

ANGUS COUNCIL

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT
MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS
2008**



**PLANNING PERMISSION IN PRINCIPLE APPROVAL
REFERENCE 09/00695/OUT**

To: **Mr Mike Forbes
Omachie Farm
Kingennie
DD5 3RE**

With reference to your application dated **3 July 2009** for planning permission in principle under the above mentioned Acts and Regulations for the following development viz:-

Formation of 18 Hole Championship Golf Course, Golf Academy, Hotel Spa and Lodges, Golf Clubhouse, 160 Residential Plots and Associated Access at Land At Shank Of Omachie Wellbank for Mr Mike Forbes

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Grant Planning Permission in Principle (Committee Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as approved on the Public Access portal. The permission is subject to the following conditions, namely:-

- 1 That plans and particulars of the matters listed below shall be submitted for consideration by the Planning Authority in accordance with the timescales and other limitations in Section 59(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given and the development shall be carried out in accordance with that approval:
 - (i) details of the siting, design, height and external materials of all buildings or structures on the site;
 - (ii) details of the hotel to confirm that the design and layout of the building and facilities which are to be provided within the building will support the potential to achieve a 5 star rating;
 - (iii) the means of access and all other matters relating to road layout design and specification including provision of parking, street lighting and disposal of surface water. The proposed means of access from Drumsturdy Road shall include provision for vehicular access to the existing residential property "Blawearie";
 - (iv) details of all hard and soft landscaping works, planting and screening associated with the development; of the site;
 - (v) a masterplan to include all elements of the development for the whole site and provide for the total number and location of mainstream and fairway housing plots. The site masterplan SK005 C is not approved;
 - (vi) for the golf course, a full topographical survey of the site as existing and as proposed, including all engineering works, site leveling and any other works for the formation of the course;
 - (vii) for the remainder of the site, a detailed levels survey (existing and proposed) and cross sections showing finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
 - (viii) details of any screen walls/fencing to be provided;
 - (ix) full details of the proposed means of disposal of foul and surface water from the development along with measures to protect and maintain drainage for existing houses immediately adjacent to the development site;
 - (x) full details of works proposed to culverts within the site including details to confirm that no buildings are to be located on top of any existing or proposed culverts and that access for maintenance can be achieved;
 - (xi) full details of any new crossings to watercourses within the site;
 - (xii) a phasing plan for the whole site: the submitted phasing plan SK 007 A is not approved;
 - (xiii) details of any external lighting installation proposed to illuminate any part of the golf courses and any other golf related development, including the driving range;

- (xiv) a travel plan which shall set out proposals for reducing dependency on the private car, measures to be implemented; the system of management, monitoring, review and reporting;
- (xv) measures to maximize environmental sustainability through design, orientation and planting or any other means.

2 That any application for approval of details in condition 1 above shall be accompanied by the following:-

- (i) A noise impact assessment in accordance with a method statement approved in writing by the Planning Authority;
- (ii) A blast vibration assessment in accordance with a method statement approved in writing by the Planning Authority;
- (iii) An air quality assessment in accordance with a method statement approved in writing by the Planning Authority;
- (iv) A safety assessment to address the risk from miss hit golf shots in accordance with a method statement approved in writing by the Planning Authority;
- (v) An assessment of light spill, intrusion and source intensity/glare in accordance with a method statement approved in writing by the Planning Authority.
- (vi) A design statement in accordance with Planning Advice Note 68 and which takes account of Scottish Government Planning Policy Statements Designing Places and Designing Streets.

3 That notwithstanding the details on the submitted masterplan SK005 C prior to the commencement of any works in connection with the area covered by the particular brief (apart from the 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 site

Once approved the development in respective areas shall be carried out in accordance with the approved briefs.

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That prior to the start of any work on site an agreed construction programme shall be submitted to and approved in writing by the Planning Authority. The construction programme shall accord with the phasing plan to be submitted as part of condition 1 (xii) above. For clarification, the phasing plan will require to include conditions attaching to each phase as follows:-

PHASE	OBLIGATIONS	RIGHTS (THESE RIGHTS WILL ONLY BE GRANTED TO ALLOW CONSTRUCTION ON THE HOUSES TO COMMENCE AFTER THE PLANNING AUTHORITY CERTIFIES THAT THE CORRESPONDING PHASED OBLIGATION HAS BEEN FULLY COMPLIED WITH)
PHASE 1	LEGALLY BINDING CONTRACT FOR THE ERECTION OF THE PROPOSED FIVE-STAR, 150 BEDROOM HOTEL IN ACCORDANCE WITH A VALID PLANNING PERMISSION AND BUILDING WARRANT (FOR THE AVOIDANCE OF DOUBT THE BUILDING WARRANT SHALL BE FOR THE ENTIRE BUILDING) AND CERTIFICATED COMPLETION OF	CONSTRUCT 35 PRIVATE HOUSES (ALL DESIGNATED FAIRWAY HOMES WITHIN THE APPLICATION).

	THE FOUNDATIONS OF THE AFOREMENTIONED HOTEL ALL TO THE WRITTEN SATISFACTION OF THE PLANNING AUTHORITY. THERE SHALL ALSO BE LEGALLY BINDING CONTRACTS FOR THE CONSTRUCTION OF THE 18 HOLE CHAMPIONSHIP GOLF COURSE IN ACCORDANCE WITH A VALID PLANNING PERMISSION AND FOR CONSTRUCTION OF THE GOLF ACADEMY IN ACCORDANCE WITH A VALID PLANNING PERMISSION AND BUILDING WARRANT.	
PHASE 2	CERTIFICATED STRUCTURAL AND PRACTICAL COMPLETION, OF THE COMPLETED AND OPERATIONALLY READY FIVE-STAR, 150 BEDROOM HOTEL IN ACCORDANCE WITH A VALID PLANNING PERMISSION AND BUILDING WARRANT AND CERTIFICATED COMPLETION OF THE GOLF COURSE AND GOLF ACADEMY TO AN OPERATIONALLY READY CONDITION.	CONSTRUCT A FURTHER 25 PRIVATE HOUSES (ALL DESIGNATED FAIRWAY HOMES WITHIN THE APPLICATION).
PHASE 3	THAT THERE SHALL BE IN PLACE A LEGALLY BINDING CONTRACT FOR THE OPERATION OF THE PROPOSED FIVE-STAR, 150 BEDROOM HOTEL AND THE AFOREMENTIONED HOTEL SHALL BE FULLY OPERATIONAL, THERE SHALL ALSO BE LEGALLY BINDING CONTRACTS FOR THE OPERATION OF THE GOLF COURSE AND GOLF ACADEMY AND BOTH SHALL BE FULLY OPERATIONAL.	CONSTRUCT ALL REMAINING PRIVATE HOUSES.

- 5 That no works in connection with the development hereby approved shall take place until such time as bonds have been concluded and lodged with the Planning Authority which shall be of sufficient value to ensure that:
- (i) The landscaping works required under conditions 1(iv) and 18 can be completed in full. The value of the bond shall be determined following approval of the landscaping works under the terms of that condition; and
 - (ii) To ensure that any land on 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. The value of the bond shall be determined following approval of the matters specified in condition 1 (iv).
- 6 That foul drainage for 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 prior to any works taking place in connection with the development hereby approved. Thereafter the development shall be carried out in accordance with the approved details and no building shall be occupied until such time as it is connected to the public sewerage system.
- 7 That no works in connection with the development hereby approved shall take place until details of the location and configuration of all sustainable urban drainage systems to be provided on site and the

arrangements for the maintenance thereof, shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and Scottish Water.

- 8 That no more than 160 houses for private sale shall be built under the permission hereby granted. The final number will be dependant on consideration of relevant matters specified in conditions forming part of this planning permission.
- 9 That no works in connection with the development hereby approved shall take place until details of the location and nature of public open space to be provided within the development as a whole and arrangements for maintenance thereof, have been submitted to and approved in writing by the Planning Authority.
- 10 That prior to any works on the golf course commencing, an environmental management plan shall be submitted to and approved in writing by the Planning Authority. The plan shall relate to both the construction and operational phases of the development and shall provide for the enhancement of the biodiversity of all habitats within the development and shall include full details of:-
 - (i) Routing of the course including reference to tracks, paths and any other ancillary requirements;
 - (ii) Specification of grass types, vegetation, seed mixes to be used and identification of planting areas;
 - (iii) Compliance with best practice in relation to soil and turf stripping and storage including details of proposed storage areas;
 - (iv) Identification of areas and methods of mitigation of habitat loss;
 - (v) A phasing plan which specifies timing and duration of construction aspects for the golf course
 - (vi) Management of areas of fairway, greens, tees, transition rough and rough;
 - (vii) Water irrigation and abstraction rates;
- 11 That prior to any works commencing on site a habitat management and enhancement plan incorporating mitigation and compensatory measures for birds, bats, otters, invertebrates and plants shall be submitted to and approved in writing by the Planning Authority. For bats the plan shall include the installation of 12 bat boxes at the locations identified in the submitted bat survey report.
- 12 That the lodges 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 one calendar year.
- 13 That the hours of operation of the golf driving range shall be restricted to 0800-2100 hrs Monday to Sunday inclusive.
- 14 That noise from any ventilation, extraction or refrigeration plant associated with the hotel, spa, golf clubhouse and golf academy shall not give rise to a noise level assessed with windows open within any dwelling or noise sensitive building in excess of that equivalent to NR curve 20 between 0700 and 2200 and NR curve 30 at all other times.
- 15 That all amplified music or vocals associated with the hotel, spa, golf clubhouse and golf academy shall be inaudible when assessed within any habitable room of a dwelling or other room of a noise sensitive premise with the receiver room windows partially open for ventilation.
- 16 That as part of the masterplan required by condition 1(v) a plan shall be submitted to and approved in writing by the Planning Authority which sets out details of how public rights of access in accordance with the Land Reform (Scotland) Act 2003 will be met. The plan shall:-
 - (i) Provide full details of the retention of core paths within the site;
 - (ii) Integrate provision for public access across all sectors of the public who are participating in open air recreation – those at the resort, the visiting public and local residents;
 - (iii) Show any routes proposed for public access and provide details of how these routes will be constructed and implemented;
 - (iv) Provide details of maintenance proposals for any non adoptable paths and access routes across the site.
- 17 That 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, agreed by the Aberdeenshire Council Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the 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 agreement with the Aberdeenshire Council Archaeology Service.
- 18 That the schemes of hard and soft landscaping which shall be submitted as required by condition 1 which shall include:
 - (i) Existing and proposed finished ground levels relative to a fixed datum point;
 - (ii) Existing landscape and vegetation to be retained;
 - (iii) Existing and proposed services including cable routes 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 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 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 a similar size and species to those originally required to be planted. No felling of trees shall take place during the bird breeding season (April – August).

- 19 That prior to commencement of use of any of the Phase 1 development bus lay-bys and bus shelters shall be provided at locations to be agreed in writing with the Planning Authority on the east and west sides of the B978. No works in connection with the development hereby approved shall take place until full details of the bus shelters and lay-bys has been submitted to and approved in writing by the Planning Authority.
- 20 That, the access position on the B978 Wellbank – Draffin Road as shown on the plans is not approved and the precise location shall be approved as part of condition 1 above.
- 21 That, prior to the commencement of any other works hereby approved, visibility splays shall be provided at the junction of the proposed main access with the B978 Wellbank – Draffin Road, giving a minimum sight distance of 215 metres in each direction at a point 4.5 metres from the adjacent channel line of the B978 Wellbank – Draffin Road.
- 22 That, prior to the commencement of any other works hereby approved, visibility splays shall be provided at the junction of the proposed access with the B961 Drumsturdy Road, giving a minimum sight distance of 215 metres in each direction at a point 2.4 metres from the adjacent channel line of the B961 Drumsturdy Road.
- 23 That, prior to the commencement of any other works hereby approved, visibility splays shall be provided at the junction of the Omachie Farm access with Mattocks Road, giving a minimum sight distance of 60 metres in each direction at a point 4.5 metres from the adjacent channel line of Mattocks Road.
- 24 That, prior to the commencement of house building adjacent to Mattocks Road, visibility splays shall be provided at the junction of the proposed accesses with the Mattocks Road, giving a minimum sight distance of 60 metres in each direction at a point 4.5 metres from the adjacent channel line of Mattocks Road.
- 25 That, within the visibility splays detailed in Conditions 21 - 24 above, nothing shall be erected or planting permitted to grow to a height in excess of 1050mm above the adjacent road channel.
- 26 That, prior to the commencement of use of any of the Phase 1 development the junction of the existing access to Omachie Farm with Mattocks Road shall be improved/upgraded in accordance with the standards of Angus Council.
- 27 That, prior to the commencement of use of any of the Phase 1 development, accessed from the B978 Wellbank – Draffin Road, a footway shall be provided on the east side of the B978 Wellbank – Draffin Road between the site access and the south-west corner of the site ex adverso the B978 in accordance with the standards of Angus Council.
- 28 That, prior to the occupation of the first dwelling house adjacent to Mattocks Road, a footway shall be provided on the north side of Mattocks Road along the entire site frontage in accordance with the standards of Angus Council.
- 29 That prior to any works commencing on site, a detailed construction method statement which takes account of the environmental management plan (condition) and the habitat management and enhancement plan (condition) shall be submitted to and approved in writing by the Planning Authority. The construction method statement shall include:
 - (i) Details of buffer zones and public access arrangements during construction;
 - (ii) Details of storage areas to be utilized during the construction period which shall not be on the site access road 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 and used so that no vehicle shall leave the site carrying earth and mud on its wheels in such a quantity that causes a hazard on the surrounding local road network;
 - (iv) Details of dust suppression measures to be employed during the construction period;
 - (v) Proposed hours of working;
 - (vi) Details of any proposed construction access routes; and
 - (vii) Details of procedures for stopping work if bats are found during any of the proposed tree felling works

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.

The foregoing conditions are imposed by the Council for the following reasons :-

- 1 To ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006.
- 2 In order to ensure the provision of adequate information for the planning authority to consider the matters detailed in condition 1 above in the interests of safeguarding the amenity of nearby properties which may be affected by vibration, noise, light or ball strike, to ensure the operation of the adjacent quarry is not adversely affected and to ensure that the design and layout of the development can be adequately assessed.
- 3 In order to give further consideration to those details which have still to be submitted.
- 4 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 benefits to the area.
- 5 To ensure the completion of the agreed landscaping scheme in the interests of the visual amenity of the area and to ensure that in the event that the championship golf course is not completed, the site can be restored to an appropriate condition.
- 6 In the interests of public health and to prevent pollution.
- 7 To ensure the provision of an acceptable drainage system in the interests of the amenity of the area.
- 8 For the avoidance of doubt, to comply with the proposals as submitted and to ensure that the proposed number can be developed within the site in an acceptable manner.
- 9 To ensure that public open space is provided and maintained to an acceptable standard throughout the development.
- 10 In order to protect and enhance the biodiversity of the site.
- 11 In the interests of protecting the biodiversity of the site and to enhance habitats.
- 12 In order that the buildings are occupied as holiday accommodation only.
- 13 In the interests of the amenity of the area.
- 14 To prevent disturbance from noise.
- 15 To prevent disturbance from noise.
- 16 In order to promote compliance with Part I of the Land Reform (Scotland) Act 2003 and to secure and enhance existing public access.
- 17 To safeguard and record the archaeological potential of the area.
- 18 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 and to ensure that tree felling works do not adversely affect protected species.
- 19 In order to ensure provision of suitable and safe infrastructure for public transport.
- 20 In the interests of road safety.
- 21 In the interests of road safety.
- 22 In the interests of road safety.
- 23 In the interests of road safety.
- 24 In the interests of road safety.
- 25 In the interests of road safety.
- 26 In the interests of road safety.
- 27 In the interests of pedestrian safety.
- 28 In the interests of pedestrian safety.
- 29 To ensure that all construction activity is undertaken so as to protect the biodiversity of the site and the amenity of neighbouring properties.

The reason(s) for the foregoing decision by the Council are as follows:-

That although the development is significantly contrary to the Development Plan it would bring significant economic benefits and employment opportunities to the area and would provide much needed high quality hotel accommodation which would be of benefit to the future diversification of the Angus economy.

Dated this **9 February 2012**

Head of Planning and Transport,
Infrastructure Services,
County Buildings,
Market Street,
FORFAR DD8 3LG

NOTES

A Section 75 Legal Agreement is relevant to this permission. The terms or a summary of the terms to which this Agreement relates can be inspected at Angus Council, Corporate Services, Law & Administration Division, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

The decision was based on the following amendment(s):-

- 1 The application has not been subject of any variation.

It should be understood that this permission does not carry with it any necessary consent or approval to the proposed development under other statutory enactments e.g. the Building (Scotland) Acts 1959 and 1970, Building (Scotland) Act 2003 and the Building (Scotland) Regulations 2004.

WARNING ANY ALTERATIONS MADE TO THE APPROVED PLANS OR STATED CONDITIONS WITHOUT THE PRIOR CONSENT OF THE LOCAL PLANNING AUTHORITY COULD LEAD TO ENFORCEMENT ACTION BEING TAKEN TO REMEDY OR REINSTATE THE UNAUTHORISED ALTERATIONS

