considers that the planning history lends only limited support, at most, to the current proposals for a significantly different and substantially larger development which involves building (including housebuilding) on areas which were to be protected from development. Scottish Ministers agree that the planning history of the site, through outline planning permission granted in 2005, lends at most limited support to the principle of an 18-hole golf course with clubhouse and 150-bedroom hotel at Park of Keir.*

‘Ministers note that the section 75 agreement attached to the earlier consent (2005) for outline permission for a hotel and golf course specifically bound the developer and adjoining proprietor not to develop the site or additional area for any other purpose. Bearing in mind the subsequent development plan process, i.e. Stirling LDP having been adopted in 2014,

Ministers consider it is reasonable to reduce the weight that may be attached to the prior planning history. However, the previous consent nevertheless forms part of the planning history of the site and is therefore noted in considering the principle of golfing facilities and a hotel at Park of Keir and in consideration of the current proposals.'

Is there not an inconsistency in the way Ministers are reducing the weight of the previous planning history? They are allowing the fact that areas were to be protected from development, by a section 75, to be overruled but the permission for golf course, clubhouse and hotel still stand.

Benefits for Sport and recreation

Paras 12-16 Unfortunately, although the reporter has recommended refusal of the appeal, he has made a lot of positive comments about the proposed centres benefits in a regional context:

- *'That the tennis and golf would make an important contribution to the aim of increasing participation in both sports (paragraph 10.217).'*
- *that the appeal proposals would bring substantial benefits for sport and recreation in the Stirling area and nationally; they would provide facilities for tennis and golf which are not available in Scotland at present, and would create a multi-user complex which would house a variety of recreational uses on one site (para 10.117).'*

Ministers have attached considerable weight to this in their decision making even though they acknowledge that the appeal proposals do not form part of a published national strategy for tennis and that the centre will largely be accessed by unsustainable modes of transport (**Para 16**) Yet in **Para 22** ministers accept the reporters conclusions that it has not been proven that an alternative site doesn't exist and in **Para 20** they agree that the funding model is unproven and optimistic.

Net Economic Benefit

Unfortunately, even though the reporter admits there is real uncertainty about the number of jobs that would be created (**Para17**), he has commented positively about the centre creating employment and economic activity and promoting recreation and tourism in the area (**Para18**). Scottish Ministers have attached considerable weight to the expected economic benefits. The reporter only referred to the economic benefits being in a regional context yet ministers have decided to attach more weight to this and see it as nationally important.

Enabling Housing and funding Model

20*'The reporter finds (paragraph 10.171) that the case has not been made for enabling housing on the site, and that certain of the assumptions underpinning the appellant's funding model are optimistic and unproven, and that this could result in the need to change the scale or nature of the project if it were to go ahead. The Reporter also notes (paragraph 10.169) that the financial implications of developing the sports facilities have not been the subject of an assessment. Scottish Ministers note this, and agree that the appellant's proposed funding model contains assumptions, some of which may be optimistic or not explicitly proven.'*

The developer is arguing that the enabling housing will allow the centre to be built debt free and therefore keep entry costs to a minimum. The reporter states the case has not been made for enabling housing on the site and that the funding model is unproven and optimistic. Ministers agree with him but they are still prepared to allow the housing to go ahead.

This means that they will be looking for circa £8.5 million from other sources and Tennis Scotland has announced £15 million to improve tennis facilities across Scotland. It seems likely from statements made by Tennis Scotland chair, Blane Dodds, immediately after the Public Inquiry that Park of Keir would be one of the 10 new centres across Scotland that would receive funding. Tennis Scotland also say they plan to double the number of indoor courts from 112 to 225. It seems likely that they will be receiving public money (lottery funding). They are looking for circa £8.5 million. If Park of Keir did meet the funding criteria allocating anything like this amount could clearly impact on projects in other parts of the country. Throughout this application the emphasis has been on providing a 'Murray Legacy' surely it should matter to Scottish ministers that this legacy is likely to achieve its aims and not become a white elephant. Why would they not want to ensure that it was in the right place. Why would they not want to ensure it was a viable idea. No evidence was produced at the inquiry that the centre would increase participation in tennis. JM herself said after the closure of the £40million centre in Roehampton that smaller, £1million centres across the country was a better way to increase participation.

Location/Alternative sites

22 The reporter *'concludes that the proposed site is an unusually sensitive area of green belt, and is not persuaded that an alternative site does not exist in the Stirling area or elsewhere in central Scotland without the need for a major incursion into the green belt (paragraph 10.178). Ministers accept the reporter's conclusion that it has not been proven that an alternative site does not exist.'*

How can Scottish ministers ignore the recommendation of the reporter to refuse this appeal when they agree that there may be other sites, that the funding model is unproven and optimistic and they have seen no viable business plan. Have they been influenced by JM's PR company and her lobbying company Charlotte Street Partners? Have no lessons been learnt from the Trump Golf course in Aberdeenshire fiasco?

Scottish Planning Policy

23 *With regard to Scottish Planning Policy (SPP), 'the reporter concludes (paragraph 10.192) that the appeal proposals fail to meet key sustainability principles set out in the Scottish Planning Policy and that they do not therefore constitute development that contributes to sustainable development for the purposes of paragraph 33 of SPP (which sets out a 'presumption in favour' of such development). The reporter also concludes that the site is in an accessible, pressured rural area where SPP indicates expects a more restrictive approach to new housing development (paragraph 10.181; 10.219). Ministers accept the reporter's conclusions with regard to national planning policy.'*

In granting Planning Permission in Principle for this development ministers are prepared to ignore not just local democracy and the reporter's recommendations but Scottish Planning Policy

Planning conditions

24 *The Reporter concludes that other material considerations do not override the proposals' failure to comply with important provisions of the development plan, and he does not consider that the proposals could be made acceptable by imposing planning conditions. Ministers accept the reporter's recommendation at paragraph 10.222 that if they are minded to allow the appeal, planning permission be granted subject to conclusion of a section 75 agreement, or other legally binding agreement, to secure education and affordable housing, and subject to conditions. Ministers consider that the planning balance lies in favour of granting planning permission in principle, subject to appropriate conditions, and conclusion of a section 75 planning obligation (or other legally binding agreement) in order to:*

- *secure education and affordable housing contributions in line with Stirling Council's supplementary guidance;*
- *ensure no further residential development will be undertaken on the wider site; and*
- *set out arrangements to ensure accessibility and affordability of the sports facilities. 25. Ministers propose to attach conditions as set out at annex 2 of the reporter's*

As can be seen from the section Planning History (**Para 11**) ministers note that the section 75 agreement attached to the earlier consent (2005) for outline permission for a hotel and golf course '*specifically bound the developer and adjoining proprietor not to develop the site or additional area for any other purpose*'. The history does not give us any confidence that a Section 75 will be effective this time. The 2008 agreement, associated with the renewal of planning permission was not signed and is the reason why the 2008 renewal was not completed. The 2005 Section 75 agreement is still registered at St Andrew's House in Edinburgh.

Summary

29 *'Ministers agree with the reporter that a planning obligation should be completed to secure education and affordable housing contributions in line with Stirling Council's supplementary guidance. Ministers also consider that the planning obligation should include an agreement that no further residential development will be undertaken on the wider site. Formal planning permission will not be granted until the legally binding agreement has been concluded to the satisfaction of Scottish Ministers. 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 the relevant planning obligation to be completed to Ministers satisfaction.'*

Annex Planning Obligation and Revised conditions

Planning Obligation

'A planning obligation should commit the developer to make contributions to affordable housing and education provision in the area in line with the council's supplementary guidance. The planning obligation should include an agreement that no further residential development will be undertaken on the wider site. The planning obligation should also set out arrangements to ensure that the sports facilities are accessible to the general public and with a pricing structure that ensures that the facilities are affordable.'

Ministers state in **Para 29** *'Formal planning permission will not be granted until the legally binding agreement has been concluded to the satisfaction of Scottish Ministers. 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 the relevant planning obligation to be completed to Ministers satisfaction.

It is concerning that the formal planning permission will be given when the legally binding agreement is concluded to the satisfaction of Scottish ministers.

Ministers have shown from this Notice of Intention that they are prepared to ignore the Local Development Plan, Scottish Planning Policy and the reporters independent and expert opinion. The change to condition 8, allowing the houses to be built before the tennis centre, clearly benefits the developer. How can we have confidence in this statement.

‘The planning obligation should also set out arrangements to ensure that the sports facilities are accessible to the general public and with a pricing structure that ensures that the facilities are affordable’

Planning obligation on affordability and accessibility lacks definition, offering no guarantee that these aims are achieved. It merely states that the obligation ‘should set out arrangements’ Do they mean accessible in terms of transport, or in terms of not restricted to membership? The idea of affordability is also very vague. In the inquiry there was mention of charges of £7 child/ £14 adult per hour, which would be a considerable amount for a family of 4, £42 for 1 hour. Add to this the cost and time of travel to the centre. 270,000 visitors to the tennis and golf a year is going to rely on a significant percentage of visits from people a considerable distance from the centre. How affordable is this and how enforceable is this condition?

Planning conditions

One of the objectors’ main concerns throughout his process has been that the houses would be built but the tennis centre would not. To mitigate this concern the reporter and all interested parties at the inquiry discussed planning conditions. There is detail of the planning obligation and conditions in the **Annex** to the Ministers notice of Intention.

The protection afforded by the conditions discussed at the inquiry appears to have been seriously weakened by ministers’ revisions to the reporter’s recommendations (Reporters report section 10.193 – 10.214)

We are particularly concerned about the change of wording to Condition 8 by ministers: -

Reporters Report (page 119) Condition 8. **Timing of development:** *‘Prior to the **construction** of any aspect of the residential units, the tennis and golf centre, together with all associated works, shall be completed and available for use. Construction works on the hotel shall either be commensurate with construction works on the golf and tennis centre or at a later date.’*

Ministers Notice Condition 8. **Timing of development:** *‘Prior to **occupation** of the residential units, the tennis and golf centre, together with all associated works, shall be completed and available for use. Construction works on the hotel shall either be commensurate with construction works on the golf and tennis centre or at a later date’.*

The reason for this condition given in both documents is the same -: *‘In order to ensure that the construction of the residential units and hotel only takes place as part of a comprehensive package of development and not independently. Furthermore, to ensure that the economic benefits of the development, as outlined by the applicant, are secured prior to development of the houses or hotel’*

The change in this condition now means that the houses can be built before the sports centre is built and has secured the economic benefits outlined by the applicant.

This one-word change to the condition has huge implications. The reporter's recommendation gave far more protection than ministers allowing the houses to be **built** but not **occupied**. Can this even be enforced? Why would ministers change this condition so it is now so heavily in favour of the developer? How easy it will be now for the builder to build the houses but for 'unforeseen circumstances' to prevent the tennis centre going ahead. Judy Murray has no legal agreement with the developer so presumably he has no obligation to build the centre.

MAIN GROUNDS OF OBJECTION STILL RELEVANT TO RAISE NOW

- erosion of and building on green belt between Dunblane and Bridge of Allan
- would join the two distinct communities;
- would destroy beautiful countryside enjoyed by walkers and visitors;
- landscape impact of development of this scale
- not allocated for housing in local development plan;
- housing is contrary to local development plan and national planning policies
- section 75 agreement against housing on the land
- housing on the site rejected at 2 public inquiries
- would set a precedent for further house building
- no need for this type of housing
- housing should not be permitted to justify an unviable business
- no development plan support for enabling development
- no guarantee that the sports facilities will be built before the housing
- employment opportunities likely to be minimum wage
- area already well served by hotels and restaurants
- concern over future use of site if businesses are unsuccessful;
- roads and cycle paths should be upgraded before considering more sports facilities;
- increase in car usage and congestion, overloading Keir roundabout;
- light pollution
- Is it appropriate for public money to be used for private development?
- Poor public transport links that have been further cut since inquiry
- Ministers agree there could be other sites
- Ministers agree funding model is unproven and optimistic
- How is this innovative 6 (large hole) golf course going to attract enough visitors to help fund the tennis centre. How can this be defined as of national importance
- no need for more golf and tennis facilities – existing facilities nearby
- adverse impact on existing facilities
- wrong site for tennis centre - won't be accessible to children from areas with no tennis facilities
- sports facilities better located in area where people don't have facilities
- Tennis centre not part of any published national strategy and no viable business plan
- *The football pitch was promised to gain support from Dunblane football club, who have since been given use of the upgraded pitch at Dunblane High School. The pitch shown on the plan is a quarter size, not full size as promised*
- *The children's play area is shown within the current woodland, it will lead to loss of ancient woodland*
- The mountain bike trails promised will also degrade the woodland habitat
- There appears to be no budget for planting and maintenance of the country park. Will this be requiring public funding as well?

SCOTTISH GOVERNMENT LIST OF MSPS AND MINISTERS

<http://www.parliament.scot/msps/current-msps.aspx>

To find specific MSPs and Ministers: -

Alphabetical list –search using filters at top of page

Click on name above photo for more info and contact details

Select contact details from menu on left side for email address

NICOLA STURGEON firstminister@gov.scot

KEVIN STEWART MinisterLGH@gov.scot

STIRLING COUNCIL LIST OF COUNCILLORS WITH MORE INFO -

<http://my.stirling.gov.uk/councillors>

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