



## Report to the Scottish Ministers

### TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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Report by Timothy Brian, a reporter appointed by the Scottish Ministers

- Case reference: PPA-390-2042
- Site Address: Land at Park of Keir, Dunblane
- Appeal by Park of Keir Partnership against the decision by Stirling Council
- Application for planning permission in principle, ref. 14/00455/PPP dated 11 July 2014, refused by notice dated 8 December 2015
- The development proposed: new tennis and golf centre, including museum and visitor centre; indoor and outdoor tennis courts; golf course with clubhouse and practice areas; hotel with leisure and conference facilities; multi-user sports pitch and outdoor play area; cycle trails and footpaths; new access roads and junction; new tree planting and landscaping; SUDS pond and associated drainage works; car parking and servicing; and enabling housing development
- Dates of inquiry/hearing sessions: 5-9 September and 12-14 September 2016
- Unaccompanied site inspections: 10 May and 20 September 2016

Date of this report and recommendation: 22 December 2016

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Proposed development of new tennis and golf centre, including museum and visitor centre; indoor and outdoor tennis courts; golf course with clubhouse and practice areas; hotel with leisure and conference facilities; multi-user sports pitch and outdoor play area; cycle trails and footpaths; new access roads and junction; new tree planting and landscaping; SUDS pond and associated drainage works; car parking and servicing; and enabling housing development, on land at Park of Keir, Dunblane

|                                      |   |
|--------------------------------------|---|
| • Case reference                     | PPA-390-2042  |
| • Case type                          | Planning permission in principle  |
| • Reporter                           | Timothy Brian   |
| • Appellant                          | Park of Keir Partnership  |
| • Planning authority                 | Stirling Council  |
| • Other parties                      | Dunblane and Bridge of Allan Community Councils;<br>Residents Against Green Belt Erosion;<br>Arnbathie Developments Ltd               |
| • Date of application                | 11 July 2014  |
| • Date case received by DPEA         | 7 March 2016  |
| • Methods of consideration and dates | Inquiry/ hearing sessions on 5-9 September and 12-14 September 2016<br>Unaccompanied site inspections on 10 May and 20 September 2016 |
| • Date of report                     | 22 December 2016  |
| • Reporter's recommendation          | To dismiss the appeal and refuse planning permission  |

**The appeal site**

The appeal site covers an area of 110 hectares in the green belt, and within the Keir Local Landscape Area, between Dunblane and Bridge of Allan. The land is currently accessed by means of a spur from the Keir roundabout, a major junction between the M9 and the A9.

Outline planning permission was granted on appeal in October 2005 for a 150-bedroom hotel and 18-hole golf course and clubhouse on the same site, subject to a section 75 agreement preventing further development on the application site and on land to the south.

**The application**

The tennis and golf facility would include six indoor and six outdoor tennis courts, a short golf course with 6 holes, a golf practice range, putting areas, coaching bays and changing facilities; multisport artificial grass courts, tennis museum and a café/restaurant with viewing gallery. The tennis/golf centre would comprise two connected buildings with a maximum ridge height of 7.7 metres.

The outdoor leisure activities would include a children's outdoor adventure park with picnic areas, a general multi-purpose all weather (3G) pitch suitable for football and other sports, and additional footpaths to open up the area to walkers and cyclists.

A four star, 150 bedroom hotel is proposed, including conference facilities, gym and spa, which would be three storeys high with a maximum ridge height of 12 metres.

Amended proposals, submitted in June 2015, proposed to reserve a large part of the site (40 hectares) to establish a new country park. The revised proposals also include 19 houses in two areas (reduced from the 100 houses originally proposed).

### **Consultations/representations**

None of the statutory consultees objected to the proposals. However, over 1,000 letters of objection were lodged, together with 45 letters of support, and a further 71 letters commenting on the proposals. Amongst the letters of support were letters from VisitScotland, the Lawn Tennis Association, the Professional Golfers Association and Dunblane Soccer Club. The objectors included Scottish Wildlife Trust, Bridge of Allan & Logie Branch SNP and Bridge of Allan Golf Club.

### **The case for the appellant**

The appellant proposes a multi-use tennis, golf, leisure, hotel and enabling housing development. The development should be assessed as a whole, and not as a series of individual components.

The development would have a hugely significant impact on sport, tourism and recreation. Stirling Council accepts the sport, tourism and recreation benefits. The supporting sports and tourism bodies all confirm that the project would be important nationally.

### Tennis, golf and football

There is a dearth of quality tennis facilities in Scotland, particularly indoor courts, compared to the rest of the UK and other countries in Europe. The location at Park of Keir is perfect. It would be a bricks and mortar legacy in Dunblane to the achievements of Andy and Jamie Murray, and it is also within an hour's drive of 70% of Scotland's population.

Mrs Murray is committed to the grass roots approach that links families, schools and local clubs to a multi-sport community hub. The Park of Keir facility would be a platform to nurture sporting talent and high quality coaching at all levels.

The Park of Keir facility would aim to increase grass roots participation in tennis, golf and football by providing starter coaching and competitions in indoor and outdoor facilities that are local, affordable and accessible. It also has a wider goal of getting more families enjoying exercise together and in fresh air through its woodland walks, cycle paths and an adventure playground.

Park of Keir's outreach programmes would take tennis and golf into local schools and ensure that there is a link to the community hub for children (and their families) if they wish to take the sport further. Currently most mini tennis activity in local schools leads to nothing because there is no public facility for the children to use. This is particularly true in Stirling where there is only one court for every 1,000 people.

It would also provide a much-needed outdoor hard court competition venue for Scotland and training base for Stirling University scholars and national squad players.

Park of Keir would also provide an excellent opportunity to people to learn to play golf, prior to joining a club as a traditional member. New entrants to golf are a vitally important part of the game's future viability in the country where the game was started.

The proposed 6-hole "trainer course" format would be at the cutting edge in increasing golf participation and fairly unique in Scotland. This would make "one hour" golf more accessible and appealing to novices as it could compete effectively with the increasing demands on family leisure time.

The appellant has offered to increase the size of the original multi-purpose area to a full 11-a-side football pitch and make it available to Dunblane Soccer Club as an additional "home ground" for training and fixtures.

### Economic impact

This significant net economic impact is a weighty factor in favour of the development:

#### *Short Term Temporary Construction Employment*

Construction Employment: 185 years (i.e. 18.5 full-time equivalent jobs)

Construction Employment at Regional Level: 124 years (i.e. 12.4 full-time equivalent jobs)

Regional Economic Benefit: £7.6m

National Economic Benefit: £11.3m

#### *Operational Employment*

Centre for Tennis and Golf: 22 net additional jobs

Hotel: 130 net additional jobs (on-site and off-site)

Regional Economic Benefit: £4.7m

The hotel, sporting and recreational facilities at Park of Keir would also bring a boost to tourism in the area, providing overnight accommodation and attracting new visitors to the area. However, there would be fewer jobs if there was a three-star rather than four-star hotel as envisaged.

### Enabling housing

The housing element would occupy a small part (10%) of the development site, but it is critical to the delivery of the capital components. Once planning permission is granted the housing land could be sold to a developer to generate a capital receipt. It would enable the procurement of further funding to facilitate the delivery of these sports facilities, and in turn would allow the facilities to be more affordable and accessible to all.

The total construction cost of the sports facilities is £12.5 million, and the appellant hopes to secure capital contributions of £8.5 million from funding bodies. Taking account of the historical land cost of £1.9 million, there is a capital shortfall of around £5.9 million which would be funded through the sale of housing plots (£4.0 million), the hotel site (£1.0 million) and the debenture memberships (£0.9 million). The debenture arrangement, which would be secured by a planning condition, would give home owners free entry to the sports facilities and preferential booking.

Other Scottish planning authorities have policies which support housing led enabling development, particularly where its allocation in a development plan has not been foreseen.

### Green belt policy

The appellant's position is that the development as whole complies with green belt policies. Even if that is not accepted, further material considerations and exceptional circumstances related to the site and the development outweigh any suggested conflict with the development plan.

The principle of major development (i.e. a hotel and golf course) has already been established on the appeal site despite its green belt designation. The appeal proposals are primarily for sport and recreation uses, and such a multi-use development requires an expansive site that could only be accommodated in a countryside location.

The development complies with the LDP Policy 1.5 Green Belts:

- It would preserve the openness and provide a more robust and permanent landscaped buffer through the establishment of a new country park, in addition to the golf course, avoiding coalescence between the settlements, and ensuring the distinct identities and setting of Dunblane and Bridge of Allan would be maintained.
- It would support diversification of the rural economy; the site is rural, situated in the countryside and in agricultural use.
- It would be for the purpose of recreational uses compatible with an agricultural or natural countryside setting.

#### Sustainable development

When considered as a comprehensive development, the appeal proposals can be considered to represent sustainable development, and satisfy the criteria set out in paragraph 29 of Scottish Planning Policy (SPP). In particular, the proposals give due weight to net economic benefit, and respond to economic issues, challenges and opportunities.

Notably, the proposals also: support good design and the six qualities of successful places; make efficient use of the site; support delivery of accessible development; improve health and wellbeing by offering opportunities for social interaction and physical activity, including sport and recreation; protect, enhance and promote access to natural and cultural heritage; and avoid over-development.

The site is accessible by all modes of transport, being close to strategic transport links, local bus services and regular train services. If the development went ahead and there was an increased demand, bus operators would be likely to provide additional or more frequent services. The new 2km off-road footpath/cycleway is a key part of the amended proposals.

#### Objectors' concerns

The appellant denies the suggestion that the development is a 'Trojan horse' and that the real intention is to build houses. Any change to the proposals would require to go through the planning process and would only be approved if the change was justified on its planning merits. The proposed planning conditions, as well as the transfer of land to the community interest companies and conservation burden, would all prevent more houses being built.

### **The case for the council**

#### Green belt

The small scale of the green belts around Stirling, Dunblane and Bridge of Allan means that any built development is likely to have a significant impact, which could detract from their

openness and undermine their objectives. The Park of Keir area plays an important role in maintaining the separate and distinct identities of these two towns.

Policy 1.5 states that development within green belts should preserve their openness and should not undermine their core role and function by individual or cumulative impacts. The policy allows for woodland uses, recreational uses compatible with an agricultural or natural countryside setting and single houses for specific purposes where consistent with Policy 2.10 and Supplementary Guidance SG10.

The golf course could be considered a recreational use compatible with an agricultural or natural countryside setting. The golf clubhouse and practice facilities, if of an appropriate scale and suitably detailed to take account of the landscape setting, could also be acceptable.

The tennis centre with indoor and outdoor courts are not uses normally compatible with such a setting. However, the council recognises that: the provision of the golf facility is linked with that of the tennis facility; the combination of the two facilities provide a wider sports 'offer' to participants; and the land take involved would mean that a suitable sized site within an urban location would be difficult to achieve.

The museum, visitor centre and hotel are also not uses which alone would be considered appropriate development in a green belt location, but these aspects of the proposed development could be linked to the sports facility. The cycle trails, tree planting and landscaping are all compatible with an agricultural or natural countryside setting.

The 19 residential units are not supported under Policy 1.5, which allows for single houses where justified for specific purposes. The policy support for rural diversification does not apply to residential development, except when it is the minimum required to support a business proposal.

The proposed 'high end residential development which would be set within large plots' would involve a considerable area of residential development in the green belt, visible from points outwith the site, and within the green belt. This aspect of the proposal would not protect and enhance the quality, character, landscape setting and identity of Dunblane and Bridge of Allan; instead it would prejudice the role and function of the green belt and undermine its openness.

#### Sustainable development

The council accepts that the development will comply with some sustainable development principles, as there will be economic benefits as well as the opportunity for improvements in health and well-being through social interaction and physical activity, including sport and recreation. However, the council considers that other factors outweigh these elements which comply.

Paragraph 81 of SPP states that in accessible or pressured rural areas, where there is a danger of suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate. It goes on to state that in the most pressured areas, the designation of green belts may be appropriate. The Park of Keir site is both an accessible and a pressured area.

The council has balanced all the costs of the Park of Keir development against the benefits, and considers that the costs of accepting the residential development at the scale proposed outweighs the overall benefits that this development might bring.

### Necessity of housing

The appellant has not demonstrated that the houses provide a vital component of the package other than as an initial revenue stream to fund the build cost. The appellant is asking the Scottish Ministers to depart from green belt policy to enable the sports facilities to operate with reduced admission costs, without any reliable evidence as to the costs of operating the facilities or the impacts of different funding options on operating costs.

Even accepting that the appellant's intention is for an 'affordable sports facility' to be operated with reduced admission costs, the planning system could not control this if planning permission is granted and circumstances change.

The appellant has failed to demonstrate that residential development is necessary to enable the other elements of the development to go ahead, or that it is necessary for the residential development to be located on the Park of Keir site

### **The case for Dunblane and Bridge of Allan Community Councils**

The Park of Keir is a major part of the rural green space that separates Dunblane from its close neighbour Bridge of Allan, and is critical to Dunblane's 'sense of place'. To build on and suburbanise a large part of this space would have a profound impact on the two towns.

The site would be dominated by big buildings, houses, access roads and lighting. The golf driving range and practice area would require high fences and other infrastructure for its safe operation. The rural nature of the area would be totally lost. There is no local demand for a country park, which would further develop and suburbanise this crucial rural space.

If a 'grassroots' tennis facility is required at all in the area, a better, sustainable, solution would be to work in conjunction with existing golf and tennis facilities.

If a completely new facility could be demonstrated to be required, then Park of Keir is clearly not a sustainable location. Virtually all the travel needs of the whole development would be by car, leading to a significant increase in traffic on local roads and Keir roundabout. This also counts heavily against 'grassroots' concept, as it is not going to be independently accessible by young people and those less well-off, especially as there are limited bus services in the area.

The proposed tennis development is much bigger than can be supported by the local area, which again is at odds with the stated 'grassroots' intention of the facility. The facility, with its unrealistically high planned utilisation levels, would be likely to need significant ongoing funding to keep it operational, for which no source has been identified. In any case, the proposed tennis and golf facilities do not form part of the national strategy for either sport.

The financial justification for the enabling development is not accepted, and there are concerns about the deliverability of the project, given the uncertainty over the number of users and the dependence on the involvement of Mrs Murray. There would be nothing to prevent the appellant from selling to another operator once planning permission is secured, or to tie any future sports operator into the 'affordable and accessible' philosophy that

permeates the proposal. This is clearly a high-risk project, for which it would be inappropriate to grant consent in such an important green belt site.

### **The case for Arnbathie Developments Ltd**

There is no policy justification or other reason to permit 19 houses at this location. The adopted and emerging Stirling LDPs have no enabling policy. The various enabling policies of other councils require an assessment of the proposal against various criteria.

Paragraph 142 of SPP states that enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of an asset and securing its long-term future. That means that there has to be a full and thorough assessment of all alternative means of funding, which has not been done here. The same paragraph indicates that any development should be the minimum necessary to achieve these aims.

There has been no proper evaluation of cost, and there is doubt about the future income sources given the exceptionally high annual patronage figures utilised in the financial modelling. It is unclear how the debenture system would operate, or indeed the basis for it.

The appellant has not demonstrated sufficiently that all reasonable sources of funding have been examined, and any commercial element to the sporting facilities had been rejected in favour of the not for profit model.

It would be perfectly permissible for an entirely commercial leisure and sports scheme to come forward within the ambit of the planning permission in principle that would be granted.

The claimed net economic benefits have to be treated with a significant degree of caution. The economic case is guilty of optimism bias.

Tennis and golf are well catered for in this part of Scotland, and it is not at all clear that this development meets any identified local deficiencies. The lack of evaluation of existing provision undermines the extent to which the appellant can claim benefit. Locating major new sporting provision between the settlements of Dunblane and Bridge of Allan would do very little to address issues of social inclusion or accessibility to sporting provision.

The appeal site between Dunblane and Bridge of Allan is an 'unsustainable location' that would encourage lengthy car borne commuting, contrary to the spatial framework of the local development plan and the policies set out in the SPP. The footpath and cycle links provided would not be lit, and hence would be unattractive and potentially unsafe. It is extremely unlikely that the large houses would be serviced by other than private motor car.

### **The case for RAGE**

If this green belt land is developed, it will be lost forever and denied to future generations. That is the real legacy which is at stake here.

In relation to Policy 1.5, a development of the type and scale proposed would not be compatible with an agricultural setting, or with a natural countryside setting, since the proposal would introduce nearly 15 hectares of 'alien built ground in the form of housing, hotel and indoor leisure facilities'. Approximately 40% of the substantial application site would be taken up either with built development or leisure facilities, compared to the

unspoiled green belt land which is there at present. This represents a significant diminution of the land available to prevent coalescence between settlements.

The principle of development established by the 2005 consent is highly restricted and cannot provide a basis for the much more extensive development now proposed. The sports facilities would include a great deal of lighting, floodlighting and netting.

The members of RAGE are concerned that the current application for 19 houses on the Park of Keir site will be merely a starting point for yet more housing once the principle of that form of development has been established in this part of the green belt.

The factual foundations of the appellant's outline business case are incorrect and overly optimistic. RAGE's study demonstrated the availability of 'pay and play' at current facilities within 15 miles of Park of Keir.

The projected annual patronage is hopelessly unrealistic. There are no firm pledges from any sporting body to provide such a high level of funding, or indeed any. In the likely event of a financial shortfall, the only room for manoeuvre in terms of funding rests with the enabling housing development.

Even the appellant's estimate that car-borne travel would account for about 60% of visitors is unrealistic given the following:

- the nearest rail station at Bridge of Allan is 1.6 km from Park of Keir, and Dunblane is much further;
- the cycle path is unlikely to be an attractive route for cyclists or walkers to access the site, given that it runs alongside the busy A9 and given visitors to the site are likely to require to carry sporting equipment;
- the proximity to the A9, the Keir roundabout and therefore 70% of Scotland's population.

The proposal would not be a sustainable place; it would involve isolated clusters of houses dependent on car usage for accessing basic services.

The appellant's argument that the tennis and golf centre would be of national importance is inconclusive, and would not justify capital costs of nearly £13 million. It is questionable if there is a need for another indoor tennis centre now that there are two of them within a 20-mile radius, both of which support extensive grass roots instructional programmes. The case is weakened by the proposals not being part of a national strategy for tennis.

The proposed pay and play location at Park of Keir is not currently served by public transport, and the indoor tennis courts would be better located at Stirling University. It is a potentially good idea but in completely the wrong place. There is nothing unique about Park of Keir which indicates that a tennis legacy for Scotland and Stirling could not be secured elsewhere.

### **Reporter's conclusions and recommendations**

The determining issues in this case are whether the proposed development would conform with the relevant provisions of the development plan, and if not, whether the proposals are justified by other material considerations.

The development plan for the area comprises the Stirling Local Development Plan (LDP), adopted in 2014, together with the associated Supplementary Guidance.

## DEVELOPMENT PLAN POLICIES

### Economic development, tourism and recreational development

The appeal proposals would represent a very significant economic development in the countryside. The proposed development can therefore draw strong general support from Policy 2.9 which seeks to encourage rural economic activity.

The proposed development at Park of Keir, which would provide very high quality sporting facilities, notably for tennis and golf, together with a hotel, country park, footpaths and cycleways, gains strong general support from Primary Policy 15, which notes that tourism and recreational activities make a significant contribution to the economy of the Plan area, and are based substantially on the quality of the natural and built environment. I discuss the impact of the proposals on the natural environment below.

### Housing policies

I do not regard the provision of this small number of houses as making more than a marginal contribution to remedying the identified housing land shortfall. Primary Policy 2 states that in areas of countryside, development will be more constrained by accessibility, infrastructure, landscape and biodiversity considerations which are discussed below.

The appeal proposals include the development of 19 houses on an area of over 10 hectares in the countryside at Park of Keir, and as such I conclude that the appeal proposals are contrary to the provisions of LDP Policy 2.10: Housing in the Countryside.

### Greenbelt policy

Most importantly, I conclude that the appeal proposals are in conflict with Policy 1.5: Green Belts of the local development plan and the associated supplementary guidance.

The proposed development in the green belt at Park of Keir is not justified by any of the purposes listed in parts (a) or (b) of the policy, or as diversification of the rural economy. I also conclude that a development of this scale, which includes substantial buildings and an area of 15 hectares devoted to the housing, tennis/golf centre and hotel, within a wider site area of 110 hectares, would seriously erode the openness of the green belt between Dunblane and Bridge of Allan and have a significant negative impact on its core role and function to maintain the separate and distinct identities of these towns and to protect their landscape settings.

### Special landscapes

I find that the appeal proposals would have an adverse effect on the landscape character, scenic interest and qualities for which the Keir Local Landscape Area was designated. Consequently, I conclude that the proposed development would be contrary to the provisions of LDP Primary Policy 9: Managing Landscape Change, which states that the integrity, character and special qualities of key areas of nationally and locally valued landscapes will be protected.

However, the proposals would be consistent with LDP policies which seek to protect and enhance the cultural and natural heritage.

### Travel demands and sustainability

I have concluded that the proposed development is likely to be predominantly dependent on the private car, and would not be conveniently accessed by walking, cycling and public transport. I therefore conclude that the proposals are contrary to the provisions of LDP Policy 3.1: Addressing the Travel Demands of New Development.

For the same reasons the proposals are not consistent with LDP sustainability criterion 3, which seeks to reduce the need to travel and encourage active travel and other more sustainable travel and transport opportunities. This is a serious deficiency of the proposals when judged against the LDP sustainability criteria and the overarching policy of the Plan.

### Compliance with the development plan

I conclude that, whilst the appeal proposals draw significant support from LDP policies which seek to promote recreation and tourism and economic development, they 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.

Due to the landscape impact of the proposals and their dependency on the private car, I do not consider that the proposals are consistent with the vision, the spatial strategy or the overarching policy of the Plan, the LDP sustainability criteria or Primary Policy 2. The policy support for economic development and recreation and tourism development in the countryside is qualified by a requirement to demonstrate the need for a countryside location, a realistic choice of access, and to preserve the quality of the natural environment

Because of the scale and potential impact of the proposed development on the green belt and on a protected landscape, and the likelihood that it would be predominantly accessed by unsustainable modes of travel, I conclude that overall the proposals are not in conformity with the development plan. Despite the potential recreation, health, tourism and economic benefits of the proposed development, I conclude that it would be in the wrong location to comply with the key provisions I have identified above.

I consider that the 2005 planning permission 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 explicitly to be protected from development.

## OTHER MATERIAL CONSIDERATIONS

### Sport and recreation

The appeal proposals would bring substantial benefits for sport and recreation in the Stirling area and nationally. They would create a multi-user complex which would house a variety of recreational activities on the same site. The integration of tennis and golf with the gym and other indoor facilities, together with the outdoor play area, footpaths, cycleways and country park would enable the development to cater for the various sporting needs of family members on one site. It would also contribute to the viability of the project by allowing some elements (e.g. golf and gym) to cross-subsidise others (e.g. tennis and country park).

Tennis is the main driver for the proposed development, and the active involvement of Judy Murray is an important asset of the scheme (although there is a concern that without her participation the development might not be delivered in its current form).

The proposed tennis centre would offer something which is not currently available in the area or elsewhere in Scotland. However, I am not persuaded that there is a compelling local need for a new tennis complex at Park of Keir, taking account of the existing level of provision in the area and the drawbacks of this location which I have already identified above. Nor am I convinced that a national centre to develop coaches, train elite players and host competitions would be best developed in a countryside location away from Scotland's main centres of population. I note in that regard that the appeal proposals do not form part of any published national strategy for tennis.

The proposed golfing facilities would help to encourage people in the area, particularly young people, to take up golf, and could make a modest contribution to reversing the decline in golf club membership in Scotland. However, by its nature, I would expect this small, six-hole trainer course to have a mainly local rather than national catchment, and the evidence indicates that this area is already relatively well provided with golf courses and practice and coaching facilities.

Since August 2016 Dunblane Soccer Club has access to a new 3G football pitch at Dunblane High School, and I do not consider that the desire of the club to have access to a second 3G football pitch in the area constitutes a strong local need.

The intention to reserve 40 hectares of the site as a new community woodland/parkland, including a children's outdoor adventure park with picnic areas, is an important feature of the revised proposals. Existing footpaths would be upgraded and new footpaths created, and new structure planting would be carried out.

However, Park of Keir already has a network of footpaths which are well used and appreciated by residents of the neighbouring towns, and I do not detect any appetite for the proposed changes on the part of existing users. Further, I am not convinced that it is necessary to develop a country park to prevent development in the green belt.

#### Net economic benefit

I have concluded that the net economic benefit of the proposals is an important factor in their favour, and that the economic benefit would be significant in a regional context. However, there is real uncertainty about the number of operational jobs which would be generated by the project, and hence whether the economic impact would be significant on a national scale.

#### Enabling housing development and funding model

There is no policy support in the development plan or SPP for allowing enabling housing development to subsidise new build development, although other planning authorities in Scotland have policies which allow for enabling housing development to fund the start-up of new businesses in exceptional cases, where the benefits significantly outweigh the disadvantages of the development.

However, I have found the case has not been made for enabling housing on the site at Park of Keir, and that certain of the assumptions underpinning the appellant's funding model are optimistic and unproven. It is not clear what would happen if construction costs increase, funding bodies do not produce the anticipated level of support, or house purchasers decline to pay for debenture memberships. In those circumstances the developer would have to consider whether to abandon the project, vary it, pare it back, or introduce a more

commercial element to the scheme. One option might be to seek to increase the number of houses on the site, to make up the funding shortfall.

Separately, there is an unresolved concern about the ongoing viability of the project. The appellant's amended business case appears to be founded on an unrealistically high level of patronage at the tennis centre and golf course. Little account is taken of the variable weather in the area, which would prevent or limit use of the outdoor facilities on many days in the year.

In the event that patronage was not as high as expected, there could be pressure to raise admission prices or even to relax the non-commercial ethos of the sports complex.

#### Alternative sites

I recognise the difficulty in identifying a suitable site to accommodate a mixed-use development of this scale and type, although the combined recreational space (including the golf course and football pitch) would occupy around 26 hectares of the 110 hectare appeal site.

Nonetheless I am not persuaded that an alternative site does not exist in the Stirling area or elsewhere in central Scotland to construct a tennis and golf centre in this vein which does not involve a major incursion into the green belt. By insisting on a Dunblane location at Park of Keir the appellant has selected a site in an unusually sensitive area of green belt which separates Bridge of Allan from Dunblane, and where there is a legal agreement restricting built development.

#### National planning policies

The appeal proposals would create employment and economic activity and promote recreation and tourism in the area, in line with the Scottish Government's aim to increase sustainable economic growth.

However, Park of Keir is located in an accessible, pressured rural area where paragraph 76 of SPP indicates that it is important to protect against an unsustainable growth of car-based commuting and the suburbanisation of the countryside, and where paragraph 81 of SPP advises that a more restrictive approach to new housing development is appropriate.

I have also concluded that the appeal proposals fail to meet certain of the key sustainability principles set out in paragraph 29 of SPP.

I therefore conclude that other material considerations do not override the proposals' failure to comply with important provisions of the development plan. Moreover, I do not consider that the proposals could be made acceptable by imposing planning conditions.

#### **Recommendation**

Accordingly, I recommend that Scottish Ministers dismiss the appeal and refuse to grant planning permission in principle for the proposed development at Park of Keir.

Scottish Government  
Planning and Environmental Appeals Division  
4 The Courtyard  
Callendar Business Park  
Callendar Road  
Falkirk  
FK1 1XR

DPEA case reference: PPA-390-2042

The Scottish Ministers  
Edinburgh

Ministers

In accordance with my minute of appointment I conducted a public local inquiry in connection with an application for planning permission in principle for the proposed development of new tennis and golf centre, including museum and visitor centre; indoor and outdoor tennis courts; golf course with clubhouse and practice areas; hotel with leisure and conference facilities; multi-user sports pitch and outdoor play area; cycle trails and footpaths; new access roads and junction; new tree planting and landscaping; SUDS pond and associated drainage works; car parking and servicing; and enabling housing development, on land at Park of Keir, Dunblane.

The application was recalled for determination by Scottish Ministers because the potential economic, tourism and sporting benefits of the proposal were considered to be of national importance.

I held a pre-examination meeting in Dunblane on 21 June 2016 to consider the arrangements and procedures for the inquiry. It was agreed that the following issues (which together with the issue of conditions and/or legal agreements below comprise 'the specified matters' in this case) would be addressed at an inquiry session:

- do the proposals comply with relevant green belt policies?
- do the proposals represent sustainable development?
- what would be the impact on sport, recreation and tourism?
- what would be the net economic impact (on a local and national scale) of the proposed development?
- is the proposed housing development necessary/justified to enable the other elements of the proposal to go ahead?

In addition, it was agreed that there would be a hearing session to consider what conditions and/or legal agreements would be required if permission was granted for the proposed development.

The inquiry sessions were held on 5-9 September and 12-14 September and the hearing session took place on 14 September 2016. Closing submissions were exchanged in writing, with the final closing submission (on behalf of the applicant) being lodged on 30 September 2016.

I conducted unaccompanied inspections of the appeal site, its surroundings and other locations referred to in evidence on 10 May and 20 September 2016.

My report takes account of the precognitions, written statements, documents and closing submissions lodged by the parties, together with the discussion at the inquiry and hearing sessions. It also takes account of the Environmental Assessment, Addendum and other environmental information submitted by the parties, the replies from consultees and the written representations made in connection with the proposal.

Chapters 2-6 of the report comprise a summary of the cases presented by the parties at the inquiry in relation to the specified matters, and Chapters 7 and 8 are brief summaries of the other material considerations and the written representations, respectively.

At the pre-examination meeting I drew attention to the fact that the visualisations in the Environmental Statement were based on the 100 houses originally envisaged, rather than the 19 which are now proposed. In response, the appellant lodged document POK15.15 (updated visualisations) which is regarded as additional environmental information for the purposes of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, and therefore required to be advertised.

Interested parties were given the opportunity to comment on the updated visualisations, and Brodies LLP responded on behalf of the appellant on 4 November 2016. My report takes account of any comments received in response to the advertisement.

The appellant's claim for expenses against Stirling Council is addressed at Chapter 11 of the report.

## CHAPTER 1: BACKGROUND

1.1 The [Statement of Agreed Matters](#) sets out those factual matters which are agreed between the planning authority (Stirling Council) and the appellant (Park of Keir Partnership)<sup>1</sup>. These include the site description, the summary of the proposed development, the planning history, consultation responses and public representations, which are detailed in the officers' [report](#) to Stirling Council's Planning Panel<sup>2</sup>.

1.2 The background to the application, including a summary of the planning application documents, and its registration, consultation, advertisement and determination is outlined in section 3.0 of the appellant's [grounds of appeal](#) statement.

### Site description

1.3 The appeal site encompasses an extensive area of 110 hectares in the green belt between Dunblane and Bridge of Allan. The site historically formed part of the Keir estate but is now separated from Keir House by the M9 motorway. The land is currently accessed by means of a spur from the Keir roundabout, a major junction between the M9, A9 (north towards Perth, and south towards Bridge of Allan), B8033 (towards Dunblane), and B824 (Doune road). The site is bounded to the west by the A9 Henderson Street and B8033 Stirling Road. The Stirling-Perth railway line and Allan Water lie to the east. To the north are the wooded policies of Kippenross House, and to the south is agricultural land and houses on the outskirts of Bridge of Allan. The land surrounding the existing houses at Park of Keir, Park of Keir Cottage, Mill of Keir House and Mill of Keir Cottage is excluded from the appeal site.

1.4 The northern part of the site is open agricultural land, but the land rises to two wooded hills in the central (Gallow Hill – 110 AOD) and southern (Knock Hill – 104 AOD) parts of the site. There are a number of designations in and around the appeal site.<sup>3</sup> Knock Hill Fort is a scheduled Ancient Monument. The appeal site forms part of the Keir Local Landscape Area, identified in the adopted local development plan. The grounds of Kippenross House (to the north) and Keir House (to the west) are designated historic gardens and designed landscapes. Kippenrait Glen (to the east) is a site of special scientific interest and a Special Area of Conservation. There are a number of listed buildings close to the site boundary, including North Lodge, Lecropt Kirk, Lecropt House and Lecropt School.

### Planning history

1.5 Outline planning permission (council reference: S/02/00032/OUT) was granted on appeal in October 2005 for a 150 bedroom<sup>4</sup> hotel and 18-hole golf course and clubhouse on the same site at Park of Keir, following the conclusion of a section 75 agreement preventing further development on the application site and on land to the south.

1.6 In September 2008 the council resolved to approve an application for planning permission in principle (council reference: 08/00726/PPP) which sought to renew the previous outline planning permission. However, the associated section 75 agreement has

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<sup>1</sup> POK15.28

<sup>2</sup> POK12.03

<sup>3</sup> ES Volume 3, Figure 2.2

<sup>4</sup> Closing submission for appellant

not been signed, and therefore no decision notice has been issued in respect of this application.

## The proposals

1.7 The appeal proposals concern an application for planning permission in principle by Park of Keir Partnership for the “*proposed development of new tennis and golf centre, including museum and visitor centre; indoor and outdoor tennis courts; golf course with clubhouse and practice areas; hotel with leisure and conference facilities; multi-user sports pitch and outdoor play area; cycle trails and footpaths; new access roads and junction; new tree planting and landscaping; SUDS pond and associated drainage works; car parking and servicing; and enabling housing development.*”

1.8 The application was accompanied by the following supporting material:

- Environmental Impact Assessment;
- indicative masterplan;
- design and access statement;
- pre-application consultation report;
- planning statement;
- transportation assessment;
- outline drainage strategy; and
- outline business case.

1.9 The supporting planning statement advised that the Park of Keir is a partnership between Judy Murray, Colin Montgomerie and the King Group (the site owners).

1.10 The statement explained that the tennis and golf facility would include six indoor and six outdoor tennis courts, a short golf course with 6 holes, a golf practice range, putting areas, coaching bays and changing facilities; multisport artificial grass courts, tennis museum and a café/restaurant with viewing gallery. The tennis/golf centre would comprise two distinct but connected structures with a maximum ridge height of 7.7 metres, and would provide: outreach programmes to deliver tennis and golf into local schools and clubs; a coaching, education and mentoring hub for Scottish tennis; a competition and conference venue for local, national and international events; junior tennis and golf development to nurture talent from recreational to performance level; and a base for Set4Sport programme, which aims to develop physical literacy in children through fun games.

1.11 The outdoor leisure activities were to include a children’s outdoor adventure park with picnic areas, and a general multi-purpose all weather (3G) pitch suitable for football and other sports. Additional footpaths were proposed throughout the site to open up the area to walkers and cyclists.

1.12 Amended proposals were submitted in June 2015, which substantially reduced the number of houses proposed, and increased the area to be devoted to publicly accessible open space. A large part of the site (40 hectares<sup>5</sup>) would be reserved to establish a new community woodland/parkland (Keir Country Park). The revised proposals are explained in

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<sup>5</sup> Closing submission for appellant

a letter dated 15 June 2015<sup>6</sup> from John Handley Associates Ltd, and illustrated in a sketch site layout<sup>7</sup> and in the Amended Design and Access Statement.<sup>8</sup>

1.13 A four star, 150 bedroom hotel is proposed, including conference facilities, gym and spa, which would be three storeys high with a maximum ridge height of 12 metres.

1.14 The revised proposals also include 19 'resort' homes in two areas (reduced from the 100 houses originally proposed), which would be linked by a debenture membership to the tennis and golf facilities.

1.15 The site would be accessed by means of a new junction onto the A9 approximately 310 metres to the south of the Keir roundabout. A new 2km off-road footpath/cycleway is proposed, to provide improved and safer access between the site and the communities of Dunblane and Bridge of Allan.

### **Consultations and representations**

1.16 The responses to consultations and representations on the application are summarised in the council's Planning Panel report at paragraphs 4.6-4.25 and 3.84-3-86 respectively.

1.17 Scottish Natural Heritage (SNH) commented that the proposals were unlikely to have a significant impact on any qualifying interests of the adjacent Kippenrait Glen Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), and was content that there would be no adverse integrity on the integrity of the River Teith SAC some 2km downstream. SNH was satisfied that appropriate mitigation measures were set out in the Environmental Statement for European Protected Species.

1.18 Scottish Environment Protection Agency had no objection to the proposed development on flood risk or foul drainage grounds.

1.19 Historic Scotland (now Historic Environment Scotland) did not object to the proposals.

1.20 Transport Scotland had no objection to the proposals in relation to environmental impacts on the trunk road network. Network Rail had no objection in principle, but recommended that a number of matters be taken into account if planning permission were to be granted.

1.21 VisitScotland supported the development proposals, as it considered that they would provide excellent sports facilities and the potential to enhance the visitor experience in the Stirling area.

1.22 The proposals were supported by the Lawn Tennis Association (LTA), who considered that they may assist in the creation of sporting legacies following the Commonwealth Games, Ryder Cup and Andy Murray's success at Wimbledon. Tennis Scotland welcomed any wholly independent investment that is aligned with their tennis ambitions (improving access to the sport, increasing and investing in facilities and improving

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<sup>6</sup> POK08.01

<sup>7</sup> POK09.02

<sup>8</sup> POK08.02

the tennis workforce to assist in making tennis available to as much of the Scottish population as possible). The Professional Golfers Association (PGA) supported the proposal for similar legacy reasons. A letter of support was received from Sir Alex Ferguson CBE.

1.23 Dunblane Soccer Club supported the proposed development since it includes a 3G pitch. Sustrans supported the proposal because it included a cycle path which could enable people to cycle and walk for everyday journeys.<sup>9</sup>

1.24 However, Dunblane Community Council and Bridge of Allan Community Council objected to the proposed development on a number of grounds, outlined in paragraphs 4.7 and 4.16 of the Planning Panel report. An additional 1,019 letters of objection were received (including letters from the Scottish Wildlife Trust and Bridge of Allan Golf Club), together with 45 letters of support (including the LTA, PGA and Dunblane Soccer Club). The grounds of objection are summarised at paragraph 3.86 of the Planning Panel report.

### **Reasons for refusal**

1.25 At the meeting of the Planning & Regulation Panel on 8 December 2015 the council decided to refuse planning permission for the appeal proposals for the following reasons:

- “1. *In the opinion of the Planning Authority the proposed development is contrary to Policy 1.5: Green Belts since residential development of the scale proposed is not supported. The residential development does not support the diversification of the rural economy and is not required for the purposes set out in Policy 1.5. Moreover, the scale of residential development is beyond that supported in Policy 1.5.*
2. *In the opinion of the Planning Authority the proposed development is contrary to Policy 2.2(a): Planning for Mixed Communities and Affordable Housing since the proposed residential element of the development does not provide a range of housing of different types and sizes.*
3. *In the opinion of the Planning Authority the proposed development is contrary to Policy 2.10: Housing in the Countryside since it does not fall within one of the criteria where new houses will be supported.*
4. *In the opinion of the Planning Authority the residential element of the proposed development is contrary to Scottish Planning Policy since the proposed development is rural in nature and will require residents to travel for their basic amenities and services, contrary to the guiding principles for sustainable development set out in paragraph 29.”*

### **Development plan policy**

1.26 The relevant development plan policy and supplementary guidance are summarised at paragraphs 3.13-3.48 of the Planning Panel report. The development plan for the area comprises the Stirling Local Development Plan (September 2014) together with the associated Supplementary Guidance (October 2016).

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<sup>9</sup> But also see letter from [Sustrans](#) dated 8 September 2016.

1.27 Local development plan Policy 1.5: Green Belts is in the following terms:

- “(a) Green Belts are designated around Stirling, Bannockburn, Bridge of Allan, Dunblane and Strathblane. Development should preserve the openness of Green Belts and should not undermine their core role and function by individual or cumulative impacts. Development in the Green Belt will only be supported where it supports diversification of the rural economy and is for the purposes of: -*
- i) Agriculture, woodland, forestry and/or horticulture uses (including allotments).*
  - ii) Recreational uses compatible with an agricultural or natural countryside setting.*
  - iii) Essential infrastructure (such as electronic communications, electricity grid connections and new transport infrastructure supported by the National, Regional and Local Transport Strategies).*
  - iv) Re-using redundant rural vernacular buildings (see also Policy 2.10, and for further design guidance SG11).*
- (b) Support may be given to single houses in the Green Belt (outwith Building Groups or Infill situations) for specific purposes where consistent with Policy 2.10 and SG10.”*

1.28 Part (a) of Policy 2.2: Planning for Mixed Communities and Affordable Housing states that all new residential development schemes should provide a range of different types and sizes, and where required, different tenures and affordability.

1.29 Policy 2.9: Economic Development in the Countryside states:

- “(a) In order to support a healthy and vibrant rural economy, developments supporting rural economic activity in the Countryside\* will be encouraged to locate: -*
- i) In and around the Rural Activity Areas;*
  - ii) Close to villages, where there is a greater possibility for a realistic choice of access;*
- or*
- iii) Where redundant or under-utilised buildings can be used, and particularly where traditional rural buildings can be restored and re-used, including as part of a mixed-used development (see also Policy 2.8 and SG11).*
- (b) Businesses based on recreational activities that have a site-specific need for a Countryside location will be encouraged.*
- (c) Smaller-scale developments that are compatible with neighbouring residential properties may be permitted in Building Groups and Infill situations (as defined in Policy 2.10 and SG10) or as part of Farm Steading developments (see SG11).”*

1.30 Policy 2.10: Housing in the Countryside states as follows:

- “(a) New houses (including those for holiday let outwith managed chalet developments), of a scale, layout and design suitable for their intended location, will be supported in the Countryside\* where one or more of the following circumstances apply: -*
- i) When they are within or closely and cohesively visually related to existing Building Groups and Clusters.*
  - ii) Where they will occupy Infill sites relative to existing rows of houses.*
  - iii) Outwith existing groups or Infill situations when the proposal is for a Single house at a specific type of site or for a specific purpose.*
  - iv) When the Replacement or Renovation of a single house is proposed.*

- v) *When the proposal is for the Conversion, redevelopment or replacement of a Farm Steading or other range or cluster of Non-Domestic Buildings.*
- vi) *When the proposal will result in the beneficial re-use of a Brownfield Site.*

(b) *Development opportunities within designated Green Belts will be significantly constrained (see Policy 1.5 and SG10)."*

1.31 Policy 3.1: Addressing the Travel Demands of New Development indicates:

*"(a) In order to create accessible developments in sustainable locations, new development should be located where safely and conveniently accessible by walking, cycling and public transport as well as by motor vehicles.*

*(b) Development should aim to reduce its travel demands, and to ensure that residual demands are met in a manner which ensures a safe and realistic choice of access by walking, cycling, public transport and motor vehicles."*

1.32 Primary Policy 9: Managing Landscape Change states that the integrity, character and special qualities of key areas of nationally and locally valued landscapes will be protected. Policy 9.1: Protecting Special Landscapes indicates that within Local Landscape Areas, development proposals will only be supported where it can be demonstrated that the landscape character, scenic interest and qualities for which the areas have been designated will not be adversely affected; or that there is a specific nationally recognised need for development at that location which could not be satisfied in a less sensitive area, and any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance.

1.33 Policy 15.1 provides that proposals for tourism and recreational development, including facilities and accommodation, will be supported where they:

- (i) Are commensurate in scale with their location and setting within the built and natural environment;*
- (ii) Complement existing tourist facilities and help facilitate the sustainable management of tourists at or between major tourist destinations;*
- (iii) Promote a wider spread of visitors and therefore economic benefits; and*
- (iv) Promote responsible access to, interpretation of, and effective management and enhancement of the natural and historic environment, and cultural heritage."*

## **Scottish Planning Policy**

1.34 Scottish Planning Policy is discussed in paragraphs 3.52-3.59 of the Planning Panel report, and paragraphs 8.72-8.100 of the appellant's [supporting planning statement](#).<sup>10</sup>

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<sup>10</sup> POK 03.07

## CHAPTER 2: SUMMARY OF THE CASE FOR THE APPELLANT

2.1 The appellant's [closing submission](#) focuses on the 'specified matters' discussed at the inquiry, which did not include all the relevant development plan policies. The appellant's full case is set out in the grounds of appeal statement, the other responses submitted as part of the inquiry process, and the appeal documents (including Mr Handley's [context document](#))<sup>11</sup>.

2.2 The appellant's case in relation to the specified matters is set out in its statement of case, documents, precognitions, and the oral evidence given at the inquiry by Eleanor Cannon, Blane Dodds, David Dale, Judy Murray, Mark Kummerer, Alston Birnie and John Handley.

### **The development**<sup>12</sup>

2.3 The appellant proposes a multi-use tennis, golf, leisure, hotel and enabling housing development. Contrary to the approach taken by Stirling Council and some objectors, it is not a housing development.

2.4 The multi-use nature of the facility is key. It would attract visits from families who can travel together, play together and/ or split up to pursue individual sporting activities. This is a model which has been pursued successfully by commercial enterprises, and the presence of a gym is a key revenue raiser. In contrast, single-use clubs struggle to remain viable.

2.5 The importance of this multi-use is accepted by the council, including the opportunity for the hotel to provide accommodation for sporting holidays or sports camps.

2.6 It is therefore essential that the development is assessed as a whole, and in the round, not as a series of individual components. This is particularly important given the allegations by objectors that there might be suitable alternative sites.

2.7 The appellant seeks planning permission in principle (PPP) to establish the acceptability of the development before undertaking detailed design work at significant cost. This is a common approach taken by developers. However, unlike most developers, the appellant requires the PPP to progress funding negotiations with sporting bodies and, in particular, initial funding to prepare detailed designs.

2.8 Sufficient information has been provided to enable PPP to be granted. Environmental Impact Assessment was undertaken. An Environmental Statement and other assessment documents were submitted. None of the statutory consultees dealing with technical matters objected to the development. The detailed design of the development can be controlled through the imposition of planning permission conditions and conclusion of a section 75 obligation.

### **The developer**<sup>13</sup>

2.9 The application was submitted on behalf of the Park of Keir Partnership. Subsequent to the inquiry, confirmation has been provided that it is a partnership between

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<sup>11</sup> POK15.18(b)

<sup>12</sup> Closing submission for appellant

<sup>13</sup> Closing submission for appellant

members of the King family, and title to the site is held in trust for the partnership. The Partnership has legal personality and can therefore submit an application for planning permission.

2.10 It is therefore factually incorrect for the community council to say that Mrs Murray has aligned herself with ‘a property developer’, for two reasons: firstly, Duncan King is only one of the partners; and secondly, Mr King is also a farmer, which is relevant as the existing use of the site is agriculture.

2.11 The objection to ‘Mr King’ making a profit is misleading: the outline business case allows for recovery of the historic land costs. Recovery of costs does not involve any profit. The sale of the housing land would be on the usual commercial basis, where the housebuilder would expect to make a commercial return because of taking the speculative risk of buying the site and selling finished houses. Even if the land is sold to ‘Mr King’, it is not unreasonable for him to seek a similar return, because he would be taking the same risk as any housebuilder.

### **Level of objection<sup>14</sup>**

2.12 Objectors emphasise the amount of objection to the development. However, the 1,019 objections equate to approximately 15% of the population of Dunblane and Bridge of Allan, so the views of 85% of the population are unknown. That also throws into question why both community councils decided to represent the objectors, not the supporters.

2.13 This is a particularly important point, since the Board of Discover Dunblane (Business Improvement District) support the development<sup>15</sup> and individual business owners also wrote to indicate their support.

2.14 It is also notable that the vast majority of objections (750 of the 1019 objection letters) were in respect of the original application for 100 houses. Only 269 (4%) specifically related to the current proposals.

### **Impacts on sport, tourism and recreation<sup>16</sup>**

2.15 The evidence shows that the development will have a hugely significant impact on sport, tourism and recreation. Stirling Council accepts the sport, tourism and recreation benefits. The support from Visit Scotland, Scottish Professional Golfers Association, Tennis Scotland and the Lawn Tennis Association all confirm that the project would be important nationally.<sup>17</sup>

2.16 There are several over-arching themes:

- declining membership at club level throughout Scotland.
- a focus on beginner/ entry level, remembering that the limited coaching programmes available are often aimed at young people, not adults.
- affordable facilities/ pay and play
- facilities which will complement local clubs, not compete with them. Private

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<sup>14</sup> Closing submission for appellant

<sup>15</sup> POK11.06

<sup>16</sup> Closing submission for appellant

<sup>17</sup> POK 06.04, 06.05, 06.09, 06.13 and POK15.18b, paragraph 2.7-2.11

clubs are often structured more for the existing membership than for the pursuit of development and participation objectives.

- feeding new members to local clubs. Experience indicates that the social benefits of club membership will continue to attract emerging players, even those interested in 'social' playing rather than competitions. In golf, the need for a handicap, which could not be obtained playing the big hole course, would also encourage club membership. Although there were fears that new commercial facilities would draw members away from local tennis clubs, experience has shown that has not happened. Indeed, local tennis clubs often block book indoor court times for their members during the winter. Similarly, local golfers might use the practice facilities at the development but remain members of their local club.
- the benefits of the multi-use facilities.

## **Sport and recreation – tennis**

2.17 [Judy Murray](#)<sup>18</sup> has been a tennis coach for 25 years. She started as a volunteer at Dunblane Sports Club and has worked at club, district, national and international levels.

2.18 Since 2013 she has run a grass roots programme across Scotland which builds workforces in local communities in order to give more children, teenagers and adults the chance to play tennis. She sees more and more overweight and uncoordinated children, which has huge implications for future sporting success and for the health of the nation. She is keen to find ways to get children enjoying exercise at a young age.

2.19 Mrs Murray's evidence focused on the grass roots approach that links families, schools and local clubs to a multi-sport community hub, and the need for the Park of Keir facility as a platform to nurture sporting talent and high quality coaching at all levels.

2.20 From being a minority sport, the profile of tennis in Scotland has 'gone through the roof' in recent years due to the success of Scottish players on the world stage. There is a huge appetite from children, teens and adults to try tennis, and therefore an enormous opportunity to grow the game. Role models are needed to create the excitement and the inspiration but any sport is only as good as its grass roots, which are very weak in Scotland.

2.21 The grass roots approach is about ensuring the accessibility of tennis and providing the opportunity for anyone to play the game regardless of age or ability. We need many more public facilities with fun starter activities led by engaging and experienced coaching staff to create opportunities for people to get started.

2.22 Mrs Murray commissioned an extensive search for a suitable site to develop a tennis centre in the Central District<sup>19</sup>. Park of Keir, which already had planning permission for an 18-hole golf course and hotel, was ideally placed to serve the local area and national needs.<sup>20</sup> The location is perfect: not only is it in the Murray family's backyard and therefore a bricks and mortar legacy to the achievements of Andy and Jamie Murray; it is also within an hour's drive of 70% of Scotland's population.

2.23 It became clear that the complex would have to be multi-sport, because experience shows that tennis does not stack up on its own. Also, some enablement funding was

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<sup>18</sup> Precognition of Judy Murray

<sup>19</sup> POK15.30

<sup>20</sup> Cross-examination of Judy Murray

required if the £12.5 million sports complex is to be built debt free and is to be affordable for all.<sup>20</sup>

2.24 The Park of Keir facility would be a family focussed pay and play community sports hub aimed at increasing grass roots participation in tennis, golf and football by providing starter coaching and competitions in indoor and outdoor facilities that are local, affordable and accessible. It also has a wider goal of getting more families enjoying exercise together and in fresh air through its woodland walks, cycle paths and an adventure playground. This fits perfectly with Stirling Council's Get Active policy.

2.25 It is the combination of the scale of the tennis facilities and the focus on beginners that would make Park of Keir different from existing facilities. The local clubs struggle to cater for new starts as they do not have the coaching infrastructure. There are very few tennis coaches in the Stirling area; nor do local clubs have the trained staff or resources to deliver the type of extensive outreach programme that is proposed at Park of Keir.

2.26 Park of Keir's outreach programmes would take tennis and golf into local schools and ensure that there is a link to the community hub for children (and their families) if they wish to take the sport further. Currently most mini tennis activity in local schools leads to nothing because there is no public facility for the children to use. This is particularly true in Stirling where there is only one court for every 1,000 people.

2.27 The 17 tennis venues in Central District have around 3,500 members, of whom 1,500 are adults, just over 1000 are 11-18, and just under 1000 are 7-10. Although there is some element of pay and play at local tennis clubs, members are given priority. Many towns in the area have no tennis courts. Of the 'public courts' referred to by RAGE<sup>21</sup>, Bridge of Allan has two, very poor quality blaise courts which are virtually unplayable, and the 3-4 courts at Kings Park (Stirling) are unmanned and unprogrammed.<sup>22</sup> The courts at Lornshill Academy are not a specifically public facility.

2.28 There were probably twice as many tennis clubs in the Central District, and many more people playing, when Mrs Murray was a junior tennis player.<sup>23</sup>

2.29 The appeal proposals would complement and not compete with the 6 court indoor facility at Stirling University, which promotes excellence in performance and houses the University scholarship scheme, 7 student teams and the Tennis Scotland Regional and National Training Programmes. It is very busy during term times and therefore difficult for members of the public to book. Its main focus is on student tennis provision and on regional and national performance and competitions.

2.30 Park of Keir would service the Stirling area (including Falkirk, Linlithgow and Clackmannanshire), including schools and clubs.<sup>8</sup> The aim is to hugely increase local participation and the facility would work with local schools and clubs to provide, where needed, a mobile coaching workforce and an indoor base for the winter months. Buses would be provided to bring schoolchildren to the centre.

2.31 It would also provide a much needed outdoor hard court competition venue for Scotland and an outdoor hard court training base for the University scholars and national

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<sup>21</sup> RAGE 008

<sup>22</sup> Examination-in-chief of Judy Murray

<sup>23</sup> Closing submission for the appellant

squad players. Despite having a US Open champion and an Australian Open champion from Scotland, there are no outdoor hard courts for our young players to train or compete on equivalent to the type of surface used at international competitions.

2.32 In the nine years that Andy Murray has been in the top 10 players in the world, no new indoor courts have been built in Scotland apart from the four at Gleneagles Hotel that opened last year. Indoor courts take up a lot of space, are expensive to build and tough to make sustainable which is why the tennis facility must be part of multi-sport venue which operates as one destination, and why the sports facilities must be built debt free.

2.33 Park of Keir would become a coach education centre and a base for developing a Scottish tennis workforce – coaches, trainers, competition organisers, team captains and coach educators – from entry level to world class. The current coaching workforce in Scotland is small in number and poor in quality. Park of Keir would offer on the job training in all areas as it would run best practice coaching sessions and also competitions, conferences and workshops. The key is to share expertise and experiences and to pool resources with golf and football to give all three sports the chance to flourish in the long term.

2.34 Mrs Murray confirmed that there is no formal business partnership, or legal relationship, between herself and the King Group. Mr Montgomerie has now moved from the area, and is no longer involved in the proposals though he remains supportive of the project.<sup>20</sup>

2.35 [Blane Dodds](#)<sup>24</sup>, Chair of Tennis Scotland, confirmed the body's support<sup>25</sup> for the appeal proposals, which he considers would be an asset to tennis. The range of facilities proposed at Park of Keir would aid the development of the game by helping to increase participation and to increase the workforce that drives participation in communities.

2.36 Following a hugely successful Commonwealth and Olympic Games, it is vital to keep the positive momentum and provide increased opportunities for young people and communities to get involved in much needed physical activity and multi-sport facilities.

2.37 There is a dearth of quality tennis facilities in Scotland compared to other countries in Europe. The five main tennis nations of Europe – Germany, Switzerland, Netherlands, France and Serbia – have more indoor courts per thousand of the population than the UK. In Scotland there are 53,537 registered members<sup>26</sup>, but far fewer courts per thousand than in the rest of the UK.

2.38 Whilst there are 59 tennis courts within 15 miles of Park of Keir, there is not enough activity on the courts. There are insufficient indoor facilities to enable year-round play, and a number of training camps and outdoor coaching sessions are cancelled due to the weather.

2.39 Most entry level tennis is via membership clubs which Tennis Scotland support. However, pay and play facilities that do not require membership are ideal for entry level participation and development. It is anticipated that existing clubs would obtain a new flow of participants in tennis from the Park of Keir proposals. The current level of accessible pay

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<sup>24</sup> Precognition of Blane Dodds

<sup>25</sup> Examination-in-chief of Blane Dodds

<sup>26</sup> Cross-examination of Blane Dodds

and play facilities that offer coaching programmes at grass roots/beginner level (for juniors and new players generally) is far from adequate.

2.40 Tennis Scotland strongly supports the development of a range of new facilities, particularly indoor tennis facilities, to capitalise on the current high profile of tennis and to deliver an appropriate legacy following the Murrays' achievements in world tennis. The Park of Keir facility meets both of these aims, as it is designed to increase participation in the sport and develop an increased pool of trained volunteers and coaches who can then take their expertise to clubs across Scotland. The increase in participation and an increased pool of trained volunteers and coaches would give greater opportunities to the young people of Scotland who have been inspired by the Murrays and other high profile athletes on the world stage to try out and get involved with tennis.

2.41 Currently due to the shortage of indoor courts, competitive players (both young players and adults) are regularly turned away from competitions due to a lack of space and capacity. The facilities at Park of Keir would also create a first outdoor hard court competition venue, which is critical for the development of young players. This does not currently exist in Scotland and is required for the continued development of our competitive players.

2.42 Park of Keir would complement the activities and facilities at the University and strengthen the tennis infrastructure in the area; it is not designed as a performance centre (the focus is on participation).

2.43 The days of single-sport sports clubs are clearly numbered. The range of facilities on offer at Park of Keir including golf, gym, strength and conditioning, yoga/pilates, football and cycling would be a significant asset to the local community.

### **Sport and recreation – golf**

2.44 [Eleanor Cannon](#)<sup>27</sup>, Chair of Scottish Golf, considers that Park of Keir would become a world class facility, and would demonstrate Scotland's ambition and commitment to provide access to sport for all of its citizens, young and old. Park of Keir would provide an excellent opportunity for people to learn to play golf, prior to joining a club as a traditional member. New entrants to golf are a vitally important part of the game's future viability in the country where the game was started.

2.45 Membership clubs are important and are a key component for the future success of golf in Scotland, but club membership has been declining (and ageing<sup>28</sup>) for a number of years. The average age of male golfers in Scotland is 52, and female golfers is 58. Scottish Golf is now actively seeking to address this by exploring and investing in new and innovative ways of attracting people into the sport.

2.46 Scottish Golf has to adopt different approaches to stimulate and retain interest in golf in order to reverse the trend of falling membership numbers. At a national level, it is important to remove as many of the barriers that exist around participation in golf, and make the game as accessible as possible to people of every background.

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<sup>27</sup> Precognition of Eleanor Cannon

<sup>28</sup> Examination in chief of Eleanor Cannon

2.47 As Park of Keir would be a 6-hole pay and play venue, with very large holes, one of those barriers is removed. It would allow those who would like to learn the game but have limited time to do so in an affordable way. Park of Keir would be an appropriate size for beginner and entry level, but would not enable the user to obtain or maintain a handicap.<sup>29</sup>

2.48 The proposed 6-hole “trainer course” format would be at the cutting edge in increasing golf participation, and fairly unique in Scotland. This would make one hour’ golf more accessible and appealing to novices as it could compete effectively with the increasing demands on family leisure time.

2.49 A further appeal of the Park of Keir proposal is the opportunity for tennis, golf and football to collaborate – e.g. to help train and nurture networks of coaches – and there are opportunities around cycling and strength and conditioning.

2.50 The Partnership has agreed in principle how Park of Keir could work with and complement existing clubs, for example through discounted rates for use of the facilities by local club members. It is anticipated that local golf club members would enjoy and benefit from using these facilities. Clearly beginners and some young people may not wish to pay, or be able to afford, club membership fees but would rather learn the game at a facility of the kind being proposed and move on to join a membership club in the fullness of time. This approach is supported by Scottish Golf.

2.51 Park of Keir would also offer other facilities not always available at traditional golf clubs such as a driving range and short game practice areas and indoor all-year practice facilities. The 12 driving bays referred to in the business plan would be outdoor and not floodlit.<sup>30</sup>

2.52 It is accepted that: the area is relatively well served with development centres, including the Brucefields Family Golf Centre in Stirling (with 30 floodlit bays available 0900-2200 hours); local clubs offer pay and play; no golf clubs in the area have a waiting list; and none charge a joining fee. However, the trainer format is not currently available in the area, and there is still a membership fee to pay when joining a club.<sup>31</sup>

## **Sport and recreation – football**

2.53 [David Dale](#)<sup>32</sup>, Chair of Dunblane Soccer Club, believes the Park of Keir proposal would be good for the community. The appellant has offered to increase the size of the multi-purpose pitch to a full 11-a-side surface and make this available to Dunblane Soccer Club as an additional ‘home ground’ for training and fixtures.

2.54 The Soccer Club is the largest participatory sports club in the area. It provides coaching and participation in matches to over 300 young people from six to eighteen years of age. In recent years the playing membership has increased, and the Club now has eight 11-a-side teams and includes an amateur adult team.

2.55 For a number of years the lack of good playing facilities has constrained the Club’s development. Many of the teams trained on the old ‘astro’ pitch at Dunblane High School,

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<sup>29</sup> Examination in chief of Eleanor Cannon

<sup>30</sup> Cross-examination of Alston Birnie

<sup>31</sup> Cross-examination of Eleanor Cannon

<sup>32</sup> Precognition of David Dale

which offered little or no “cushioning” underfoot, and some of the teams had to travel to Stirling, Alloa or Callander to train on better surfaces. For the 11-a-side teams (age 12 upwards) grass pitches such as the ones in Dunblane at the Laighills were in poor condition or unplayable altogether.

2.56 The Club has for a number of years explored the possibility of upgrading the Dunblane High School astro pitch or raising funds for a 3G pitch of its own, but it was only after having the opportunity to highlight this issue through the Park of Keir planning process that moves were made to upgrade the facility at Dunblane High School by Stirling Council. This was officially opened on 21 August 2016 and is now in use by the Club for all age groups.

2.57 Although this is a very much welcomed addition to local facilities, it will not fully meet the Club’s needs for readily accessible practice and match facilities during the season and especially in the winter months. Indeed, the Club has already fully booked all the available time slots for the coming season.

2.58 An additional new 3G pitch as part of the Park of Keir development would be beneficial to the Club by providing a second, high quality surface for training, and an additional dependable venue for full 11-a-side matches. It is understood that the new pitch would be floodlit.<sup>33</sup>

### **Tourism, recreation and net economic impact**

2.59 [Mark Kummerer](#) gave evidence on the net economic benefit of the proposal, and the potential impact on recreation and tourism.

#### Strategic case

2.60 The Park of Keir proposal would directly support Stirling’s Economic Strategy<sup>34</sup>, in fostering business growth and encouraging new opportunities which generate employment and reduce inequalities.

2.61 Scotland's Economic Strategy<sup>35</sup> (2015) sets out an overarching framework for a more competitive and a fairer Scotland. Park of Keir would support each of the priority areas set out in the new strategy. As a high quality and well-connected development the proposals would unlock new investment to support inclusive growth, attract new tourists and encourage visits amongst local people, support local businesses and facilitate economic development in the wider City Region.

2.62 The Park of Keir proposals would support Stirling’s new Physical Activity and Sports Strategy<sup>36</sup> which sets the vision of Stirling being ‘An inspiring place to be active, sporty and ambitious’. The strategy recognises that the development of sports facilities plays an important role in enhancing the image of an area and improving the built and natural environment. As well as outlining the health and well-being importance of physical activity, the strategy highlights the important economic benefit of significant inward investment in a range of tourism, equipment, fashion, spectator events and other sports and facility services.

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<sup>33</sup> Cross-examination of David Dale

<sup>34</sup> POK15.23

<sup>35</sup> POK15.24

<sup>36</sup> POK15.25

2.63 Park of Keir could support the achievement of all six high level priorities, and two in particular:

*“Adopt an integrated approach to planning and investment in our sporting infrastructure, maximising shared resources and opportunities both built and natural”* and

*“Realise and demonstrate the value of Physical Activity and Sport in contributing to the local economy and tourism”*.

#### Economic impact assessment

2.64 The Park of Keir economic impact assessment deployed a method consistent with that set out in the Scottish Government’s Draft Advice on Net Economic Benefit and Planning<sup>37</sup>, which was published subsequently. This seeks to understand the ‘net’ impact, or to estimate the economic position where the development proceeds, and then compare it with the estimated economic position if the proposal does not go ahead. The guidance also advises how to address risk and uncertainty, and warns of the need to guard against ‘optimism bias’.<sup>38</sup>

2.65 The economic impact assessment factored in ‘displacement’ (taking account of the impacts on local businesses<sup>39</sup>), but not ‘deadweight’ which was not a requirement at that stage.<sup>40</sup> Operational jobs were estimated using employment densities – e.g. one per 65 square metres of the sports centre building. The economic impact assessment did not use the patronage estimates.<sup>41</sup>

2.66 The economic impact assessment appraised both the short term and temporary construction benefits, and the net economic benefits of the fully completed and operational scheme. These impacts are summarised below and detailed in full in the Amended Outline Business Case<sup>42</sup>:

#### *Short Term Temporary Construction Employment*

Construction Employment: 185 years (i.e. 18.5 full-time equivalent jobs<sup>43</sup>)

Construction Employment at Regional Level: 124 years (i.e. 12.4 full-time equivalent jobs)

Regional Economic Benefit: £7.6 million

National Economic Benefit: £11.3 million

#### *Operational Employment*

Centre for Tennis and Golf: 22 net additional jobs

Hotel: 130 net additional jobs (on-site and off-site)

Regional Economic Benefit: £4.7 million

#### *Wider Socio-Economic Benefits*

Additional socio-economic benefits were considered within the Environmental Statement<sup>44</sup>, including population generation (54 new residents), taxation (£60,800 per annum) and retail expenditure (£420,000 per annum).

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<sup>37</sup> POK15.11

<sup>38</sup> Cross-examination of Mark Kummerer

<sup>39</sup> Closing submission for appellant

<sup>40</sup> Reporter’s questions of Mark Kummerer

<sup>41</sup> Closing submission for appellant

<sup>42</sup> POK08.03

<sup>43</sup> Cross-examination of Mark Kummerer

<sup>44</sup> POK03.09-03.13

2.67 This significant net economic impact is a weighty factor in favour of the development, especially since the first principle specified in the SPP is “giving due weight to net economic benefit”.<sup>45</sup>

2.68 The employment, economic and financial impacts would be enhanced by strengthening the perception of the area as a place to live, work, visit and invest<sup>34</sup>. The potential community and sporting impacts of the tennis and golf centre would support the ambition of Stirling as a ‘Sports City’ and the National Strategy for Sport.

2.69 Wider impacts would also include significant development contributions for affordable housing and transport investments as well as contributing to local access and open space ambitions. The scale of the development contributions is envisaged being in excess of £1 million, and is therefore expected to have a moderate beneficial socio-economic impact.

#### Tourism and recreation<sup>46</sup>

2.70 VisitScotland<sup>47</sup> supports the development because of the potential to enhance the visitor experience in the Stirling area. The hotel would deliver much needed overnight accommodation.

2.71 The sporting, recreational facilities and open spaces to be provided at Park of Keir have the potential to bring new visitors from different backgrounds to the area and extend the wider tourism appeal of the City and region. The development would be a destination in its own right, attracting new visitors to the area, providing wider spin-off benefits to other attractions, and food and drink outlets, and supporting the credentials of the area as a tourism destination.

2.72 Park of Keir could also support the new Destination Stirling Action Plan<sup>48</sup>, which aligns with the ‘Tourism Scotland 2020’ strategy<sup>49</sup> to make Scotland a destination of first choice for a high quality, value for money and memorable customer experience, delivered by skilled and passionate people; essentially seeking to encourage more tourists to stay for longer and to spend more. The proposals also support Invest in Stirling’s ‘Hotel Market Development Opportunity’, which is aiming to attract new four-star hotel accommodation providers to the area.

2.73 It is acknowledged that a failure to attract a hotel developer would have a significant impact on the viability of the project, and that there would be fewer jobs created (1 per 3 rooms, instead of 1 per 1.25 rooms) if the hotel was three star, rather than four star.<sup>50</sup>

### **Enabling housing development**

2.74 [Alston Birnie](#) gave evidence on the proposed enabling housing development, and the development viability appraisal.

#### The need for the enabling housing development

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<sup>45</sup> Closing submission for appellant

<sup>46</sup> Closing submission for appellant

<sup>47</sup> POK06.07

<sup>48</sup> POK15.26

<sup>49</sup> POK13.16a

<sup>50</sup> Cross-examination of Mark Kummerer

2.75 The housing element would be a small part of the development as it would take up less than 10% of the total site, but it is critical to the delivery of the capital components. It would enable the procurement of further funding to facilitate the delivery of these sports facilities, and in turn would allow the facilities to be more affordable and accessible to all.

2.76 Housing would occupy 10.7 hectares, with the sports facilities, hotel and car park occupying 4.43 hectares, giving a total development area of 15.14 hectares.<sup>51</sup>

2.77 Section 6 of the Amended Outline Business Case (OBC)<sup>52</sup> provides a development viability appraisal which draws on specialist input from independent consultants and land valuation experts<sup>53</sup>. An updated appraisal of the housing element has also been undertaken by property valuation experts<sup>54</sup>, which continues to support the position as set out in Section 6 of the Amended OBC. Once planning permission is granted the housing land could be sold to a developer in one go to generate a capital receipt, rather than sold on a phased basis.<sup>55</sup>

2.78 Table 6.1 of the Amended OBC confirms the financial position in terms of the development costs of the facilities and the proposed 'enabling funding' to fund part of the cost of its delivery. The development appraisal confirms that the total construction cost of the sports facilities is £12.5 million, and Park of Keir Partnership is in dialogue with a number of funding bodies to secure capital contributions in the region of £8.5 million (although no funding pledges have been made<sup>56</sup>). This is an increase of £3.5 million on the original OBC, which could include corporate sponsorships and/or equity partners.<sup>57</sup> The previous £500,000 construction inflation allowance was also removed, and an allowance (£900,000) was made for debenture memberships.<sup>58</sup>

2.79 It is recognised that the removal of the construction inflation allowance between the original OBC and the Amended OBC makes the appraisal in Table 6.1 less robust.<sup>59</sup>

2.80 By adding in development costs, including the historical land cost of £1.9 million, this results in a capital shortfall of around £5.9 million which would be funded through the sale of housing plots (£4.0 million), the hotel site (£1.0 million) and the debenture memberships (£0.9 million).

2.81 Collectively, the housing and hotel component of the proposals would provide a £5.9 million financial contribution. This proposed delivery model ensures that the sports facilities could be delivered debt free from the outset, without the need for any<sup>60</sup> borrowing. This would contribute to the overarching objective to provide a sustainable, accessible, and affordable facility which can be enjoyed by all, reflected in the proposed pricing structure for the tennis and golf facilities<sup>61</sup>. Any surplus would be ploughed back into the venture.<sup>62</sup>

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<sup>51</sup> Cross-examination of Alston Birnie

<sup>52</sup> POK08.03

<sup>53</sup> POK05.03, 05.04 & 05.05

<sup>54</sup> POK15.22

<sup>55</sup> Examination-in-chief of Alston Birnie

<sup>56</sup> Cross-examination of Alston Birnie

<sup>57</sup> Cross-examination of Alston Birnie

<sup>58</sup> Cross-examination of Alston Birnie

<sup>59</sup> Cross-examination of Mark Kummerer

<sup>60</sup> Cross-examination of Alston Birnie

<sup>61</sup> POK08.03, Section 3

<sup>62</sup> Examination-in-chief of Alston Birnie

2.82 If the £4.9 million provided specifically by the housing element was to be funded through debt finance over a 10-year term loan, the debt servicing outflows at a current commercial rate of 3% (LIBOR + 2.5%) including capital repayments, would equate to an additional annual cost of £568,988 pa, assuming interest rates stay at the current level well below their historical average.

2.83 The impact of this additional cost on projected patronage (being 180,000 in Year 1) would equate to an average additional admission surcharge of £3.16 (less 10% planning gain contributions<sup>63</sup>) per visitor, in order to offset this additional annual cost. If added to the proposed access charges it would make these facilities unaffordable for the majority of the target market which they are intended to serve.

2.84 It is also accepted that the patronage figures, which were derived in conjunction with the transport consultants, and the anticipated 90-95% usage by year 4, may contain an element of optimism bias, and would be affected by unfavourable weather<sup>64</sup>. It is acknowledged that the estimate of 54,000 rounds of golf per annum (more than the Old Course at St Andrews) is open to challenge.<sup>65</sup> The OBC expects that 'considerable ancillary income' would be generated, and suggests that the patronage figures are 'conservative' as they exclude potential enhanced bookings (events, training camps, etc.).<sup>66</sup>

2.85 In any case, there is no reliance on the 90% utilisation figure. The low range of 60-65% utilisation was taken as the break-even level, and the increased levels were fed in for the purpose of traffic modelling.<sup>67</sup> However, the variable weather has not been modelled.<sup>61</sup>

2.86 Sports Scotland only funds 50% of costs directly associated to the provision of sports pitches or courts. Under the Sports Facility Fund Guidelines published by Sports Scotland<sup>68</sup>, the required 'applicant's contribution' for large project applications is 25% of the total qualifying project costs (i.e. essential elements of the sports facilities). The LTA will match fund spending generated by Tennis Scotland.<sup>69</sup>

2.87 If the funding bodies did not provide the predicted £8.5 million, and the shortfall could not be raised by corporate donations, sponsorship, etc., the project as designed would not be deliverable. There is no wish or intention to increase the housing above what is proposed at the moment. The project would not go ahead if the pricing structure was not equivalent to public facilities. Sporting bodies would require to be satisfied that it would not proceed on a commercial basis, but the option of bringing in a commercial leisure operator for the day to day management has not been completely ruled out providing the agreed pricing structure could be maintained.<sup>70</sup>

2.88 A delay in the hotel development would not delay the wider project.<sup>71</sup>

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<sup>63</sup> Cross-examination of Alston Birnie

<sup>64</sup> Reporter's questions of Mark Kummerer

<sup>65</sup> Cross-examination of Mark Kummerer

<sup>66</sup> Cross-examination of Mark Kummerer

<sup>67</sup> Cross-examination of Alston Birnie

<sup>68</sup> POK15.19, page 10

<sup>69</sup> Re-examination of Alston Birnie

<sup>70</sup> Cross-examination of Alston Birnie

<sup>71</sup> Reporter's questions of Alston Birnie

2.89 The net funding delivered from the enabling housing, including the debenture memberships, is therefore crucial as a prerequisite to being able to access further sources of funding. Without it, the whole capital cost of £12.5 million would need to be privately funded, making the project unfeasible. There is no realistic alternative to housing as the funding mechanism.<sup>72</sup>

2.90 The debenture arrangement, which would bring around £50,000 per house, would be an exclusive marketing tool, as home owners would have free entry to the sports facilities and preferential booking.<sup>73</sup> The debenture would be secured by a planning condition, and would act as an interest-free loan repaid to the purchaser on re-sale of the property.<sup>74</sup>

2.91 The outline business case provided the right level of information for this stage in the process. If planning permission is granted, the detailed design of the facilities would be developed, together with a more robust business case, including costs, which would be a prerequisite to meaningful engagement with the funding authorities.<sup>75</sup> Chapter 5 of the Amended OBC has no relevance to development costs or enabling funding or capital costs.<sup>53</sup>

#### Justification for the enabling housing development

2.92 The housing element having already been reduced from 100 units to 19 low density homes would reflect the density, scale and character of the five existing houses already present within the appeal site. The enabling housing development is the minimum necessary to achieve the intended use. As confirmed in the Amended Design & Access Statement<sup>76</sup>, the houses would be designed in accordance with the Council's Housing in the Countryside Design Guidance<sup>77</sup>.

2.93 The appellant is happy to accept conditions restricting the number of houses and controlling their design and layout. Conditions have also been proposed: to ensure that the phasing of the housing is linked to the construction and operation of the sports facilities; to secure the debenture membership arrangement to link the housing directly to the sports facilities that it is funding; and to require the full business case including charges to be submitted and implemented<sup>78</sup>.

2.94 The debenture membership confirms that the enabling housing is not standard housing product; it can be viewed as an exceptional case, and would not therefore set a precedent for other housing development within the green belt.

2.95 Similarly, the housing element should not be considered in isolation from the primary sport and recreation uses. There is a crucial link between the housing and the main recreational facilities as it is the necessary funding element to generate initial capital for the delivery of these facilities.

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<sup>72</sup> Cross-examination of Alston Birnie

<sup>73</sup> Cross-examination of Alston Birnie

<sup>74</sup> Cross-examination of Alston Birnie

<sup>75</sup> Examination-in-chief of Alston Birnie

<sup>76</sup> POK08.02

<sup>77</sup> POK13.03

<sup>78</sup> Cross-examination of Alston Birnie

2.96 The enabling housing development is essential to achieve rural economic diversification in the context of the availability of funding relative to the development costs outlined in the Amended OBC<sup>79</sup>.

#### The council's consideration of the enabling housing development

2.97 From the assessment set out in the council's Planning Panel Report, and in particular, the four reasons for refusal, it is principally the scale of the residential element that has raised concerns. However, the council has failed to give appropriate recognition to the integrated nature of the multi-use proposals, and the particular type of housing being proposed.

2.98 When the enabling housing is properly considered as an integral part of a larger multi-use development, the net economic and social benefits are significant and considerably outweigh any perceived concerns over the environmental impact of the development or the inclusion of a small element of high quality housing as the necessary enabling development.

2.99 In their submissions, the council and Arnbathie Developments have taken exception to the use of the term 'enabling development', and consider that SPP only allows such development to apply to the restoration of listed or historic buildings. As confirmed in the further information response of June 2015<sup>80</sup> the appellant does not share this view. Whilst the SPP contains references to enabling development to fund restoration of listed buildings, the term is not exclusive to proposals that involve historic or listed buildings.

2.100 A number of other Scottish planning authorities (such as Aberdeenshire and East Lothian Councils) have policies which support housing led enabling development, particularly where its allocation in a development plan has not been foreseen. This includes the provision of 'enabling housing development' to fund the start-up of new employment, leisure or tourism uses in exceptional cases, and as a one off opportunity where the wider public benefits of securing enabling development significantly outweigh the disadvantages of the development.<sup>81</sup>

2.101 There are also examples of planning permission being granted for residential enabling development which cross funds sport and tourism related investments by other planning authorities, namely, the Angus Golf Resort<sup>82</sup> and the Inchmarlo Hotel and Spa<sup>83</sup>. In those cases, the inclusion of new build housing as the necessary funding element for the wider sport and tourism uses was considered to be acceptable on balance due to the significant economic benefits that would be delivered as a result of the enabling development.

2.102 Whilst Stirling Council does not have a specific enabling development policy, LDP Policy 2.8 acknowledges the role that enabling development can play in delivering mixed use proposals<sup>84</sup>.

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<sup>79</sup> POK08.03

<sup>80</sup> POK08.01, page 12

<sup>81</sup> POK15.01 and 15.02

<sup>82</sup> POK15.21

<sup>83</sup> POK15.20

<sup>84</sup> POK13.01

2.103 The definition of the housing element as ‘enabling development’ is therefore appropriate in this case as it would provide the necessary cross-funding for this opportunity to provide a nationally significant tennis and golf facility to encourage more people to participate in sport through first-hand experience and quality coaching.

### **Green belt policy**

2.104 [John Handley](#) gave evidence on green belt policy. He considers that the development as whole complies with the green belt policies; but if that is not accepted, his fall-back position is that further material considerations and exceptional circumstances related to the site and the development outweigh any purported conflict with the development plan).<sup>85</sup>

2.105 Paragraph 49 of SPP advises that the purpose of green belts is to direct development to the most appropriate locations; protect and enhance the character, landscape setting and identity of settlements; and protect and provide access to open space. Paragraph 52 confirms the types and scales of development appropriate within a green belt, including recreational uses compatible with a natural setting; development meeting a national requirement or established need; and intensification of established uses.

2.106 The proposals, when considered collectively as a comprehensive development as they were submitted to Stirling Council, can be assessed positively in relation to relevant green belt policy including LDP Policy 1.5; Supplementary Guidance SG03 and the relevant sections of the SPP. The proposals specifically meet criterion 1.5(a)(ii) as the development would help to diversify and enhance the local economy whilst providing new sport and recreational uses of local and national importance which are compatible with their countryside setting.

2.107 Paragraph 2.3 of SG03 advises that a green belt has been designated around Bridge of Allan and Dunblane to protect and enhance the quality, character, landscape setting and identity of these settlements. Paragraph 2.5 advises that Stirling’s green belts are also important in providing opportunities for outdoor recreation for local people, maintaining biodiversity, enhancing the quality of life, and providing access to areas of open space.

2.108 Paragraph 2.6 explains that preventing coalescence continues to be important in protecting the setting and identity of settlements, and paragraphs 3.5 to 3.8 confirm that the role and function of the green belt between Dunblane and Bridge of Allan is primarily to maintain their distinct identities.

2.109 The principle of major development (i.e. a hotel and golf course) has already been established on the appeal site despite its green belt designation<sup>86</sup>. The appeal proposals are primarily for sport and recreation uses, and Stirling Council has acknowledged that such a multi-use development requires an expansive site that could only be accommodated in a countryside location<sup>87</sup>.

2.110 The council has also previously accepted that the development of a golf course on this site would provide a buffer that would prevent coalescence between Dunblane and

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<sup>85</sup> Closing submission for appellant

<sup>86</sup> POK14.01a & 14.01b

<sup>87</sup> POK12.03, paragraph 3.70

Bridge of Allan<sup>88</sup>. The permission has not lapsed; it has not been determined, as the associated section 75 agreement has not been signed.<sup>89</sup>

2.111 The development complies with the LDP Policy 1.5 Green Belts:

- It would preserve the openness and not undermine the core role and function – in particular, the development would provide a more robust and permanent landscaped buffer through the inclusion and establishment of a new country park, in addition to the golf course. This would ensure that there is no prospect of coalescence between the settlements, and that the distinct identities and setting of Dunblane and Bridge of Allan would be maintained.
- It would support diversification of the rural economy – the economic benefits of the development are discussed elsewhere; the site is rural, situated in the countryside and in agricultural use.
- It would be for the purpose of recreational uses compatible with an agricultural or natural countryside setting – although ‘natural countryside setting’ implies a lack of man-made elements, in contrast, an agricultural setting can include large storage buildings, machinery and extensive poly-tunnels.<sup>90</sup>

2.112 Although Policy 1.5(b) says support may be given to single houses in the green belt, it does not say that multiple houses would not be supported. On a straight-forward reading, the 19 houses included in the development can only be contrary to Policy 1.5, if they fail to comply with criterion (a). As an integral part of a development which supports diversification of the rural economy, the 19 houses would comply with Policy 1.5(b).<sup>91</sup>

2.113 Local concerns raised by Dunblane Community Council and RAGE regarding the loss of green belt land and coalescence have been specifically addressed through the substantial revisions to the housing element<sup>92</sup>. This includes: an 80% reduction in the housing numbers; an 84% reduction in the amount of land taken up by the housing; a 70% increase to the woodland areas; and 41% more parkland to be retained for use by the local community ensuring the separation of the two settlements in perpetuity.

2.114 Almost 90% of the site would be dedicated to either indoor or outdoor recreational pursuits. The golf course and country park would account for 77% of the site and would sit adjacent to Dunblane and Bridge of Allan creating defensible, long term boundaries for these settlements. The proposed golf course, tennis centre, museum, visitor centre and hotel are all acceptable in the green belt. The only dispute with the council is whether the housing element (about 10%) is consistent with a green belt location.<sup>93</sup>

2.115 The design brief<sup>94</sup> states that a minimum of 60% of each house plot must be soft landscaping, with a maximum built footprint of 20% and 20% hard landscaping.<sup>95</sup>

2.116 The development would provide improved routes for walkers and cyclists, a significant outdoor recreation facility for locals and visitors, and a greater quality of outdoor

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<sup>88</sup> POK14.01b, paragraph 3.8

<sup>89</sup> Examination-in-chief of John Handley

<sup>90</sup> Closing submission for appellant

<sup>91</sup> Closing submission for appellant

<sup>92</sup> POK08.01 to 09.02

<sup>93</sup> Examination-in-chief of John Handley

<sup>94</sup> POK03.03

<sup>95</sup> Closing submission for appellant

recreation than its existing use as grazing land and woodland. The site is currently in agricultural use where the Access Code places limitations on rights of access.<sup>96</sup>

2.117 The appeal proposals would provide significant investments in green infrastructure. As recognised at paragraphs 219 and 220 of SPP<sup>97</sup> such investments can help to build stronger, healthier communities, and are considered to be an integral component of successful place-making.

2.118 The proposals would therefore promote healthy lifestyles, enhancing the quality of life. As noted by consultees, the proposals would also provide a managed, enhanced and publicly accessible green corridor and improve access to heritage assets<sup>98</sup>.

2.119 Lighting could be dealt with at the detailed design stage.<sup>99</sup> However the site would have street lighting from the main access to the leisure development, but not as far as the residential development (which would be designed to accord with the housing in the countryside guidance). The car parks, leisure buildings, outdoor tennis courts and football pitch would also be lit up at night, but not the golf practice area.

2.120 If there is no lighting on the footpaths to the private dwelling houses, usage would be affected.<sup>100</sup> It is not known whether the footpath/cycleway would be lit – if so, it is accepted that it would have an impact on the green belt.<sup>101</sup>

2.121 There would need to be fencing/barriers around the tennis courts and football pitch.<sup>102</sup> However it is not yet known whether the golf driving range and practice area will require high fences and other infrastructure for its safe operation.<sup>103</sup>

2.122 The council does not take issue with the appellant's evidence on economic impact. It has also agreed that the development will bring investment and jobs into the area, and enhance Stirling's image as a centre for sport<sup>104</sup>. The proposals can therefore be considered to be rural diversification comprising recreational development that is appropriate within its countryside setting.

2.123 PAN73: Rural Diversification<sup>105</sup> paragraph 28 states: "*Occasionally, new housing is proposed as a mechanism to cross-fund a business proposal. In some instances, after considering the proposal against planning policies, this may be acceptable.*" That is precisely the situation proposed by the appellant.<sup>106</sup> In some instances, new housing is justified because of the economic benefits of a combined business element (paragraph 31). There is no indication in paragraph 28 (or elsewhere) that this only applies to listed buildings, as the council suggests.<sup>107</sup>

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<sup>96</sup> Closing submission for appellant

<sup>97</sup> POK13.13

<sup>98</sup> POK06.02; 06.16 and 10.12

<sup>99</sup> Re-examination of John Handley

<sup>100</sup> Cross-examination of John Handley

<sup>101</sup> Cross-examination of John Handley

<sup>102</sup> Cross-examination of John Handley

<sup>103</sup> Closing submission for appellant

<sup>104</sup> POK12.03, paragraph 3.63

<sup>105</sup> POK15.29

<sup>106</sup> Closing submission for appellant

<sup>107</sup> Examination-in-chief of John Handley

2.124 However, it is accepted that PAN73 suggests that different policy approaches are required in different areas, from remote and sparsely populated regions to pressured areas of green belt, from areas that are thriving and prosperous to others facing economic difficulties. Dunblane and Bridge of Allan are larger than rural settlements, and are thriving and prosperous towns, which suggests a protective rather than a permissive approach.<sup>108</sup>

## **Sustainable development**

2.125 [John Handley](#) also gave evidence on sustainable development.

2.126 Sustainable development is defined on page 29 of the LDP<sup>109</sup> and on page 9 of SPP<sup>110</sup>. The LDP supports sustainable economic growth, and part (a) of the 'overarching policy' advises that development is required to conform with relevant sustainable development criteria, derived from SPP.

2.127 The appeal proposals are primarily for sport and recreation uses that would provide significant investment in green infrastructure including improved access to open space, a new country park, woodland, play spaces and indoor and outdoor sports facilities and amenities. This investment in green infrastructure supports healthy and safer lifestyles and accords with LDP sustainable development criterion 8, by improving access to amenities, open space and recreation opportunities.

2.128 The proposed replacement LDP includes net economic benefit as an additional criterion, in line with SPP.<sup>111</sup>

2.129 Page 9 of SPP confirms the presumption in favour of sustainable development. Paragraph 28 supports economically, environmentally and socially sustainable places; and paragraph 29 advises that planning decisions should be guided by the principles below.

2.130 When considered collectively as a comprehensive development as they were submitted to Stirling Council, the appeal proposals can be considered to represent sustainable development as defined within SPP.

2.131 Giving due weight to net economic benefit: The proposals would provide significant economic benefits through new employment opportunities and the creation of a new sport and visitor attraction of national and local significance.

2.132 Responding to economic issues, challenges and opportunities, as outlined in local economic strategies: The proposals would provide significant economic opportunities and directly support Stirling's new Economic Strategy, as well as the Stirling Physical Activity and Sports Strategy and the Destination Stirling Action Plan. The proposed development is supported by Discover Dunblane<sup>112</sup> and local traders, who see it as a fantastic opportunity for the area.<sup>113</sup>

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<sup>108</sup> Cross-examination of John Handley

<sup>109</sup> POK13.01

<sup>110</sup> POK13.13

<sup>111</sup> Examination-in-chief of John Handley

<sup>112</sup> POK11.06

<sup>113</sup> Cross-examination of John Handley

2.133 Supporting good design and the six qualities of successful places: The Design and Access Statement<sup>114</sup> and Environmental Statement<sup>115</sup> confirm that good design and successful placemaking are key elements of the proposals. The appeal proposals would also provide significant investment in green infrastructure which are an integral component of successful placemaking.

2.134 In terms of planning policy, it is acknowledged that out-of-town is regarded as the worst location for travel generating uses, and that regional facilities are directed to Stirling.<sup>116</sup>

2.135 It is accepted that, since 70% of Scotland's population live within 90 minutes' drive-time of the site<sup>117</sup>, most people would probably visit the site by car. The modal split in the Transport Assessment<sup>118</sup>, which focusses on the residential element of the site<sup>119</sup>, expects 47% to come by car, 27% on foot and 8% by train. There would be enhanced footpaths and cycleway. The council's roads and footpaths officers supported the proposal,<sup>120</sup> and have asked for a Green Travel Plan to direct residents and staff to more sustainable modes of travel.<sup>121</sup>

2.136 The development would provide an opportunity to improve the public transport provision. The new residents, staff and customers will provide more potential customers which will encourage operators to improve services. The Green Travel Plan could include shuttle bus services to rail stations.

2.137 Mr Handley was not aware of any discussions with bus operators regarding the proposals<sup>122</sup>, but if the development went ahead and there was an increased demand operators would be likely to provide additional or more frequent services. The site is already on a bus route with stops outside.<sup>123</sup>

2.138 Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities: The proposed development would make efficient use of a site that has previously been granted planning permission for a new golf course and hotel development. It would provide a significant outdoor recreation facility for locals and visitors, and a greater quality of outdoor recreation than its existing use as grazing land and woodland.

2.139 It is relevant to minimise the loss of green belt, but low-density housing is proposed here to meet the council's housing in the countryside policy (though it is accepted that the guidance does not refer to clusters or groupings of houses in the countryside).<sup>124</sup>

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<sup>114</sup> POK08.02

<sup>115</sup> POK03.09 & 08.05

<sup>116</sup> Cross-examination of John Handley

<sup>117</sup> Cross-examination of John Handley

<sup>118</sup> POK03.04, Table 1

<sup>119</sup> Cross-examination of John Handley

<sup>120</sup> POK06.22(a) and (b)

<sup>121</sup> Re-examination of John Handley

<sup>122</sup> Cross-examination of John Handley

<sup>123</sup> Re-examination of John Handley

<sup>124</sup> Cross-examination of John Handley

2.140 The proposals would generate significant spin-off benefits for the local economy, including greater retail spend and attracting new visitors to the local area who would in turn, support town centres.

2.141 Supporting delivery of accessible housing, business, retailing and leisure development: Whilst the site is located in the green belt, it is not remote or inaccessible. It has direct links to the M9 motorway, and public transport routes, including Dunblane and Bridge of Allan stations. It is located between two of Stirling's largest settlements and within the Core Area where new development is encouraged due to its accessibility. It also has direct links to key settlements with a wide range of shops, services, facilities and local amenities.

2.142 The Transport Assessment confirms the site's proximity to strategic transport links, local bus services and regular train services<sup>125</sup>. The findings of this assessment have been accepted by Transport Scotland<sup>126</sup>, and by the Council's Roads Officers who found the site's accessibility by all modes of transport to be acceptable, provided the appellant commits to the provision of the off road walking/cycle path<sup>127</sup>.

2.143 The new 2km off-road footpath/cycleway has been included as a key part of the amended proposals<sup>128</sup> and was supported by Sustrans<sup>129</sup> (although they later withdrew their support, as they were wrongly advised that the footpath/cycleway could not be delivered on land within the appellant's control or the public highway<sup>130</sup>). The proposed footpath and cycleway would terminate onto the existing footpath at either end within the 30mph zone.<sup>131</sup>

2.144 Supporting delivery of infrastructure, for example transport, education, energy, digital and water: All necessary infrastructure would be provided by the appellant, including significant contributions towards off-site affordable housing, education and transport infrastructure, and the provision of open space.

2.145 Supporting climate change mitigation and adaptation including taking account of flood risk: The Design & Access Statement<sup>132</sup> confirms that climate change mitigation will be provided through energy-efficient design. The Outline Drainage Strategy<sup>133</sup> takes account of flood risk and confirms the provision of sustainable urban drainage.

2.146 Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation: The development would provide significant investment in new sports, recreation and open space facilities which are accessible and affordable to all. The proposals would therefore promote healthy lifestyles, and provide significant opportunities for social interaction and physical activity.

2.147 Having regard to the principles for sustainable land use set out in the Land Use Strategy: The proposals accord with the principles for sustainable land use as set out in the Land Use Strategy. Of particular relevance is principle (h) which advises that "*outdoor*

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<sup>125</sup> POK03.04, Section 4

<sup>126</sup> POK06.01 & 10.01

<sup>127</sup> POK06.22a & 06.22b and 10.11

<sup>128</sup> POK08.01 to 08.05 and 09.02

<sup>129</sup> POK10.12

<sup>130</sup> Cross-examination of John Handley

<sup>131</sup> Examination-in-chief of Alston Birnie

<sup>132</sup> POK08.02

<sup>133</sup> POK08.04

*recreation opportunities and public access to land should be encouraged, along with the provision of accessible green space close to where people live, given their importance for health and well-being".* These are to be provided as a key element of the proposals.

2.148 Protecting, enhancing and promoting access to cultural heritage; including the historic environment: The Environmental Statement (ES)<sup>134</sup> confirms that there would be no adverse impact on cultural heritage assets and access to these assets would be improved.

2.149 Protecting, enhancing and promoting access to natural heritage; including green infrastructure, landscape and the wider environment: The ES also confirms that there would be no adverse impact on natural heritage assets and access to these assets would be improved. The development would provide improved routes for walkers and cyclists, and would use natural features to ensure a sensitive and sustainable development which maintains the character of the area. Enhancing biodiversity and access to green networks would be an integral part of the development.

2.150 Reducing waste, facilitating its management and promoting resource recovery: The proposed development would comply with local and national standards for minimising the production of waste and encouraging recycling.

2.151 Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality: The site is not proposed to be over-developed and the amenity of the area could be enhanced through good quality design. Almost 90% of the site would be dedicated to either indoor or outdoor recreational pursuits. The golf course and country park would account for 77% of the site. There would be no adverse impacts on water or air quality, and no loss of prime agricultural land<sup>135</sup>.

2.152 Taken together as a comprehensive and integrated development, the appeal proposals therefore accord with the guiding principles set out under paragraph 29 of the SPP, which is a significant material consideration in support of the proposals. This is particularly relevant given the terms of paragraphs 125 and 33 of the SPP as the development plan housing policies are out of date, and because there are no development plan policies specific to the proposed development.

### **Concerns expressed by objectors<sup>136</sup>**

2.153 The appellant denies that the development is a 'Trojan horse' and the real intention is to build houses. Moreover, any change to the proposals would require to go through the planning process and would only be approved if the change was justified on its planning merits. The proposed planning conditions, as well as the transfer of land to the community interest companies and the 'conservation burden' (see below), would all prevent more houses being built.

2.154 The proposed Community Interest Company (CIC)<sup>137</sup> is not a vehicle for 'Mr King's' alleged development aspirations:

- Article 50 provides absolute majority voting rights to the Community Council

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<sup>134</sup> POK03.09 and POK08.05

<sup>135</sup> POK15.10

<sup>136</sup> Closing submissions for appellant

<sup>137</sup> POK09.04

- Members in the event of any proposed sale of any of the land controlled by the CIC.
- the CIC must be operated in accordance with the objects set out in Article 6 (see in particular Articles 8 and 96), which are in particular to manage and operate the land as a country park for the benefit of the communities within Bridge of Allan and Dunblane and the general public.

2.155 The proposal to lease the golf course for 175 years aims to prevent the golf course being at risk from future development, by transferring ownership to the CIC, with a lease back so that the golf course can be made available for the sports facility operator.

2.156 The ‘conservation burden’ on the title of the land being transferred to the CIC, to be agreed in advance with an existing body such as Stirling Council, would restrict any future use which it deems to be contrary to the conservation of the land at Park of Keir<sup>138</sup>.

2.157 Objectors are concerned that the development could fail and end up as a white elephant or require redevelopment. However, before the development could proceed, a detailed business case, which would involve much more rigorous testing, would need to be prepared that would convince sports bodies to provide the necessary funding. Sports bodies providing funding would take steps to ensure that the development did not become a commercial leisure operation.

2.158 Concerns were expressed that the predicted patronage figures presented in the ex-ante appraisal for the development are overly optimistic. However, the figures were prepared by a London based tennis expert with UK wide experience. Even if the patronage figures are overly optimistic, they were not used in either the economic assessment or the development appraisal.

2.159 Alternative sites were not an issue for the inquiry, and the appellant did not therefore lead evidence on this topic. However, the appellant’s position is stated in the Appeal Statement paras 6.14-6.21. The objectors have failed to take into account:

- this site already has planning permission for an 18 hole golf course and built development;
- according to the Courts<sup>139</sup>, the issue is not whether the development can be altered or reduced to fit another site<sup>140</sup>;
- the council accepts that “*the land take involved would mean that a suitable sized site within an urban location would be difficult to achieve*”.<sup>141</sup>

## Conclusion<sup>142</sup>

2.160 The appellant’s position is that the balance of policy is in favour of granting consent for the development. It is highly relevant that the council did not treat the application as a significant departure from the development plan. The inquiry did not consider all relevant development plan policies, including LDP policy 2.1: Housing Land Requirement.

2.161 If the Reporter/ Scottish Ministers consider that the development is not in accordance with the provisions of the development plan, the appellant considers that the further material

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<sup>138</sup> POK09.06

<sup>139</sup> *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13 at para 38

<sup>140</sup> POK15.04 POK, and grounds of appeal statement paragraph 9.11

<sup>141</sup> Precognition of Jane Brooks-Burnett, paragraph 4.5

<sup>142</sup> Closing submission for appellant

considerations and exceptional circumstances support the grant of planning permission.

2.162 The key factors are:

- the council's acceptance that the site is appropriate for a multi-use leisure development;
- the existing grant of planning permission for a hotel and golf course on the site;
- the development's compliance with the criteria for the SPP's presumption in favour of sustainable development;
- the commitment to developing sporting talent and encouraging participation at all levels, by all ages;
- the creation of a 'sporting destination', attractive to locals and visitors from Scotland and beyond;
- the direct health, well-being and social benefits deriving from use of the development: a fitting legacy for a period of significant sporting success in Scotland;
- the projected investment of around £37.5 million in the development and long-term job creation and economic benefits to the local and Scottish economies;
- the rural diversification offered by the development through extensive indoor and outdoor recreation opportunities;
- the defensible green belt boundaries formed, providing stronger protection against coalescence between Dunblane and Bridge of Allan in the future;
- the strategic location of the site, which maximises accessibility for local people and visitors by road, rail and green transport;
- the lack of technical objections from statutory consultees and the acceptable environmental impacts of the development.

2.163 For these reasons, the appellant considers that planning permission should be granted for the development, subject to conditions and section 75 obligation.

## CHAPTER 3: SUMMARY OF THE CASE FOR STIRLING COUNCIL

3.1 [Jane Brooks-Burnett](#) gave evidence on behalf of Stirling Council. The council considers that while aspects of the proposals may be supported, overall, the proposed development is contrary to the development plan and that there is insufficient weight to the material considerations to justify supporting the development.

### Green belt

3.2 The Local Development Plan (LDP) is consistent with Scottish Planning Policy (SPP), which considers that the objectives of green belt designation are three-fold: i.e. (1) to direct planned growth to the most appropriate locations and support regeneration; (2) to protect and enhance the quality, character, landscape setting and identity of towns and cities; and (3) to protect and give access to open space within and around towns and cities.

3.3 Stirling's green belts are used as one of a range of mechanisms that help to shape towns and villages by directing development to suitable locations as part of the long-term settlement strategy identified in the LDP.

3.4 The council undertook a review of green belts as part of the work which went into the formulation of the LDP which was approved in 2014. The purpose of the green belt designation is not to prevent development taking place, but rather to ensure that such development is directed to appropriate locations. It should be highlighted that the small scale of the green belt around Stirling, Dunblane and Bridge of Allan in relation to others in Scotland means that any built development within them is likely to have a significant impact, which could detract from their openness and undermine their objectives. The green belts in Dunblane and Bridge of Allan therefore require strong protection through planning policy in order to protect and enhance the countryside close to these settlements. This protection is provided through LDP Policy 1.5: Green Belts.

3.5 As identified in the Stirling Green Belt Study, one of the key roles and functions of the Bridge of Allan green belt is to protect the setting and identity of the town. The area to the north of Bridge of Allan is considered important in this function due to the visual relationship between the wooded slopes to the north and the town. These wooded slopes are also of importance for recreation, particularly where they link through to a network of access routes between Bridge of Allan and Dunblane.

3.6 Dunblane's relatively hidden location within the Allan Water valley is a key aspect of the town's setting and character. One of the roles of the green belt to the south of Dunblane is to maintain the town's distinct identity from Bridge of Allan while maintaining this nucleated and secluded character. There is no visual relationship between Dunblane and Bridge of Allan, the Park of Keir area playing an important role in maintaining the separate and distinct identities of these two towns.

3.7 Policy 1.5 states that development within green belts should preserve their openness and should not undermine their core role and function by individual or cumulative impacts. The proposed development comprises a number of elements. The green belt policy as set out in Policy 1.5 is consistent with SPP (paragraph 52) and establishes the type of development which is considered appropriate in a green belt location. This allows for woodland uses, recreational uses compatible with an agricultural or natural countryside

setting and single houses for specific purposes where consistent with Policy 2.10 and Supplementary Guidance SG10.

3.8 The golf course could be considered a recreational use compatible with an agricultural or natural countryside setting. The golf clubhouse and practice facilities, if of an appropriate scale and suitably detailed to take account of the landscape setting, could also be acceptable. Indeed, this is reflected in the planning history. However the previous planning permission was for a full size golf course, and the Reporter limited the scale of the built form to avoid overdevelopment in the green belt, and specified that there should not be a driving range due to the associated lighting and netting.<sup>143</sup>

3.9 The tennis centre with indoor and outdoor courts is not a recreational use normally compatible with such a setting. The tennis facilities within the Stirling area are predominantly outwith countryside locations, and large areas of hardstanding for courts, high fencing and floodlighting would not normally be considered compatible with a natural countryside setting.

3.10 However, it is recognised that the provision of the golf facility is linked with that of the tennis facility, that the combination would provide a wider sports 'offer' to participants and that there could be a symbiotic relationship between the two. Furthermore, the land take involved would mean that a suitable sized site within an urban location would be difficult to achieve. The combined tennis and golf facility would also provide a new sporting facility to the residents of the Stirling area and beyond, with the economic, social and sporting benefits that would bring.

3.11 The museum, visitor centre and hotel are also not uses which alone would be considered appropriate development in a green belt location. However, again, it is recognised that these aspects of the proposed development could be linked to the sports facility and that the hotel could provide accommodation for sporting holidays or sports camps. The built development for the tennis and golf facilities, hotel, museum etc. are all located within an area at Park of Keir where the council has previously accepted a degree of development, albeit of a much reduced scale. The cycle trails, tree planting and landscaping are all compatible with an agricultural or natural countryside setting.

3.12 The 19 residential units are beyond the level of residential development supported under Policy 1.5. Policy 1.5(b) allows for single houses where justified for specific purposes – a development of more than one house would not be acceptable.<sup>144</sup>

3.13 The policy support for rural diversification does not apply to residential development, except when it is the minimum required to support a business proposal.<sup>145</sup> Paragraph 28 of PAN 73: Rural Diversification distinguishes between the 'business proposal' and the housing proposal which could be used as cross-funding.<sup>146</sup>

3.14 Though 19 units are proposed, the proposed 'high end residential development which would be set within large plots'<sup>147</sup> would involve a considerable area of housing development in the green belt. It would be visible from points outwith the site, such as

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<sup>143</sup> Examination-in-chief of Jane Brooks-Burnett

<sup>144</sup> Cross-examination of Jane Brooks-Burnett

<sup>145</sup> Examination-in-chief of Jane Brooks-Burnett

<sup>146</sup> Closing submissions for Stirling Council

<sup>147</sup> POK08.01

Blairforkie Drive, and within the green belt. It is considered that this aspect of the proposal would not protect and enhance the quality, character, landscape setting and identity of Dunblane and Bridge of Allan thereby prejudicing the role and function of the green belt whilst undermining its openness.

## **Sustainable development**

3.15 Two key aspects of the single vision for the planning system in Scotland as set out in SPP are: (1) to ensure that Scotland is a successful, sustainable place and (2) that it is a natural, resilient place. The first aspect is about ensuring that the right development takes place in the right location, and the latter aspect seeks to protect and make efficient use of our natural resources and environmental assets.

3.16 A principal policy of the Scottish Government is creating a successful country through sustainable economic growth. SPP sets out the guiding principles to achieve sustainable development, which include giving due weight to the net economic benefit of development whilst making efficient use of existing capacities of land.

3.17 The council accepts that the development would comply with some of the sustainable development principles, as there would be economic benefits arising from the development as well as the opportunity for improvements in health and well-being through social interaction and physical activity, including sport and recreation. However, on balance, the council considers that other factors outweigh these elements which comply.<sup>148</sup>

3.18 The development of low density housing on the site is not consistent with paragraph 80 of SPP, which provides that where good quality land is used for development, the amount of land required should be kept to a minimum and that development on locally important land should not be permitted except where it is essential.<sup>149</sup> The green belt designation at Park of Keir demonstrates that this land is locally important; yet it has not been demonstrated that the 19 houses are essential development.

3.19 SPP highlights the primacy of the development plan for decision-making, but indicates that the presumption in favour of development that contributes to sustainable development will be a material consideration.

3.20 Spatial strategies are set out in development plans to promote a sustainable pattern of development appropriate to the area. Such spatial strategies therefore identify sustainable locations for development, and part of this includes the designation of green belts as well as focusing development on town centres. Sustainable development is also reflected in the promotion of rural development where such development should reflect the character of the rural area. SPP states that in setting out the spatial strategy, development plans should recognise that sustainable development can be linked to tourism and leisure development while seeking to ensure that the distinctive character of the area is protected.

3.21 Paragraph 81 of SPP states that in accessible or pressured rural areas, where there is a danger of suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate. It goes on to state that in the most pressured areas,

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<sup>148</sup> Closing submissions for Stirling Council

<sup>149</sup> Closing submissions for Stirling Council

the designation of green belts may be appropriate. The Park of Keir site is both an accessible and a pressured area.

3.22 The council has accepted the recreational uses at the Park of Keir site, even when part of those uses was not considered to be compatible with an agricultural or countryside setting. The council therefore looked beyond simply protecting the character of the area when weighing the economic and sporting benefits of the development. However it was considered that the suburbanisation of the countryside with the residential development proposed in this accessible and pressured area could not be considered sustainable development.

3.23 As part of the planning system, sustainable development is one of the key components in balancing the costs and benefits of a development. The council has balanced all the costs of the Park of Keir development against the benefits, and considers that the costs of accepting the residential development at the scale proposed outweighs the overall benefits that this development might bring.

### **Necessity of housing**

3.24 The developer has not presented a case to show that the residential development is required to facilitate the development, or to demonstrate that the houses provide a vital component of the package other than as an initial revenue stream to fund the build cost.

3.25 The developer's outline business case stated that the proposed delivery model would ensure that the tennis and golf centre could be developed without debt. The intention would be to deliver the tennis and golf centre to a new CIC debt free, and thereby allow the entry charges for the sports facility to be as low as possible.

3.26 The developer recognises that the proposed houses are contrary to planning policy, but seeks to justify this aspect of the development as an 'exceptional case'. However, it is not proposed to fund an asset that has already been identified as important to the area or nation, such as a listed building, but an asset that the area has hitherto functioned without. Moreover, it does not appear from the developer's submission that the tennis and golf centre could not be constructed without the housing component; only that the management and administration of the facility would need to support any burden of debt, which in most spheres would be considered a normal business cost.

3.27 It is clear from the evidence at the inquiry that the justification for the residential development is not to enable the *delivery* of the other elements of the development. Mr Birnie accepted that debt funding could potentially be used to provide the shortfall in funding, but that this would have implications for the admission costs for the sports facilities. The appellant has not explored or analysed alternative options to provide the funding, or at least there is no evidence before the Scottish Ministers as to alternative sources of funding and why they are not appropriate to provide the funding required.<sup>150</sup>

3.28 Moreover, the appellant is asking the Scottish Ministers to depart from green belt policy without there being any reliable evidence before them as to the costs of operating the facilities or the impacts of different funding options on operating costs. The evidence at the inquiry demonstrated that the Outline Business Case<sup>151</sup> is still at a very early stage and

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<sup>150</sup> Closing submissions for Stirling Council

<sup>151</sup> POK08.03

does not provide a robust basis upon which to assess the financial aspects of operating the sports facilities.<sup>152</sup>

3.29 The council submits that the admission costs cannot be lawfully controlled through the planning system. Indeed, the appellant has proposed a condition which requires a detailed business case, including fees and charges for use of the sports facilities, to be submitted to the planning authority but has “*not included any review or approval by the Council of... the detailed business case on the basis that these are commercial points rather than serving a planning purpose*”<sup>153</sup>.

3.30 Even if it is accepted that the appellant’s intention is for an ‘affordable sports facility’ to be operated with reduced admission costs, the planning system could not control this if planning permission is granted and circumstances change. If the funding from third parties (e.g. sportscotland) is not forthcoming, or the operator of the sports facilities was to encounter financial difficulties further down the line, or the operator simply wished to sell their interest, the planning regime would not be able to prevent a commercial operator from taking over the sports facilities and charging higher fees.<sup>154</sup>

3.31 It is submitted that the appellant has therefore failed to demonstrate that residential development is necessary to enable the other elements of the development to go ahead or that it is necessary for the residential development to be located on the Park of Keir site.<sup>155</sup>

## Closing submissions

### The council decision and the relevant test

3.32 It is submitted that the council’s approach is entirely consistent with the approach set out by the House of Lords in the *Edinburgh City Council* case.<sup>156</sup> Scottish Ministers must determine the case in accordance with the Stirling Local Development Plan 2014 unless material considerations indicate otherwise. It is submitted that Ministers should attach significant weight to green belt policy in determining this appeal.

### Other material considerations

3.33 Contrary to the position taken by the appellant, the planning history of the site is in conflict with the development which is the subject of this appeal.

3.34 The appellant has sought to rely in particular on a planning permission granted for a golf course and hotel development in 2005, as support for the development. However, the Reporter, whose findings and reasoning were adopted by the Scottish Ministers, was keen to restrict the extent of development. Condition 13 explicitly stated that the development permitted did not include a driving range, and the section 75 agreement sought to prevent development on the site beyond that which was granted planning permission, with a few limited exceptions.

3.35 Also, SG27: Protecting Special Landscapes which forms part of the LDP states that the previous planning permission granted for the site increases the sensitivity of the remaining undeveloped land to larger-scale development such as the appeal proposals.

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<sup>152</sup> Closing submissions for Stirling Council

<sup>153</sup> Appellant’s Response to PARF, paragraph 9.6

<sup>154</sup> Closing submissions for Stirling Council

<sup>155</sup> Closing submissions for Stirling Council

<sup>156</sup> *Edinburgh City Council v Secretary of State for Scotland* 1998 SLT 120 per Lord Clyde at 127-128

## CHAPTER 4: SUMMARY OF THE CASE FOR DUNBLANE AND BRIDGE OF ALLAN COMMUNITY COUNCILS

4.1 [David Prescott](#) gave evidence on behalf of Dunblane Community Council (DCC), who also represented Bridge of Allan Community Council at the inquiry. A [written statement](#) from the chairman of Bridge of Allan CC confirmed their support for Stirling Council's decision to reject the application.

### DCC's general position

4.2 DCC supports the concept of widespread, grassroots, tennis development across Scotland as espoused by Judy Murray, and recognises the importance of capitalising on the Murray success for Scotland and Dunblane. Mrs Murray is very clear that she sees the development of tennis in Scotland as needing to start at the 'grassroots', with indoor tennis facilities throughout Scotland to attract more children and young people into tennis and sport generally.

4.3 However, DCC has serious misgivings about the scale of the proposed tennis facility which is not a local, grassroots facility, but a major 'corporate' facility with the attendant capital and running costs. It seems to aspire to be 'The Murray National Tennis Centre', potentially competing with the National Tennis Centre at Stirling University. As such there is no requirement to subsidise the court access costs through the use of 'enabling' housing. The appellant has shown considerable additional funding would be required, so the limited contribution that would be provided by the enabling housing is unlikely to deliver a 'debt free' sport facility.

4.4 The creation of a major new and expensive facility, in an area where there is relatively good provision for tennis, is diametrically opposed to Mrs Murray's reported views.

### Green belt

4.5 DCC considers that the justification and reasons for permitting any development on this site have to be compelling, not just because it is green belt, but because this site, alongside the main access roads into Dunblane and Bridge of Allan, is critical to maintaining the separate identities of these two communities. This is a highly unusual circumstance in any development proposal, and as such requires an exceptional, robust and fully researched justification and a clearly deliverable proposal, in more detail than would normally be expected, by which this unique site has been demonstrated to be the only option.<sup>157</sup>

4.6 DCC fully supports the council's approach to the green belt in this area and the decision to reject the application. The Park of Keir is a major part of the rural green space that separates Dunblane from Bridge of Allan. As such, it is critical to Dunblane's 'sense of place'. To build on and suburbanise a large part of this space, which equivalent to half of Dunblane, would have a profound impact on the two towns. It is a very big space in relation to the two neighbouring communities, and the appeal site represents a very large part of the gap between the towns.<sup>158</sup>

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<sup>157</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>158</sup> Cross-examination of David Prescott

4.7 The previous permission has been used as a precedent for this development, but it was for an 18-golf course and a 'modest' hotel. Housing was rejected and a golf driving range was expressly forbidden, as not in keeping with the rural nature of the site. The appellant now seeks to completely overturn that decision and build further major new structures.

4.8 The appellant makes great play on the 77% useable green space on the site, whereas in reality the site would be dominated by the proximity and visual impact of big buildings, houses, access roads and lighting. The housing would dominate the east side of the area and an access road would cut across the middle. In the north-west corner the golf driving range and practice area would require high fences and other infrastructure for their safe operation.<sup>159</sup> The rural nature of the area would be totally lost.

4.9 There has not been any local demand for a country park, which would further develop and suburbanise this crucial rural space; and there are better options. The open space that is being offered to be included in the proposed CIC is fragmented, and a significant parcel of isolated land on the north-east of the site is of little recreational value.<sup>160</sup>

## **Sustainability**

4.10 If a grassroots facility is required at all in the area, a better, sustainable, solution would be to work in conjunction with existing golf and tennis facilities. This would reduce the scale of provision, and hence the environmental impact as well as the cost. It would also assist with the financial sustainability of existing clubs and facilities, with the new provision sharing overheads and facilities to mutual benefit.

4.11 If a completely new facility could be demonstrated to be required, then Park of Keir is clearly not a sustainable location. Mrs Murray's description: "*at a roundabout slap-bang in the middle of Scotland*" clearly indicates that car is the only access mode considered to be important. Virtually all the travel needs of the whole development would be by car, leading to a significant increase in traffic on local roads and Keir roundabout, and a measurable increase in CO2 emissions of about 2,000 tonnes per year.

4.12 The site is more than 800 metres from a railway station, and beyond the catchment area of the nearest stations. The significant funding required to run a shuttle bus service would place a substantial burden on the sports operator.<sup>153</sup>

4.13 This also counts heavily against grassroots concept, as it is not going to be independently accessible by young people and those less well-off when cars are not available to transport them, especially as there are limited bus services.

4.14 The large houses would not be sustainable. They are profligate with the use of the land – on plots of one acre or more (ten times the normal plot size). With intensively cultivated gardens and using lots of energy, both in construction and occupation, the environmental impact per household or occupant would be considerably above the average.

## **Impacts on sport, recreation and tourism**

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<sup>159</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>160</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

4.15 There is no evidence to show how these sports facilities are part of defined and funded strategies for tennis and golf in Scotland. The possible positive impact that the Park of Keir development would have on national sport, recreation and tourism is low and insufficient to justify the major breach of the green belt required.

### Tennis

4.16 The proposed tennis development is substantial, with twelve courts in total, which would add considerably to the stock of tennis courts in the Stirling area. This is seen as much bigger than can be supported by the local area and is at odds with the stated grassroots intention of the facility.<sup>161</sup> However, the tennis facility would not be large enough to host large scale tennis tournaments.

4.17 The impact nationally could be negative as the facility, with its unrealistically high planned utilisation levels, would carry a high, unacknowledged, risk of requiring significant ongoing funding to keep it operational, for which no source has been identified.

4.18 The Roehampton experience demonstrates that a major central facility is not necessarily a good model. Judy Murray is quoted as saying of Roehampton; *“If someone had given me £40 million I would have built 40 £1 million centres. It’s more important to grow the game than to stack it all at the top level.”*

4.19 The use and potential of the current National Tennis Centre three miles from Park of Keir should also be considered, as the facilities are not running at a high utilisation level. If the Park of Keir facility is needed, why has it not been a part of Tennis Scotland’s national strategy, including provision for any on-going funding requirements? As it is not part of Tennis Scotland’s strategy, it cannot be of national significance.<sup>162</sup>

4.20 It would be unreasonable to approve a major and fundamental breach of this strategic green belt on the basis of a development for which the outcomes are so uncertain.

4.21 At a local level the facility, with its significant increase in the stock of indoor tennis courts in an area where there is already a relatively high number, is as likely to have negative effects as positive. There is a risk that it would reduce attendance at local clubs and only a possibility that sufficient new local members would be developed and come forward to join these clubs. The risk could be avoided by working more with the local clubs and not building a huge new centre.

### Golf

4.22 Mrs Cannon’s precognition did not explain that the 6-hole ‘trainer’ course would have ‘big holes’. This only emerged in the cross-examination. She was effusive in her support for this new concept, but it is not part of a national strategy or programme for golf. The current Scottish Golf Strategy 2014-2018 document makes no mention of ‘big-hole’ golf or new formats in the strategy, which is largely based around the importance of developing clubs.<sup>163</sup>

4.23 This format has been available for some time, but does not appear to have been widely adopted, and according to Mrs Cannon has not been adopted in Scotland to date.

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<sup>161</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>162</sup> Examination in chief of David Prescott

<sup>163</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

She also stated that this big hole concept was a trial, which carries an implication that it may not succeed. This could have a major negative impact on the tennis centre and the country park both of which would rely on the financial support from the golf facilities.<sup>164</sup>

### Tourism

4.24 Tourism is unlikely to benefit greatly from a hotel located beside the motorway for which a prime reason for visiting is to use the adjacent sports facilities. Even the appellant's own outline business case considers that visitors would be diverted from existing hotels and restaurants, thus damaging or destroying local businesses in our towns.

4.25 The cost estimate also included a cost for a Premier Inn level of hotel, which is more in line with the style of a hotel that would be associated with a family orientated tennis and sports facility than the proposed 4-star hotel. However, the outline business case has based its economic benefit on a 150 room 4-star hotel, for which the standard data source gives a staffing level of 1 employee per 1.25 bedrooms, i.e. 120 gross jobs. The same data source uses 1 employee per 3 rooms plus casual staff for budget hotels, and 1 employee per 2 bedrooms for 3-star hotels. So a Premier Inn style hotel is likely to convert to a range of between 50 and 75 gross jobs.<sup>165</sup>

### **Net economic impact**

4.26 There is no evidence that this development would have any material impact on the economy at a national level. The creation of another national tennis facility is only likely to provide genuine economic benefit if it is coupled with substantial additional investment in indoor tennis facilities and coaching staff right around the country. Only by doing this would a sufficient number of young players be generated who could benefit from the size and facilities as proposed. There is no such strategy and funding.

4.27 On a local level, if this development is built there is a real risk of a negative economic impact to local businesses. For the clubs, there is a risk of the displacement of some their current and future users to the new facilities, assisted by an unfair subsidy from the enabling housing. This could result in their decline and possible closure, with the attendant loss of, not just the physical facilities, but also the social element, which is so important for communities.

### **The requirement for enabling housing**

4.28 The enabling housing has been the most contentious part of this planning application and was the reason for rejection by Stirling Council. Many people see the tennis centre as a 'Trojan House' to enable the King Group to recover their costs of purchasing Park of Keir.<sup>166</sup>

4.29 The justification given for the enabling housing was the offer of land for the tennis centre free of charge. However, it has always been clear that there is a cost of £1.9 million<sup>167</sup> to cover 'historic land costs', which was to repay King Group for land purchase and costs incurred to date.

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<sup>164</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>165</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>166</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>167</sup> POK08.03, Table 6.1 Development Viability Proposal

4.30 If it were consented without housing the £1.9 million historic costs could be deducted from the £4.9 million (£4 million land value and £0.9 million for the debentures) that were included as the housing contribution to the sports facilities. Additionally, there appear to be other costs that could be attributed directly to the housing – namely some of the roads, swales and utility infrastructure shown in part C of the Construction Costs estimate<sup>168</sup> - which inflates the total costs by a further £0.75 million or so.<sup>169</sup>

4.31 The enabling housing is said to be required to provide a debt free facility to encourage pay and play. However the net sum from the housing, after the owner has recovered their original speculation, is only about £2.5 million, 20% of the total sum said to be required. An additional £2 per session (given the appellant's usage projections) over five years would provide the same sum.

4.32 The national nature of the facility is such that court access charges are unlikely to be material to the decision to use it. The outline business case requires users to travel considerable distances, negating any possible savings in court charges. It also expects many users to pay commercial rates for coaching. The contribution from the enabling housing is insufficient to justify the fundamental and adverse change to the use of the site.

### **Deliverability<sup>170</sup>**

4.33 During the inquiry it became apparent that the Park of Keir Partnership, presented as King Group (as landowners), Judy Murray and Colin Montgomerie was not a formal legal partnership but an informal grouping, and that Mr Montgomerie had not taken any active part in the grouping for the past three years.

4.34 In the absence of a legally constituted partnership, the project is vulnerable because of the uncertainty about the number of users, and its dependence on one individual. The impetus might be lost if Mrs Murray had a reduced role in the project.

4.35 Mrs Murray stated she would take forward the delivery of the tennis facilities, but reliance of such a critical component of this application on a single individual represents a big risk in both delivery and continuity of operation. This has to be a material concern in the final decision because, whilst consent is for the land use, it would have been granted on the basis of Mrs Murray's involvement.

4.36 There would be nothing to prevent Mr King from selling to another operator once planning permission is secured, or to tie any future sports operator into the 'affordable and accessible' philosophy that permeates the proposal.

4.37 The CIC for the country park area has been the subject of considerable discussion between the appellant and DCC. The community council decided not to proceed further because of the interest that King Group retained and because it was not clear that this company could be run as a going concern.

4.38 No evidence has been provided as to how the 'charitable trust' that would operate the sports facilities would be managed. Mrs Murray suggested that the local community

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<sup>168</sup> POK05.05.

<sup>169</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>170</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

would be the key drivers, and not the sports interest community which had seemed more likely. This is another huge uncertainty.

4.39 The projected utilisation figures in the amended outline business case<sup>171</sup> are not credible given the 'pay and play' model and, for the outdoor courts, the weather at Park of Keir. No brief, specifications or assumptions were provided to show how the tennis centre costings were generated. The design and access statement does not appear to offer sufficient space in the 'tennis centre/hub' building for all the activities and uses described by Mrs Murray, which include gym, café, rooms for activities such as exercise classes and pilates, and the 'Murray Museum'.<sup>172</sup>

4.40 Taking account of inflation, professional fees, service diversions, gym and café fit out costs, the much larger 3G football pitch, the increased building size, and the 2km cycle/footpath, the quoted costs of £12.435 million would appear to be understated by £2-4 million. Incorporating 'optimism bias' there needs to be a provision for a potential capital cost of around £20 million for which the net contribution from the housing is only £1.75 million (i.e. less than 10%).<sup>173</sup>

4.41 This is clearly a high risk project, for which it would be inappropriate to grant consent in such an important green belt site.

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<sup>171</sup> POK08.02

<sup>172</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

<sup>173</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

## CHAPTER 5: SUMMARY OF THE CASE FOR ARNBATHIE DEVELOPMENTS LTD

5.1 [Stuart MacGarvie](#) gave evidence on behalf of Arnbathie Developments Ltd.

5.2 As detailed in previous objections to the original application incorporating 100 houses, and the amended application incorporating 19 houses<sup>174</sup>, the primary objection is against the proposed houses, to be used as an enabling mechanism at Park of Keir.

### Development proposal

5.3 In the appellant's planning statement<sup>175</sup>, it is stated that this is to be a world class tennis and golf centre. Entrance to the facility however, would be widely available at low cost. No substantive assessment of local deficiencies has been undertaken to address what impact this might have on local facilities.

5.4 The original planning application promoted 100 houses as an integral part of the development proposal at the appeal site. In paragraph 1.4 of the planning statement it states that "*This housing component is critical to the overall delivery of the capital components of the scheme and the housing element will enable the successful development and launch of the tennis and golf centre.*"

5.5 The amended application (June 2015) and amended supporting information promote 19 houses as the required enabling development. It is uncertain where the 19 houses are to be actually sited, but it is understood that they are to be set within generous plot sizes of some 1.25 acres, within two of the areas previously identified as part of the original application for the 100 houses.<sup>176</sup>

5.6 The information contained within the amended outline business case<sup>177</sup> suggests that some £4.9 million would be raised through the enabling mechanism. It is still uncertain what the £4.9 million would actually be utilised for in the delivery of the tennis, golf and other facilities and how this might be controlled as part of the planning process.

5.7 The enabling argument makes it essential that the Reporter is given clear information as to what is being promoted by the appellant, the management structure, costs and operation.

### Green belt

5.8 The proposed development is identified as green belt in the 2014 LDP. The green belt at this location is strategic and separates Dunblane from Bridge of Allan.

5.9 In terms of LDP policy 1.5, it is perfectly permissible to analyse which aspects of the proposed development fit with the green belt policy and also those which do not.<sup>178</sup> This relates to the interpretation of sub-paragraph (ii) and recreational uses compatible with an agricultural or natural countryside setting. The elements of the proposals which could be encompassed within that sub-paragraph include the golf course and certain other golfing

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<sup>174</sup> ADL1 & ADL2

<sup>175</sup> POK 3.7, para 9.22

<sup>176</sup> Amended LVIA

<sup>177</sup> POK 8.3, section 6

<sup>178</sup> Closing submission for Arnbathie Developments Ltd

facilities, the adventure playground, the country parks and some of the lower key paths promoted. In contrast, the balance of built development, which includes a substantial indoor sporting facility, does not comply with sub-paragraph (ii).

5.10 The second paragraph of policy 1.5 requires an assessment of the impact of a proposed development, and that it should preserve the openness of green belts and not undermine their core role and function. It is acknowledged in the ES Addendum that there would be significant adverse landscape and visual effects.<sup>179</sup>

5.11 The housing proposal does not accord with the design guidance produced for housing in the countryside, and would result in the suburbanisation of the eastern section of Gallow Hill.<sup>180</sup>

5.12 Both the sports development and the housing development would have significant adverse effects on sensitive locations within the green belt. New, distinct effects on the green belt would arise directly and solely from the residential element of development.<sup>181</sup>

5.13 The appeal site is clearly in a pressured area, as described in paragraph 76 of SPP, within the green belt between Dunblane and Bridge of Allan, where there requires to be a restriction on development. It does not lie 'within or adjacent to settlements' as there is a field to the south outwith the site boundary.<sup>182</sup>

5.14 It is hard to think of a more unsuitable site for housing development than the one promoted in the context of this application. It engages precisely the harm which is sought to be prevented by paragraph 81 of SPP. It involves suburbanisation and because of its isolated location, will result in long distance car-based commuting.

5.15 The appeal proposals (particularly the housing) are not sited in a sustainable location; are contrary to SPP paragraph 49; and therefore require to be considered as an exception to policy.

5.16 The amended LVIA and amended design and access statement<sup>183</sup> suggest certain areas for housing. However, the area of land seems far greater than is required for 19 houses. The document illustrates the extent of the erosion of the green belt which is contrary to the development plan.<sup>184</sup>

## **Enabling development**

5.17 There is no policy justification or material consideration to permit 19 houses at this location.

5.18 Paragraph 142 of SPP states that enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of an asset and securing its long-term future.<sup>185</sup> That means that there has to be a full and thorough assessment of

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<sup>179</sup> POK08.05, paragraph 5.12

<sup>180</sup> Closing submission for Arnbathie Developments Ltd

<sup>181</sup> Closing submission for Arnbathie Developments Ltd

<sup>182</sup> Examination in chief of Stuart MacGarvie

<sup>183</sup> POK 08.02

<sup>184</sup> ADL1+2

<sup>185</sup> POK13.13

all alternative means of funding, which has not been done here.<sup>186</sup> The same paragraph indicates that any development should be the minimum necessary to achieve these aims.

5.19 Also, the enabling development must be sufficiently linked to the public objective to secure the particular development in question. In the event that the asset is claimed to have an ongoing public benefit then that long term benefit has to be secured.<sup>187</sup>

5.20 Given these unique circumstances, the applicant is under a duty to establish the material to support the enabling development argument.

5.21 The financial analysis is now contained in the amended outline business case.<sup>188</sup> It was not for financial reasons that the development changed from being supported by 100 to 19 houses. The argument for enabling development has now been reduced to capital funding only, and the cost figures have now been reduced to ensure that they match potential income.

5.22 No proper evaluation has been undertaken of cost, and this matter still needs to be resolved. In addition, there is doubt about the future income sources given the exceptionally high annual patronage figures utilised in the financial modelling at Tables 5.1 and 5.2 of the amended outline business case.

5.23 The hotel value has now been brought into the equation at £1 million (but no professional valuation has been provided). A housing land value of £4 million is provided together with a debenture membership of £900,000. The Savills report<sup>189</sup> estimated there would be a land valuation of approximately £3.9 million, but this did not take account of an additional charge for every new property of £50,000 as debenture related to the new sports facilities. There is no evidence that this just would not have come off the land value if it was put into the assessment equation. It is just a way of topping up the figures to try and make the residential element look more effective. It is unclear how the debenture system would operate, or indeed the basis for it.

5.24 The development of the 19 (rather than 100) houses raises the IRR to over 30%, which shows that it is a high-risk strategy. It should be noted however that in addition to the land value there is profit figure of over £3 million that can be captured by 'King Group'.

5.25 In relation to Table 6.1, in the no enabling world there would be no need for the £0.5 million of 'planning gain'. This would reduce the development cost to £11.9 million and thereby reduce the claimed enabling funding requirement to £3.434 million. The hotel land value would reduce this further to just over £2.4 million as a deficit without residential funding.

5.26 It is noted that the landowner is seeking to recover 'historic land costs'. It was, however, a base payment together with a potential subsequent uplift for built development areas. It also included the whole land cost despite the fact the application site does not encompass the whole of the title interest acquired.

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<sup>186</sup> Examination in chief of Stuart MacGarvie

<sup>187</sup> Closing submission for Arnbathie Developments Ltd

<sup>188</sup> POK08.03

<sup>189</sup> POK15.22a

5.27 Enabling development should not be used to pay for the speculation of developers in the green belt. The land value can be removed. In addition, a proportion of this relates to the top up for the residential land clawback, which would only be incurred if the enabling development proceeded. This further demonstrates the inefficiency of residential development in this case.

5.28 The appellant has not demonstrated sufficiently that all reasonable sources of funding have been examined.<sup>190</sup> Mr Birnie conceded that the appellant had not considered a range of factors including the following:

- the potential benefits of charitable status;
- the value of land transferred to the sporting operator could be utilised in funding requests;
- the project team had rejected the concept of borrowing any money to fund any facilities;
- any commercial element to the sporting facilities had been rejected in favour of the not for profit model.

5.29 The appellant promotes a case that the 19 houses as enabling development is absolutely required to assist in the financial deficit as detailed in various documents, including the grounds of appeal<sup>191</sup>: “but is critical to the overall delivery of the capital components of the scheme.”

5.30 Although not certain, the revised deficit funding of £4.0 million is to be used for:-

- debt free revenue<sup>192</sup>
- windfall payment for financial support in first 5 years<sup>193</sup>. (It is noted that the amended outline business case still assumes very high capacity)
- windfall payment to the new CIC<sup>194</sup>

5.31 The various submissions lodged with the original application and in particular the amended outline business case<sup>195</sup> simply made reference to enabling development. It was not until the final stages of the appeal process that examples of enabling policy have been sourced.<sup>196</sup>

5.32 It is emphasised that the adopted (and emerging) LDP has no such policy. Further, such enabling policies are designed to address ‘conservation deficit’ in the upgrade of important listed buildings, as opposed to funding private commercial enterprises.

5.33 Even if the Reporter were minded to consider the possibility, in a policy context, that enabling development might be a material consideration, the proposals would fail against the criteria of the Aberdeenshire, East Lothian and Inverclyde Council enabling policies.

5.34 The various council enabling policies submitted as documents are similar in character. The SG on enabling development prepared by Inverclyde Council<sup>197</sup> is chosen

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<sup>190</sup> Closing submission for Arnbathie Developments Ltd

<sup>191</sup> Appellant’s grounds of appeal statement, paragraph 8.13

<sup>192</sup> POK 03.07, para 4.42

<sup>193</sup> POK 03.05, page ii

<sup>194</sup> POK 03.05, Page iii

<sup>195</sup> POK 08.03

<sup>196</sup> POK 15.01 (a+b) and 15.02

<sup>197</sup> ADL 3

as an exemplar. The initial chapters of the SG explain the principle of enabling development, whilst chapter 3 addresses the criteria for assessment:-

- what buildings qualify for enabling development
- securing the long term future of the listed building
- the only means possible
- the minimum necessary
- public benefits
- location of new build
- provision of supporting information
- type of application

5.35 In relation to the appeal proposals, no evidence has been submitted proving that all financial sources have been tested to secure the £4.0 million shortfall. The appeal also fails “minimum necessary” criterion, on the basis that not all financial aspects of the development are made available or are finalised.

5.36 In this case the planning authority has not been persuaded of the ‘public benefit’, and the appeal proposals fail the ‘location test’, in that the location of the enabling development is entirely inappropriate. No off-site locations for the enabling development have been put forward by the appellants.

5.37 Of significant importance is the fact that enabling development is designed on the premise that “the minimum number of houses are required to offset the cost of enabling development.” This by its very nature requires that all elements of the development proposal be properly costed and made available on an ‘open book’ basis. This can only be achieved through the preparation of a full/detailed planning application.

5.38 There is a suite of supporting documents, lodged at different times, some after the appeal was submitted. This is a PPP application and drawings, layouts and development proposals are indicative. Without the preparation of a detailed scheme, which has been fully costed and assessed, the Reporter cannot determine the validity of the 19 houses as enabling development.

### **Economic benefit**

5.39 Paragraphs 24 and 25 of the Scottish Government’s Draft Advice on Net Economic Benefit and Planning<sup>198</sup> indicate that one should properly identify the risks involved in a particular proposal. Paragraph 25 specifically warns against the risk of over confidence in circumstances where information is lacking. In particular, in large scale complex projects, it advises about guarding against “optimism bias” (see footnote 9).

5.40 Mr Kummerer acknowledged that the group formulating the economic case had been guilty of optimism bias. He recognised that the utilisation figures appeared to be far too high and that they had very limited information on cost. In addition the model of pay as you go and fixing costs had not been subject to appropriate sensitivity testing. These are all material matters in understanding the potential net economic benefit. In terms of supporting data there is no substantive material evaluating the sporting provision.

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<sup>198</sup> POK15.11

5.41 In these circumstances the claimed net economic benefits have to be treated with a significant degree of caution. There are many aspects of the business case which simply do not add up.

### **Sustainability<sup>199</sup>**

5.42 The appeal site between Dunblane and Bridge of Allan is an ‘unsustainable location’ from a transportation perspective. This is a location that would encourage lengthy car borne commuting, contrary to the spatial framework of the local development plan and the policies set out in the SPP. The footpath and cycle links provided would not be lit, and for significant parts of the year they would be unattractive and potentially unsafe. It is extremely unlikely that the large houses would be serviced by other than private motor car.

5.43 The only real means of mitigating trip generation is site selection. The ES<sup>200</sup> confirms that whilst there was an initial sift of some tennis sites, the choice of Dunblane as being the preferred location was made on the basis of the ‘Murray legacy’. This is not an environmental consideration. There is no evidence of alternative sites being considered for the larger development, which is a significant omission that undermines the sustainability credentials of the project.

5.44 There is an acknowledgement in the transport assessment<sup>201</sup> that people coming to the site for the sporting facilities would do so primarily by private car. The travel plan for the residential component is doomed to failure given the lack of lit connections to public transport. The potential for a ‘shuttle bus’ has not been costed, nor has any diversion of the limited existing services.

### **Sporting provision<sup>202</sup>**

5.45 The potential utilisation rates of the ‘very basic’ golf appear to be very high when this facility would only be attractive to beginners and they are unlikely to participate in adverse weather conditions.

5.46 In this broad area there are a number of facilities which have already been categorised as Scottish Golf Development Centres, including the Brucefields Family Golf Centre, Glenbervie Golf Club and Gleneagles Golf Club.<sup>203</sup> This part of Scotland is well catered for in comparison to other areas. Bridge of Allan Golf Club has recently completed an investment in a ‘learn to play golf academy’.

5.47 There would be benefit in providing further capacity for football, and in providing other facilities including adventure playground, cycle tracks and country parks, but there is no audit of to see whether the facilities are needed in this area. The lack of evaluation of existing provision undermines the extent to which the appellant can claim benefit.

5.48 Certain of the elements of the proposal have more than local significance, and there is no evidence to support the view that this is the right location to be the centre of Scottish tennis coaching nor the right location of further indoor courts. This area already is served

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<sup>199</sup> Closing submission for Arnbathie Developments Ltd

<sup>200</sup> POK03.09, paragraph 2.51 (page 2-7)

<sup>201</sup> POK03.04, paragraph 4.10

<sup>202</sup> Closing submission for Arnbathie Developments Ltd

<sup>203</sup> POK 15.17

by indoor courts both at Gleneagles and at the National Tennis Centre at Stirling University. In addition, there are local facilities both in Dunblane and Bridge of Allan. In that respect, it is not at all clear that this development meets any identified local deficiencies. This is equally the case in the context of golf.

5.49 The proposition that the development would help to address accessibility to sport has not been properly evaluated. Sportscotland's funding guidelines<sup>204</sup> apply special rules in areas of multiple deprivation. To be eligible, the proximity test is extremely tight and only extends to within a ten minute walking distance of the area that it will serve. This would suggest that much of what the appellant claims regarding this aspect of the proposal is unfounded. Indeed, locating major new sporting provision between the settlements of Dunblane and Bridge of Allan would do very little to address issues of social inclusion or accessibility to sporting provision.

5.50 These matters are all relevant in considering the appropriate weight to be attached to the sporting and economic activity associated with this element of the development.

5.51 Also the appellant has failed to provide any meaningful delivery strategy that could ensure that some of the aspects that were put forward in evidence could actually be delivered. In particular, it would be perfectly permissible for an entirely commercial leisure and sports scheme to come forward within the ambit of the planning permission in principle that would be granted. This is an important failing which goes directly to the development as a whole, and undermines the enabling aspect of this proposal.

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<sup>204</sup> POK 15.19, page 10

## CHAPTER 6: SUMMARY OF THE CASE FOR RESIDENTS AGAINST GREEN BELT EROSION (RAGE)

### Introduction and submission on behalf of RAGE<sup>205</sup>

#### Green belt

6.1 RAGE submits that the central issue in this case is not the future of tennis in Scotland and the desirability of promoting it along with other sports, but whether the Ministers are prepared to sacrifice an important policy principle in the form of the green belt and thereby to allow housing to be developed on land at Park of Keir.

6.2 This is a housing development with tennis and other sports attached, not the other way around. If this green belt land is lost to development, it will be lost forever and denied to future generations. It is submitted that that is the real legacy which is at stake here.

6.3 The green belt in this location:

- straddles the shortest distance between Dunblane and Bridge of Allan;
- at 110 hectares covers almost the entirety of that area of green belt; and therefore
- is particularly sensitive to development.

6.4 The appeal proposal is contrary to local plan Policy 1.5 and the associated Supplementary Guidance. In relation to Policy 1.5, it cannot be said that a development of the type and scale proposed is compatible with an agricultural setting, or with a natural countryside setting, since the proposal would introduce nearly 15 hectares of 'alien built ground in the form of housing, hotel and indoor leisure facilities'.<sup>206</sup> The restricted exception for single houses in the green belt does not apply.

6.5 Developing 40% of this substantial, highly sensitive green belt for housing, hotel and artificial leisure uses would not preserve the openness of the green belt, or prevent coalescence between Dunblane and Bridge of Allan. Supplementary guidance stresses that because of the small scale of the green belt around Stirling, Bridge of Allan and Dunblane it requires strong protection.<sup>207</sup>

6.6 Approximately 40% of the substantial application site would be taken up either with built development in private hands, or leisure facilities which would be in use on a fee-paying basis and alien in nature when compared to the unspoiled green belt land which is there at present. This represents a significant diminution of the land available for the primary purpose of preventing coalescence between settlements.

6.7 In relation to the proposal to designate the remaining land as a country park:

- there is a qualitative difference between a managed country park on the one hand, and the mix of ancient wooded hills with surrounding pasture land which is there at present;
- the public already has untrammelled access rights over that land at present in light of Right to Roam legislation subject only to the Access Code (access, incidentally, which will be denied in respect of the housing, hotel and leisure elements of the proposal); and

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<sup>205</sup> Closing submissions for RAGE

<sup>206</sup> Closing submissions for RAGE

<sup>207</sup> POK13.04

- the country park would be part of the development and therefore under the control of the developers *as such* in all time coming instead of being protected green belt land as it is at present. Whether green or not, its intrinsic character would have fundamentally changed.

6.8 The draft Articles of Association for the CIC make clear that the ‘King Member’ would have absolute control over day to day management of the country park, over all resolutions, and who is to be and remain a director.<sup>208</sup> Also the Heads of Terms for the transfer of ownership provide that Mr King would obtain a 175 year lease over the land.<sup>209</sup> It is submitted that these factors demonstrate the clear intention to divest ownership in a purely nominal sense while still retaining control, and do not bode well for the inviolability of the country park from future development for housing.

#### The principle of development on the application site

6.9 The consent following the decision of the Scottish Ministers to grant planning permission in October 2005 has now lapsed but the section 75 Agreement remains a burden on the application site.

6.10 The 2005 permission was for an 18 hole golf course, associated club house and 150 bedroom hotel only. It was also subject to particular conditions relating to the footprint of the hotel and a maximum ridge height of 13 metres, and a club house which required to be single storey with a maximum ridge height of 6 metres. The right to construct a golf driving range was specifically excluded.

6.11 Clause 2 of the section 75 Agreement prevents any development whatsoever on the site except insofar as permitted by the 2005 permission. At paragraph 6.94, the Reporter accepted that the section 75 Agreement proposed by the developers at that time “*would be of major significance for the long term integrity of the green belt in this area.*”

6.12 Therefore, the principle of development is highly restricted and cannot provide a basis for the much more extensive development now proposed, which also includes outdoor tennis courts, a football pitch, a museum and visitor centre, a cafeteria, outdoor play area and 10.71 hectares of housing. The sports facilities would include a great deal of lighting, floodlighting and netting.

6.13 The members of RAGE have clear and well-founded concerns that the current application for 19 houses on the Park of Keir site would be merely a starting point for yet more housing once the principle of that form of development in this part of the green belt has been established.

6.14 There does not appear to be any particular economic imperative for there to be specifically 19 houses proposed for the site. It would appear that the economics was not the driver [for that number of houses], but rather council policy on affordable housing. In terms of policy 2.2 (c)(i) of the adopted LDP<sup>210</sup> there is the option of making a financial contribution as opposed to making on-site provision for developments up to 19 houses.

6.15 In July 2014 the outline business case stated that it was ‘critical’ to build 100 houses, whereas in the May 2015 version it was ‘critical’ to build 19 to fund the development. It is

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<sup>208</sup> POK09.04

<sup>209</sup> POK09.07

<sup>210</sup> POK13.01

therefore reasonable to infer that a different number of houses might be sought in the future depending on the economic situation at the time.

#### Enabling development

6.16 There is no direct policy basis for enabling development at Park of Keir. Paragraph 142 of SPP<sup>211</sup> only refers to enabling development in the context of built heritage, and even then it is only permissible in certain very limited circumstances.

6.17 Three points emerge from national policy: (i) this is not a scheme to prevent the loss of an asset, rather the scheme itself would result in the loss of an asset (the green belt); (ii) enabling development is not the only means of securing the development since other forms of funding are available; and (iii) even on Mr Birnie's own 'flawed' calculations, fewer than 19 houses could potentially provide the funding that is said to be required.

6.18 The LDP<sup>212</sup> has no policies in relation to enabling development, so there is no locally applicable planning policy which could support this approach. The developers were therefore forced to adduce policies and examples from other local authority areas in order to argue that a similar approach could be taken here, but even those examples, which are irrelevant anyway, provide no support.

#### The business case

6.19 In cross examination regarding the history of the appeal site, it was shown that Mr Duncan King purchased the land in 2010 at agricultural land cost in full knowledge that it was part of the green belt and that a prior public inquiry had rejected housing and development on the land. A company of which he was part had obtained permission in 2005, after a second public inquiry in 2004, for an 18-hole golf course and hotel on the land, but no building had taken place.

6.20 The factual foundations of the outline business case (OBC)<sup>213</sup> are shown to be incorrect and overly optimistic. The current level and cost of tennis and golf provision at paragraph 3.29 of the OBC were contradicted by RAGE's study<sup>214</sup> which demonstrates the availability of "pay and play" at current facilities within 15 miles of Park of Keir.

6.21 The projected annual patronage shown at Table 5.1 of the OBC leading to 270,000 visitors per annum to the facility is hopelessly unrealistic as demonstrated by the evidence of Dr Ian Thompson. In Table 6.1 no less than £8.5 million is due to come from 'equity and sports funding contributions', a rise from £5 million in the previous version of the outline business case<sup>215</sup>, although both Mr Kummerer and Mr Birnie accepted that at present that are no firm pledges from any sporting body to provide such a high level of funding, or indeed any.

6.22 There is no evidence that any such funding will actually be obtained, still less any basis for an increase of £3.5 million on the 2014 figure. Reference is made to sportscotland's Sports Facilities Fund Guidelines<sup>216</sup> and the limitations on funding and matching requirements stated at pages 4 and 10 of that document.

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<sup>211</sup> POK13.13

<sup>212</sup> POK13.01

<sup>213</sup> POK08.03

<sup>214</sup> RAGE 008

<sup>215</sup> POK03.05

<sup>216</sup> POK15.19

6.23 The developers have failed to show that utilising funding from a source or sources other than 'enabling housing' on the green belt would lead to unacceptably high entry charges to the sports facilities.

6.24 Without initial commercial borrowing, the initial funding for the necessary construction work appears very precarious indeed. By eliminating the £500,000 cost of the construction inflation allowance (an industry requirement)<sup>217</sup> and by increasing the sports funding by £3.5 million, the enabling funding requirement has been cut in half from nearly £8 million to £4 million in the OBC. These initial figures require to be considered with great scepticism. In the likely event of a financial shortfall, the only room for manoeuvre in terms of funding rests with the enabling housing development.

6.25 The debenture memberships would equate to £50,000 per plot sold for housing. This would in effect be an interest free loan or "float" to be redeemed upon onward sale to a new purchaser. It is difficult to see how such a debenture would be attractive to any prospective purchaser as an additional premium on the purchase price. This, however, is intended to assist funding to the tune of £900,000.

6.26 Mr Birnie confirmed that the land for the development was originally bought for £1.25 million in 2010. Therefore, in terms of Table 6.1 the compensation for the historic land acquisition cost will be £650,000 (i.e. £1.9 million minus £1.25 million; down from £800,000<sup>218</sup>) which is quite a handsome return in such a short period. The housing land value to be realised of £4 million equates to £210,000 per plot which accords with the value of £208,000 stated at paragraph 7 of Savill's Land Value Update.<sup>219</sup>

6.27 Even taking development margins and construction costs into account, if King Group were themselves to undertake to develop housing on the application site, it could recoup the £4 million enabling funding (or even £5.9 million if the historic land cost is added) from much fewer than 19 houses, perhaps 6 or 7, selling for over £1 million each.

### Economic impacts

6.28 When questioned on the figures and assumptions reproduced in parts 1-4 of the OBC, Mr Kummerer responded:

- this is an application for outline planning permission and therefore a detailed business case is not appropriate;
- the figures used are indicative only;
- the basis for the figures has not been fully tested;
- they may be subject to "stretch testing" in due course to check their validity; and
- the figures finally produced may *change* in due course once further, more detailed data or information are produced.

6.29 RAGE submits that this is simply not good enough. If the final economic figures as set out in the OBC are to be used to justify a departure from established green belt policy, they must be certain enough to justify such an outcome.

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<sup>217</sup> POK03.05

<sup>218</sup> POK03.05

<sup>219</sup> POK 15.22b

6.30 The appellant's approach is not consistent with the guidance in paragraph 5 of the Draft Advice on Net Economic Benefit and Planning that "*assumptions made are completely transparent, evidence-based and as accurate as possible*", and which counsels against 'optimism bias'.

6.31 The finding in the OBC that there would be short term national construction employment amounting to 185 years translates to 18.5 FTE jobs, with most skilled workers coming from Edinburgh and Glasgow. The increased employment at the proposed hotel and leisure facilities would apply wherever the development was located. The increase in council tax receipts would not justify housing in the green belt.

#### Sustainability of the proposal

6.32 Mr Handley estimated that car-borne travel would account for about 60% of visitors, but even that is unrealistic given the following:

- the nearest rail station at Bridge of Allan is 1.6 km from Park of Keir, and Dunblane is much further;
- the cycle path is unlikely to be an attractive route for cyclists or walkers to access the site, given that it runs alongside the busy A9 and given the likelihood that visitors to the site would require to carry sporting equipment;
- a primary advantage in terms of location put forward by the developer is the proximity to the A9, the Keir roundabout and therefore 70% of Scotland's population.

#### The need for the facility proposed

6.33 The developer has failed to demonstrate a need for this facility. The need for a small learner golf facility, as espoused by Eleanor Cannon in her evidence, was not demonstrated. The need for the tennis facilities, indoor and outdoor, was not demonstrated by Judy Murray or by Blane Dodds in their evidence. No evidence was led by the other witnesses for the developer as to need.

6.34 RAGE offered clear evidence on the numerous facilities for tennis and golf within a 15 mile radius of Park of Keir.

#### **The local development plan and other council policies**

6.35 [Mark Ruskell MSP](#), who is also a Councillor within the Dunblane and Bridge of Allan ward of Stirling Council, gave evidence in support of RAGE at the inquiry.

6.36 The environmental importance of Park of Keir and the pressure for development there have been a long running concern spanning decades. Proposals have been fully tested through the planning system.

6.37 Out of any available site in Scotland that could be realistically considered for a development such as this, Park of Keir would be one of the most controversial. This proposal in this location is inherently unsustainable; it does not reflect either existing or emerging policy; and has at best a tenuous link with local sporting and economic ambitions.

6.38 The council's current Local Development Plan is the result of years of consultation and direct engagement with community bodies, developers and individuals. It reflects the settled will in relation to development, providing a degree of certainty to all stakeholders.

6.39 The appellant made no submission to the current LDP to establish a housing allocation on the site, or to change policy on green belt, affordable housing or housing in the countryside in order to secure a plan that would be more favourable to their proposal. Neither was there any representation made arguing for a changed policy on enabling development.

6.40 This time round (in the emerging LDP) the appellant has put forward a site for housing at Park of Keir. However, this was rejected with the Main Issues Report concluding that development here would cause “*significant incursion into the Greenbelt with detrimental impact on its character and function in a sensitive landscape.*”

6.41 The emerging LDP does have some material weight given it is now edging closer towards examination phase and eventual adoption. It addresses the housing shortfall requirement without any housing allocation on Park of Keir. It presents no change in policy in relation to Park of Keir directly, or any of the other policies which formed the basis for refusal. Neither does it introduce any new policy on enabling development.

6.42 There is no reference to the proposal in the council’s Sport, Physical Activity and Wellbeing Strategy, nor in the accompanying Strategy Delivery Plan.

6.43 There is also no reference within the council Pitches Strategy to the provision of a 3G pitch at Park of Keir, nor in the subsequent Football Implementation Plan, although the evidence presented by Dunblane Soccer Club at the planning hearing led to the successful case for the development of a 3G pitch at Dunblane High School, which is welcome.

6.44 The proposal is not mentioned in Stirling’s initial bid for the National Performance Centre for Sport (NPCS). The proposal is only referenced in the NPCS Stage 2 bid document as supporting information, mentioning how this and other proposals could bring ‘added value’ to the bid. However there is no reference as to how the proposal would have worked with the National Tennis Centre at the University, the expansion of the clay courts there being a key component of the bid as requested by Tennis Scotland.

6.45 There is also no reference to Park of Keir within any of the documentation relating to the City Development Framework which is attempting to secure major investment for inclusive economic growth in the area.

6.46 It is a potentially good idea but in completely the wrong place. There is nothing unique about Park of Keir as a site which means that a tennis legacy for Scotland and Stirling could not be secured elsewhere.

6.47 For example a partnership at Manor Powis with a backdrop of the Ochils involving Judy Murray, the landowner, Virgin Active, hoteliers and several renowned architectural firms was under development before the appellant’s project took shape. This was rejected due to concerns about the visual impact of the Beaully-Denny powerline and the fit with the ‘Murray brand’. However, a recent site visit revealed little impact from the now completed powerline on the proposed tennis academy area.

6.48 Park of Keir frames the landscape of Stirling and the wooded hills form the gateway as travellers rise up from the carse lands towards the Highland landscapes beyond. It is an important local landscape area in its own right, multifaceted and ever changing when viewed

from surrounding locations with a rolling patchwork of habitats and features including ancient woodland.

6.49 Park of Keir is not a settlement or village but part of the defining landscape between two towns that have already expanded to largely fill their natural capacity for development.

6.50 The proposal would not be a sustainable place; it would involve isolated clusters of houses dependent on car usage for accessing basic services. Luxury housing disconnected from either town would do nothing to promote 'strong, resilient and inclusive communities'.

6.51 Neither would the proposal be a low carbon place, as the vast majority of the hoped for 270,000 visitors a year would come by car. Only half of those in the lowest income bracket in Scotland own a car, while the continued reduction in bus services locally means that the remaining services are run on skeleton timetables at fare prices far in excess of many urban routes in Scotland. A survey of the handful of isolated households that live on the Park of Keir estate already shows that none are able to practically use bus services<sup>220</sup>.

### **The sporting case for the development**

6.52 [Dr Ian Thomson](#), a former Director of Sports Development at Stirling University, gave RAGE's response to the sporting case (specifically tennis and golf) for the proposed development.

#### The issue of national importance

6.53 The reason given for the recall direction dated 16 March 2016 "*is because of the potential economic, tourism and sporting benefits of the proposal to be an issue of national importance.*"

6.54 No guidance is given as to the nature of these 'potential benefits' but one can assume that at a local level these would include increased levels of participation, higher standards of performance, and improved pathways for talented players. However, it cannot be taken for granted that every new facility would impact significantly at a national level. The Scottish Government must consider that there is something unique or special about this proposed development that elevates it from local to national importance.

6.55 Section 8 of the appellant's submission (July 2016) seeks to explore and support the notion that the proposed scheme of sport and recreation could be of national significance. RAGE argues that the arguments advanced are flawed in the following respects:

- (a) It does not adequately substantiate the use of 'a grass roots approach' as the primary argument for national significance.
- (b) It does not address the apparent anomaly of claiming national significance for a tennis centre located only three miles from the established National Tennis Centre.
- (c) It does not justify the need for a £13 million investment in new facilities, most of which would be used for tennis.

#### Grass roots approach

6.56 Every local authority in Scotland would argue that they already operate a grass roots approach in the management of sports facilities. Sportscotland works in partnership with all

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<sup>220</sup> RAGE 017

32 local authorities including Stirling, to invest in and support the Active Schools network. The Network consists of over 400 managers and coordinators dedicated to supporting the delivery of quality sporting opportunities for children and young people. There is a real risk of duplication of effort from this development.

6.57 A very successful initiative run in Prestwick is a model for tennis development, which could be rolled out across Scotland at a much lower cost than the present proposal.

#### Local and national

6.58 There is some confusion about the purpose of the centre. If it is primarily about local people it is questionable whether there is a need for 12 additional tennis courts and it is open to question whether the location is accessible to non-car owning families.

6.59 The area is already well catered for. There are 9 tennis clubs and 59 courts (albeit some are of poor quality<sup>221</sup>), most of which are all-weather and floodlit, catering for approximately 100,000 people living within 15 miles of Park of Keir. This compares with the city of Glasgow which has only 39 courts for a population of about one million. If, on the other hand there is to be a national focus this should be an integral part of a national tennis strategy and made clear at the outset.

6.60 Given that the National Tennis Centre (NTC) is located at Stirling with all the resources of Scotland's University of Sporting Excellence, it is surprising that coach education and deployment should be located elsewhere. The appellant has not identified this issue or estimated the likely impact on the NTC. It cannot therefore be regarded as a decisive lever to attach 'national importance' to the proposals for sport.

#### Balance

6.61 The proposal includes facilities for tennis, golf and football but the main emphasis is on tennis. Indeed the funding for the football and golf facilities would be better spent at local clubs. A new all-weather pitch has been laid at Dunblane High School which is more readily available to local youngsters and clubs.

6.62 The appellant<sup>222</sup> does not make the case that the 6-hole par three golf course and practice facilities would be of national significance. It is likely to be used predominantly by hotel guests and there are no details of how it would contribute to the development of golf locally or nationally.

6.63 There is not universal agreement with the statement<sup>223</sup> that the facilities and coaching would not compete with or detract from existing tennis and golf facilities. Bridge of Allan Golf Club has suffered a drop in membership in recent years and any new local facilities could pose a threat.

6.64 Scottish Golf has been running an ambitious national programme ('ClubGolf') to recruit youngsters in collaboration with affiliated clubs. There are over 300 clubs and facilities running ClubGolf across Scotland supported by 1500 volunteers and PGA professionals. It includes a Scottish Golf Development Academy and a Scottish Golf Performance Academy. The Programme is significant nationally but the constituent centres and clubs would not claim that their individual contribution is of that order.

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<sup>221</sup> Cross-examination of Ian Thomson

<sup>222</sup> Appellant's statement of case, paragraph 8.12

<sup>223</sup> Appellant's statement of case, paragraph 8.7

### Capital costs

6.65 The estimated cost of sports facilities in the development is just under £13 million, primarily focused on tennis. This is a very substantial amount to spend on a sport that is already well catered for locally. The appellant claims that existing local tennis facilities are not of a sufficient scale and lack the flexibility required in order to deliver the desired grass roots approach. It does not explain how they are deficient. There are already two centres, at the University, and at Gleneagles Hotel which recently opened, with a total of 10 indoor and 9 outdoor courts within less than 30 minutes' drive of Bridge of Allan and Dunblane.

### Utilisation

6.66 It was estimated in the OBC that utilisation would start at 60% (108,000) in year one and rise to 95% (171,000) in the fifth year. This equated to every indoor court in use for 10 hours a day every day of the year which is very ambitious, and it is quite unrealistic to achieve 95% occupancy, equivalent to 15 hours a day, in year five. The budget was based on these projections and it could fall well short of targeted income. No account had been taken of inclement weather.

6.67 The projected capacity of the tennis centre has now been reduced from 60,500 to 55,000 (i.e. 165,000 player hours, assuming an average of three players per court) by deleting the usage figures from the outdoor courts in winter, assuming that the indoor courts are used 16 hours per day, 365 days per year, with 60% usage in year one rising to 90% in year four. That is a very high volume, which must have an impact on local clubs, and is a challenging target.<sup>224</sup>

6.68 It is also projected that the golf course would attract a very high volume of patrons (57,000 per year), and yet it would be a very modest par 3 six-hole facility. Even 60% of that (36,000 per year) would be a dramatic number for 9 hole course where one could maintain a handicap.<sup>225</sup>

### Coaching and Development

6.69 Only the larger golf clubs can afford to provide the services of a full-time golf professional. None of the existing tennis clubs employ a full-time coach but there is a system for using a local company to foster increased participation, raise standards of performance, and improve player pathways, using existing facilities. There is a tennis academy based at the Gannochy NTC and the outdoor courts at Bridge of Allan, which caters for all age groups and levels of ability, and also provides coaching and run summer camps at the Gleneagles Tennis Academy.

6.70 A local golf professional is in the process of building a similar programme. He is attached to Bridge of Allan Golf Club and within three years has trebled the number of junior members through his golf instruction. He works regularly at Stirling University and Beaconsfield School in Bridge of Allan which operates a system of golf scholarships under his control. He was instrumental in setting up a Central District schools golf championship at Stirling Golf Club in 2016.

### Summary

6.71 The appellant's argument that the tennis and golf centre would be of national importance is inconclusive, and would not justify capital costs of nearly £13 million. It is

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<sup>224</sup> Examination in chief of Ian Thomson

<sup>225</sup> Examination in chief of Ian Thomson

questionable if there is a need for another indoor tennis centre now that there are two of them within a 20 mile radius, both of which support extensive grass roots instructional programmes. The case is weakened by the proposals not being part of a national strategy for tennis.

6.72 The proposed pay and play location at Park of Keir is not currently served by public transport, and the indoor tennis courts would be better located at Stirling University. There is no current contract to provide outreach services, and it would be more sensible to provide training on a regional basis closer to where people live.<sup>226</sup>

6.73 The state of tennis in Scotland varies from place to place, and the picture is not all 'gloom and doom'. In Glasgow attendances at free courts have risen from 11,500 in 2012 to 35,000 in 2014, and the council has invested £1.5 million in 18 new and improved courts in the City. Sportscotland allocated £5.5 million for tennis facilities across Scotland over a four year period – representing about 100 new or resurfaced courts – and Tennis Scotland membership has risen from 32,000 to 47,000 in that period.<sup>227</sup>

### **Bridge of Allan Golf Club**

6.74 [Chris Whaley](#), President of Bridge of Allan Golf Club, gave evidence as a representative of the Golf Club Committee, and as a witness for RAGE.

6.75 Bridge of Allan Golf Club is a members' club managed by its members on a voluntary basis. The purpose of the Club is to provide facilities for and promote participation of the whole community in the sport of golf. The Club provides a well maintained 9-hole course with clubhouse and practice facilities at low cost, especially to families and young people.

6.76 The survival of the Club however depends on the retention and growth of its membership, and therefore it is not in the Club's interest for the town to have another golf facility for the following reasons:

(a) The 6-hole golf course is likely to extend to 9 or 18 as and when there is an upturn in golf membership. It is unlikely Bridge of Allan would, at that time, have grown in size to sustain two golf courses, especially as the nearby Dunblane New Golf Club is also currently seeking to increase its membership.

(b) An additional pay and play facility in the town, however small, would erode the membership of the Club and its income. Some parents, who would otherwise have joined the Club with their children, might choose to take their children to the proposed facility to learn their golf, thus reducing the Club's historic feed stock of members.

(c) Bridge of Allan Golf Club creates an environment which where young people can develop their organisational and leadership skills through participating in the Club's affairs. The proposed 6-hole development would not offer this opportunity.

(d) An essential ingredient for the future development and wellbeing of the Club is the maintenance of a Junior Section. At Bridge of Allan Golf Club, this section has been financially supported over the years both by the local authority, local businesses as well as the Club itself.

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<sup>226</sup> Examination in chief of Ian Thomson

<sup>227</sup> Examination in chief of Ian Thomson

a. Recently the Club completed a £30,000 'Learn 2 Play Golf Academy' development of a practice facility, primarily for junior member use, receiving £10,000 from sportscotland. A golf professional is engaged to assist volunteer members of the club in delivering the low-cost coaching on offer. An additional facility in the town may reduce the cost effectiveness of the coaching structure and may in turn make the Club's coaching more costly or lead to its termination and closure.

b. The Club has received recognition from Scottish Golf as a local delivery centre for the national ClubGolf programme for young golfers and the 'Get into Golf' coaching and club membership scheme for adult golf beginners. It has also been accredited as a 'Charter Club' by Clubsport Stirling, which is equivalent to receiving 'quality assured' status from an independent organisation. The Club is also an active member of Clubsport Stirling's 'Wallace Hub', a 2014 Commonwealth Games Legacy initiative supported by the Scottish Government. This has resulted in the Club's PGA qualified professional and volunteer golf coaches being invited to deliver ClubGolf sessions for youngsters attending primary schools in Bridge of Allan, Cornton and Riverside in recent years.

6.77 [Malcolm Allan](#) gave evidence about the historical significance of Park of Keir, the accessibility of the site, and community reaction. Most of Mr Allan's precognition is not relevant to the specified matters, and is therefore not reported here.

### **Accessibility**

6.78 There currently are only 4 buses (No.58) per day Monday to Friday with none on Saturday or Sunday. Crieff buses (No.47) run only every two hours. Evening services do not exist and late day activity in the sports centre and greens would require multiple private car service with significant parking for the hotel and sports use. The large private houses of the scale proposed could be expected to generate 2-4 vehicles per unit.

6.79 All the bus operators in the area are reducing their services in the Stirling area, particularly in the evening, and it is unlikely that leisure centre would subsidise buses to the site (e.g. shuttle buses from the stations).<sup>228</sup>

6.80 [Geoffrey Harris](#) gave evidence on the history of planning applications relating to Park of Keir and alleged misrepresentation by the appellant. Most of Mr Harris's precognition is not relevant to the specified matters, and is therefore not reported here.

### **Pattern of applications**

6.81 The planning history shows a pattern of repeated applications which have a 'basis' for breaching the green belt but with the intention of establishing the precedent of house building.

6.82 For the first application (and public inquiry) 340 acres (138 hectares) were proposed for the development of a golf course, etc. and 220 luxury houses.

6.83 For the second inquiry the applicant proposed a golf course and a hotel, but no housing. The principle of not allowing housing was strongly enforced by the section 75

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<sup>228</sup> Cross-examination of Malcolm Allan

Agreement required by the Reporter, which specifically prohibited the building of houses anywhere on the applicant's land.

6.84 For this, the third inquiry, there is a variation in approach. Not this time an 18 hole golf course as the 'Trojan horse' but tennis and golf facilities. Now 110 hectares are involved; not that much of a difference in area. As in the first inquiry, we see that houses are 'essential' in order to finance the whole. If granted, the precedent for housing will have been established.

### **Letters of objection**

6.85 The appellant maintains that there was "a significant number of letters of support" but gives no numbers, no data, or any such detail. Contrast this with the appellant's dismissal of the 1,019 letters of objection lodged with Stirling Council. It is grossly misleading to suggest that the letters of objection lodged do not reflect public opinion simply because many chose to use a pro-forma letter. And, of course, in a separate indicator of the strength of public opposition, 2,705 signatures were recorded in an on-line petition addressed to the First Minister.

## CHAPTER 7: OTHER MATERIAL CONSIDERATIONS

7.1 This chapter summarises the other relevant matters which were not specifically addressed at the public inquiry.

### Landscape and visual impact

7.2 The landscape and visual impact of the original scheme (which included 100 houses) was assessed in [Volume 1](#) of the Environmental Statement<sup>229</sup>. The [Addendum](#)<sup>230</sup> dated May 2015 addressed the amended proposals (with 19 houses), and updated LVIA [visualisations](#)<sup>231</sup> were submitted in July 2016.

7.3 The Addendum predicted that there would be a number of significant landscape and visual effects, even after mitigation. There would be *moderate* construction/temporary effects on: local residents (within and around the periphery of the site); users of nearby Core Paths 05 and 75; and on landscape resources. The impact on the Forth/ Teith/ Allan Valley Landscape Character Area would be *locally moderate*, but *overall minor*.

7.4 The Addendum predicted a *moderate* effect after mitigation on the green belt, and a *moderate to minor* effect on the Keir Local Landscape Area (LLA). The effect on the Keir Estate HGDL and the Kippencross Estate HGDL was assessed as *minor* after mitigation.

7.5 The Addendum predicted *major* visual effects before mitigation from representative viewpoints at Keir Roundabout (VP1), and *moderate* effects before mitigation from Core Path 05 (VP2) and Pendreich Road (VP7). These effects were assessed to reduce after mitigation to *major to moderate* at Keir Roundabout, *moderate to minor* at Core Path 05, and *minor* at Pendreich Road. The effects at Dunblane Golf Course (VP5) and Hillside, Dunblane (VP6) were predicted to reduce from *minor* to *minor to negligible* after mitigation.

7.6 The report to the council's Planning Panel<sup>232</sup> noted that the site lies within the Keir LLA where one of the key landscape and visual characteristics is highlighted in SG27 (Protecting Special Landscapes) as follows: "*east of the A9 and B8033, woodland and rising ground create a degree of screening to the Park of Keir area – although there is a good network of footpaths, which provide access right across the area and into the 'hidden' Allan Water Valley*". SG27 also states that the Keir LLA may be sensitive to change through cumulative effects of other development eroding the character and quality of the LLA and 'suburbanising' valued countryside. It notes that acceptance of the development potential at Park of Keir increases the sensitivity of the remaining undeveloped land at Park of Keir to larger scale development or cumulative effects of smaller developments.

7.7 The report acknowledged that the amended scheme contained the housing within the core of the site, and that the reduction in the number of housing units meant that the visual impact of the housing had been considerably reduced. However it commented that the built structures associated with the tennis/golf facilities and the hotel would result in a large scale development within an area of open, undeveloped farmland.

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<sup>229</sup> POK03.09

<sup>230</sup> POK08.05

<sup>231</sup> POK15.15

<sup>232</sup> POK12.03

7.8 The report concluded that the introduction of new structures, new landscape features, lighting and activity around the proposed development site has the potential to give rise to significant, localised effects upon the quality and composition of views experienced by people in the surrounding area. Local topography and the extent of woodland cover across the area and within close proximity to the proposed development would locally contain visibility. Potential significant effects upon visual amenity are therefore expected from locations in close proximity and with open views towards the proposed development site. The introduction of lighting within the site has the potential to impinge upon views from the surrounding areas during the hours of darkness. Some of these visual impacts could be mitigated by the design of the buildings and lighting in future applications and the additional planting proposed.

7.9 In its letter dated 3 August 2015<sup>233</sup> SNH drew attention to its previous comment to the council on the site's suitability for housing in the Stirling LDP Review - Policy and Site Assessment' (5 February 2015) where SNH advised: "*... that development on this very prominent site would change the character of the landscape, have a significant visual impact from southern locations, and adversely affect the Local Landscape Area. ... We consider that this site does not have capacity for housing and we advise against release.*"

### **Impact on the historic environment**

7.10 The ES identified 23 cultural heritage sites within the appeal site, and a range of other key cultural heritage sites within 2km. The fort at Knock Hill is the only cultural heritage asset within the site which is subject to statutory protection, and is of national heritage importance. The earthwork remains of the fort are generally well preserved, but are covered with trees.

7.11 There are also other signs of prehistoric activity, Roman activity, an 18<sup>th</sup> century military road, medieval to later settlement remains and agrarian features within the site.

7.12 There are seven scheduled monuments, over 100 listed buildings, two inventory gardens and designed landscapes, two conservation areas and a historic battlefield within 2km of the site.

7.13 The Addendum assessed that the amended proposals would have only a minor residual effect on Knock Hill Fort, Kippencross and Keir HGDLs, and Bridge of Allan Conservation Area, and either minor or negligible effects on other scheduled monuments and listed buildings in the vicinity.

7.14 Historic Scotland – now Historic Environment Scotland (HES) – did not object to the proposed development. The development has the potential for direct impacts to the scheduled monument at Knock Hill Fort from path upgrades as part of the scheme, and there is potential for impact on the setting of Kippencross Inventory designed landscape. HES concludes that the development would not impact to such a degree on these assets as to warrant an objection.

7.15 The report to the Planning Panel notes that the development was revised to delete the proposed housing to the north of the site, and comments that there would now be no adverse impact on the designed landscape.

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<sup>233</sup> POK10.02

7.16 The council's archaeologist did not object to the proposals subject to conditions related to the study of the monument and the creation of a heritage trail. The development would have a direct and negative impact on a series of known archaeological remains, but they are of only regional importance. Although he was concerned about the potential impact of the golf course on the setting of the monument, it is rarely visited and not interpreted, and the development could create the opportunity to improve the management, accessibility and interpretation of the hillfort.

### **Impact on natural heritage**

7.17 Scottish Natural Heritage (SNH) stated<sup>234</sup> that the proposals are unlikely to have a significant effect on any qualifying interests of Kippenrait Glen SAC/SSSI (a large, base-rich, mixed valley woodland of ancient/long-established origin, adjacent to the east boundary of the site) or the River Teith SAC (designated for its Atlantic salmon and brook, river and sea lamprey, 2km to the south west).

7.18 SNH concluded<sup>235</sup> that the provision of a 25 metre buffer around the section of the Kippenrait Glen SAC/SSSI immediately adjacent to the development site would ensure that the designated natural features of the site were protected. There might be a significant effect if foul and surface water drainage from the site entered watercourses flowing into the River Teith SAC. However SNH noted from the revised application that the drainage strategy has been amended, following discussion with SEPA, to discharge foul drainage into the sewerage system of Bridge Of Allan.

7.19 SNH was content that the proposal will no longer be likely to have a significant effect on either SAC, and therefore that appropriate assessments would not be required.

7.20 SNH confirmed that the surveys carried out for most protected species, including European Species, were thorough, and that appropriate mitigation measures were set out within the ES. Badgers were recorded in the survey area, but the developer set out mitigation proposals (including buffer zones to avoid working close to setts) in a confidential annex to the ES.

7.21 The ES recorded that the woodlands within the site are generally species rich, broadleaved, semi-natural woodland, and that many trees are mature and several hundred years old. The ES concluded that there would be a minimal impact on bird species, as most of the woodland and large areas of grassland and agricultural land are to be retained.

7.22 The report to the council's Planning Panel noted that the developer proposed to include an area of new planting to the south of the existing woodland and housing sites which would form a buffer between the built development and Bridge of Allan. A habitat management plan would improve the woodland resource for nature conservation, and maintain and improve connectivity to the wider landscape.

### **Transport impact**

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<sup>234</sup> POK06.02

<sup>235</sup> POK10.02

7.23 The applicant submitted a Transport Assessment (TA)<sup>236</sup> in support of the planning application to assess the suitability of the site for access via sustainable modes of travel, and to consider the likely impact of the development on the surrounding road network, including the trunk road. The TA refers to the acceptable walking distances recommended in PAN75:

- 400 metres to bus services;
- 800 metres to rail services;
- 1,600 metres to local facilities/ amenities.

7.24 Measured from the centre of the site, Bridge of Allan railway station is approximately 1.6 km to the south, and Dunblane railway station is approximately 1.8 km to the north.

7.25 The results of the operational assessment for Keir Roundabout demonstrated that the roundabout would continue to operate satisfactorily with the introduction of additional traffic associated with the revised development proposals.

7.26 The council's Roads Development Control (RDC) advised that the issue of increased traffic volumes and their effect on the operation of Keir Roundabout is a matter for Transport Scotland. Operational analysis showed no junction capacity problems on the local road network, but RDC commented that the TA promotes an optimistically high modal share of 27% for pedestrian trips to and from the site.

7.27 Given the walking distances to local bus stops and facilities quoted in the TA, public transport penetration into the site and enhanced bus shelter provision would be required. If planning permission were granted RDC recommended conditions including:

- direct access from the A9 via a junction with a dedicated right turning lane;
- provision of a 3 metre wide adoptable road walking/cycle path along the east side of the A9/B8033; and
- submission of a Travel Plan and Residential Travel Pack.

7.28 RDC also recommended a section 75 agreement to secure a financial contribution towards transport measures identified in the City Transport Strategy.

7.29 Transport Scotland (TS)<sup>237</sup> was satisfied with the submitted ES, and had no objection to the proposed development in terms of environmental impacts on the trunk road. Because the development would be accessed via a new priority junction on the local road section of the A9 approximately 300 metres south of Keir Roundabout, the access point was a matter for Stirling Council. The predicted increase of 0.34% in total traffic on the M9 during the construction phase is negligible, and the level of traffic generation does not trigger the need for any further assessment of environmental impacts associated with generated traffic on the trunk road network or its adjacent receptors. The cumulative impacts of the development would be minimal.

### **Impact on local services**

7.30 SEPA had no objection to the proposed development on flood risk grounds, subject to a condition requiring the submission of further information on surface water flood risk, mitigation measures and how surface water runoff would be discharged. Similarly, SEPA

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<sup>236</sup> POK03.04

<sup>237</sup> POK06.01 & POK10.01

had no objection on the basis of proposals for sewage disposal, and welcomed the proposed connection to the public sewer.

7.31 Scottish Water had no objection to the application, noting that the local water treatment works may have the capacity to service the development, although the developer might have to carry out works to the local water and wastewater networks to ensure there is no loss of service to existing customers.

7.32 The council's Education Service noted that the developer had agreed to make contributions in line with SG15 on Education Contributions.

### **Housing land supply**

7.33 The appellant draws attention to the latest housing land audit<sup>238</sup>, where the council confirms that there is a substantial shortfall in the 5 year effective land supply within the Stirling Core Area. This has necessitated an immediate review of the LDP and the preparation of a replacement plan.<sup>239</sup> The appellant submits that, under the terms of paragraph 125 of SPP, the LDP can therefore be considered to be out of date. In such circumstances, paragraph 33 of the SPP confirms the presumption in favour of sustainable development.

7.34 The appellant regards this as a significant material consideration since the development plan policies are out-of-date in respect of housing land supply, and because there are no policies specific to a mixed use development of this nature. Paragraph 29 of SPP is therefore the key determining policy for assessing this proposal.

7.35 LDP Primary Policy 2 and Policy 2.1 Housing Land Requirement also confirm the need to provide a 5-year effective supply of housing land at all times and allow unallocated sites to come forward to maintain an effective supply. While the residential element (19 units) is relatively small in the circumstances of an acknowledged housing land shortfall it is not contrary to wider policy objectives.

7.36 However, the council draws attention to its Spatial Strategy (page 16 of the LDP<sup>240</sup>). Within the Core Area the council's development approach is through urban consolidation, strategic development and regeneration. SPP supports house building where it is in the right locations. The council agrees that the housing element of this proposal would not undermine the plan-making process since 19 houses would not contribute to the housing shortfall in a meaningful manner.

### **Alternative sites**

7.37 The council's report to the Planning Panel<sup>241</sup> refers to Policy 2.7 (Retail and Commercial Leisure Development) which states that sites not allocated within the Local Development Plan must provide evidence that the sequential approach to site selection has been used by providing justification as to why more sequentially preferable sites have been assessed and discounted as unsuitable or unviable.

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<sup>238</sup> POK13.15

<sup>239</sup> POK13.10

<sup>240</sup> POK13.01

<sup>241</sup> POK12.03

7.38 The report notes that the applicant's agents stated that other sites were considered for the proposal (Cramond in Edinburgh, Armadale in West Lothian, Manor Farm at Blairlogie and Forthbank in Stirling). However given the historical connection with the Murray family, Dunblane was the preferred choice from a 'legacy' perspective.<sup>242</sup> Additionally, easy access to the motorway network and a central location were considered key to the long term success of the project. Manor Farm was ruled out by the applicant due to concerns over the impact of the Beaully-Denny powerline, and Forthbank was discounted as it was too small for the combined tennis and golf proposals.

7.39 The applicant's planning statement<sup>243</sup> also confirmed that a number of possible locations were considered (both within Dunblane and elsewhere in Scotland), but the need for a site in Dunblane was essential to the success of the project, and there were no suitable alternative locations within Dunblane that could meet the particular size and space requirements for the project.

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<sup>242</sup> POK03.09: ES Volume 1, paragraph 2.5.1

<sup>243</sup> POK03.07

## CHAPTER 8: WRITTEN REPRESENTATIONS

8.1 As stated at paragraph 1.1 of this report, the planning authority and the appellant agree that the officers' report to Stirling Council's Planning Panel<sup>244</sup> contains an accurate summary of the consultation responses and public representations received in response to the planning application under appeal.

8.2 The report noted that 1,019 letters of objection had been received, 45 letters of support, and a further 71 letters commenting on the proposals. Some 'objectors' supported the sports facilities but opposed the housing proposals.

8.3 Amongst the letters of support were letters from the Lawn Tennis Association, the Professional Golfers Association and Dunblane Soccer Club. The objectors included Scottish Wildlife Trust, Bridge of Allan & Logie Branch SNP and Bridge of Allan Golf Club.

8.4 The main grounds of objection may be summarised:

- erosion of 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;
- impact on an iron age fort;
- effect on a bluebell wood, and a wildlife habitat;
- potential pollution in the Allan Water;
- 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 shouldn't 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;
- no need for more golf and tennis facilities – existing facilities nearby;
- adverse impact on existing facilities;
- wrong site for tennis centre;
- 6 hole golf course would be uneconomic;
- sports facilities better located in area where people don't have facilities;
- 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;
- impact on local facilities – e.g. schools, railway stations, parking, health centre; and
- light pollution.

8.5 In response to the appeal a further 153 representations were [lodged](#), including letters from Bridge of Allan Community Council, RAGE, Scotways, Scottish Wildlife Trust, Arnbathie Developments Ltd, Tennis Scotland, and the Lawn Tennis Association.

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<sup>244</sup> POK12.03

## CHAPTER 9: POSSIBLE CONDITIONS AND LEGAL AGREEMENT

9.1 The council prepared a draft schedule of [conditions](#) and [Heads of Terms](#) for a section 75 agreement. In response the appellant has suggested certain amendments to the council's [conditions](#) and [Heads of Terms](#). Dunblane Community Council and Arnbathie Developments Ltd commented on the draft conditions within their inquiry statements.

9.2 The draft conditions and legal agreement were considered at a round table hearing session, and are addressed in the parties' closing submissions.

9.3 I highlight below any significant points which emerged from the discussion, using the council's original numbering (unless otherwise stated). My conclusions on the suggested conditions and legal agreement are found in Chapter 10 of this report.

### Proposed conditions

9.4 It was agreed that the council's [condition 2 \(building design\)](#) is now unnecessary in the light of the proposed condition 1(b).

9.5 Dunblane Community Council considers in relation to [condition 3 \(flood risk assessment\)](#) that there should be a condition requiring Network Rail to approve the drainage arrangements in the vicinity of the railway cutting. The appellant points out that Network Rail have not suggested such a condition.

9.6 Arnbathie regard [condition 4 \(maintenance of landscaped areas\)](#) as problematic. It is proposed that the golf course funds the maintenance of the country park, as it would not itself be capable of sustaining its ongoing management. These areas might not be in the same ownership, and there is a real practical difficulty with trying to transfer asset maintenance between different areas of a development proposal which may come within different ownerships.

9.7 A breach of condition notice can only be served on any person who is carrying out or has carried out the development or any person in control of the land. If there was a breach of condition 4 relating to maintenance of landscape areas, depending on who did or did not carry out the development, the primary responsibility would fall on the party having control of the land. Arnbathie concludes that, if there are to be responsibilities on the different parts of the site for supporting maintenance of the other, a Section 75 Agreement is the only mechanism that could ensure that arrangement is created.<sup>245</sup>

9.8 [Condition 5](#) is now covered under condition 1(a).

9.9 Dunblane Community Council considers that [condition 6 \(hotel development\)](#) should include all of the restrictions imposed on the previous approval for a hotel on the site.

9.10 The appellant is concerned that it might be difficult to find a buyer for the residential site if there was a lead in time of 18 months to 2 years, and proposes to replace the council's proposed [condition 8 \(timing of development\)](#) which was in the following form: *"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*

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<sup>245</sup> Closing submissions for Arnbathie Developments Ltd

*works on the hotel shall either be commensurate with construction works on the golf and tennis centre or at a later date.”*

9.11 The appellant’s alternative condition would read:

*“(a) Prior to the commencement of the first phase of housing (10 residential units), the developer will require to enter into a legally binding contract for the commencement of the construction of the tennis facilities, ancillary sports facilities and associated infrastructure, including the indoor and outdoor courts and golf course.*

*(b) Prior to commencement of the second phase of housing (9 residential units), the developer will require to have completed the tennis facilities, ancillary sports facilities and associated infrastructure, including the indoor and outdoor courts and golf course to an operational standard.”*

9.12 Dunblane Community Council considers that the council’s condition is fundamental and should not be diluted. Arnbathie is concerned that there is no guarantee what scale of sports facilities would come forward, and that the contract could be rescinded with the agreement of the signatories.

9.13 Arnbathie submits<sup>246</sup> that there is a fundamental issue with the appellants’ attempt at an enabling connection, because the planning permission in principle cannot force an appellant to come forward with specific measures. In that context, you cannot guarantee what will come forward. Equally, the use of a commercial contract as a trigger is particularly weak as it has the ability to be changed at any future point in time between the parties. The approach advocated by the appellant simply would not work and does not deal with linkage in a manner which would allow the housing to be taken into account as a matter of law. Furthermore, none of the linkage has any relationship to ongoing delivery of other operational matters which the appellant has raised in evidence.

9.14 Stirling Council states<sup>247</sup> that one of the recurring issues during the inquiry and hearing was how it could be ensured that, if planning permission is granted, the ‘enabling housing development’ would not be the only element of the development that was delivered. Similarly, a query was raised as to whether or not a mechanism could be introduced to ensure that the scale of the residential development was limited only to what was required for the scale of the sporting facilities that are delivered.

9.15 These matters can only be achieved if there is a condition which provides that the development of the residential units shall not commence until the sporting facilities are completed, i.e. to the same effect as the council’s condition 8. It is understood that this would not be acceptable to the appellant as they would not be able to realise the value of the land for residential development as no housing developer would acquire the land with the uncertainty as to when they would be able to commence development and ultimately secure a return on their investment.

9.16 The appellant has therefore proposed a condition which would allow commencement of the first phase of residential development once “*a legally binding contract for the commencement of the construction*” of the sports facilities is entered into, although during the hearing session it was accepted that the words “*the commencement of*” could be deleted.

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<sup>246</sup> Closing submission for Arnbathie Developments Ltd

<sup>247</sup> Closing submission for Stirling Council

9.17 Entering into a contract for the construction of the sports facilities does not guarantee that they will be delivered. There would remain a risk that the first phase of 10 houses could be delivered without the sports facilities. In that event, residential development will have been delivered despite the justification on which planning permission was granted no longer applying. Further, any future planning applications would have to be considered in a different context and the existence of residential development on the site would be a material consideration. The council submits that these matters go to the heart of the appellant's justification for the development.

9.18 The council has no objection to the suggested change to condition 9 (timing of pitch and adventure park provision), but Dunblane Community Council suggests a 3 month rather than a 12 month period to provide these facilities. The appellant is prepared to agree 6 months for the pitch and 12 months for the other elements.

9.19 Dunblane Community Council suggests that the A9/ site access junction (condition 12) should have been completed before work starts, but the appellant considers that it would be impractical to have no construction before the junction is completed.

9.20 The appellant agrees with Dunblane Community Council's suggestion that bus stops be located on the roadside and not within the site as proposed in condition 14 (public transport). The condition was recommended by the council's roads service in response to the original proposal for 100 houses within the site, and the requirement is unnecessary for the 19 house development now proposed.

9.21 The appellant submits that its new condition 22 (debenture scheme), as a suspensive condition, follows accepted practice and would achieve a desirable result in planning terms. However, Arnbathie contends that the condition is not lawful and does not achieve a planning purpose.

9.22 Similar concerns were raised about the appellant's new condition 23 (business case) which the council regards as unlawful, serving no planning purpose. Arnbathie argues that anyone could implement the development, and that a planning permission cannot alter pricing structures.

9.23 However Dunblane Community Council considers that there is a need for the condition. The appellant submits that the planning purpose arises from how essential it is to the overall decision, and in particular the charges for the use of the sports facilities.

9.24 Arnbathie claims<sup>248</sup> that the appellant in submitting proposed conditions 22 and 23 confirmed that they did not serve a planning purpose. This is a key legal and policy test. The debenture scheme is not a relevant planning matter, and as the appellant points out in its submission, it does not serve a planning purpose. Putting in that it has to be approved by the council would not be reasonable. The condition is unlawful and should not be imposed. Similarly, condition 23 in relation to the business case is also unlawful. It is not a legitimate planning matter and there would be no mechanism for enforcement other than the approval of a plan. It is clear that the nature of a business plan is not such that it can be implemented in the manner suggested by the condition. Again, it is submitted that this would be unlawful and would also not meet the policy tests in Circular 4/1998.

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<sup>248</sup> Closing submissions for Arnbathie Developments Ltd

9.25 The appellant's proposed conditions 22 and 23 seek to prevent the commencement of development until submission of details of the debenture scheme and a detailed business case respectively to the planning authority. In Stirling Council's submission<sup>249</sup>, these conditions are not lawful and do not meet the policy tests contained in Circular 4/1998, even with the appellant's suggested addition of a requirement for the submissions to be approved by the planning authority.

9.26 Dealing first with the proposed condition 22 relating to the debenture scheme, a requirement for the planning authority's approval of the debenture scheme does not serve any planning purpose and does not fairly and reasonably relate to the development that would be permitted. Any link between the residential development and the sporting facilities as a result of a debenture scheme is artificial in nature and not based on any planning purpose. There would be some benefits from access to the facilities arising from the debenture scheme, but it would be essentially a premium on the residential property.

9.27 Additionally, condition 22 does not meet the test relating to ability to enforce. It is understood that the appellant proposed to secure the debenture scheme through the title of the property. However, the council would not, and should not, have any involvement in the future transfer of the residential properties. Monitoring whether or not the approved scheme is being implemented is therefore not practical for the council.

9.28 The condition also fails to meet the requirement for precision, principally resulting from the lack of planning purpose. Whilst conditions requiring submission of a scheme or details for approval which will provide the precise details to be followed would normally meet the test of precision, in these circumstances there remains significant doubt as to what should be provided by way of details on the debenture scheme and also the basis on which the planning authority may decide to approve or reject the details.

9.29 If the Scottish Ministers consider that there does need to be a requirement for a link between the residential development and the sporting facilities through a debenture scheme then this would be best achieved through a planning obligation registered against the title. Consideration would need to be given to how this could be drafted but it may be possible to impose a requirement to include the debenture as a burden on disposal of the residential properties, in a similar way that a requirement to maintain properties as affordable housing in perpetuity is often imposed. However, a planning obligation of this kind would still fail to meet the tests of serving a planning purpose and relating to the proposed development as required for planning obligations under Circular 3/2012.

9.30 Condition 23 as proposed by the appellant also does not serve a planning purpose. As the appellant has noted, this relates to commercial points. The business case concerns the justification for the development which should be considered prior to the grant of planning permission, not at a subsequent stage. If the appellant will not be in a position to fully justify the case for the development until a detailed business case is prepared, then it raises the question of whether an application for planning permission in principle is appropriate. An application for detailed planning permission might have provided greater certainty on the relative scales of the residential development and the sporting facilities, and allowed this fundamental matter to be adequately controlled.

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<sup>249</sup> Closing submission for Stirling Council

9.31 One of the key purposes of condition 23 appears to be to enable the planning authority to control the fees to be charged to users of the sports facilities. However, this clearly does not meet the necessary criteria for planning conditions. The fee to be charged for use of the facilities is a commercial matter and not a planning matter which the planning authority should control. There is no land use justification for the planning authority controlling these charges. It is unclear on what basis the planning authority would decide whether the proposed charges are acceptable. It is also not practical to expect the planning authority to monitor the charges imposed for what is essentially a private, commercial facility. The appellant's condition 23 could not reasonably be enforced as it would not be reasonable to expect the operator of the sports facilities to comply with charges which had been decided by the planning authority.

9.32 It was generally agreed that the requirement for walking/cycle path provision in the draft Heads of Terms could be addressed by a suspensive condition rather than section 75 agreement.

### **Section 75 agreement**

9.33 The council's draft Heads of Terms for a section 75 agreement included 4 items:

- walking/cycle path provision – see above
- affordable housing contribution, as per the council's supplementary guidance SG16
- housing linked to recreational facility: ensuring that the housing is linked to the recreational facility by a payment in perpetuity
- education contributions in line with supplementary guidance SG15, and ensure path network suitable as safe walking routes to allow pupils to access primary and secondary education.

9.34 The affordable housing contribution was agreed by parties.

9.35 The appellant argued that the link between the housing and the recreational facility was secured by new condition 22, and Arnbathie could not see any planning purpose in the suggested requirement.

9.36 The education contribution was agreed, and the safe walking routes are addressed in condition 1.

9.37 Dunblane Community Council suggested<sup>250</sup> that the Section 75 Agreement could ensure that if the sports facilities are reduced in scale compared with the consented proposal then an appropriately reduced number of houses would be permitted. This is at the heart of the debate about Park of Keir and is critical to maintaining the balance between the benefits of the sports facilities and the disbenefits of new housing in the green belt.

9.38 Dunblane Community Council would also wish to see the CIC included in a Section 75 Agreement as a means to ensure the promises made are delivered.

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<sup>250</sup> Closing submissions for Dunblane and Bridge of Allan Community Councils

## **CHAPTER 10: REASONED CONCLUSIONS AND RECOMMENDATIONS**

10.1 In reaching my conclusions below I have taken account of the evidence at the inquiry, the planning application and supporting documents, the consultation replies and written representations, the various appeal submissions, my visits to the site and its surroundings, and the Environmental Statement, Addendum and the responses thereto.

### **Determining issues**

10.2 I consider that the determining issues in this case are whether the proposed development would conform with the relevant provisions of the development plan, and if not, whether the proposals are justified by other material considerations.

10.3 The development plan for the area comprises the Stirling Local Development Plan (LDP), adopted in 2014, together with the associated Supplementary Guidance.

10.4 The specific provisions of the LDP which are relevant to this case are the policies relating to:

- economic development
- tourism and recreational development
- mixed uses
- housing land
- housing in the countryside
- green belt
- protecting special landscapes
- historic environment
- natural heritage
- addressing the travel demands of new development
- sustainable development

10.5 The other important material considerations include:

- planning history of the site
- benefits for sport and recreation
- net economic benefit
- enabling housing development
- funding model
- alternative sites
- national planning policies
- planning conditions

10.6 Firstly I need to describe the planning application, and consider the planning history of the site.

### **The planning application**

10.7 The appeal proposals have a number of elements. It is proposed to construct a new tennis and golf centre at Park of Keir, including museum and visitor centre; indoor and outdoor tennis courts; golf course with clubhouse and practice areas; hotel with leisure and conference facilities; multi-user sports pitch and outdoor play area; cycle trails and footpaths; new access roads and junction; new tree planting and landscaping; SUDS pond

and associated drainage works; car parking and servicing; and enabling housing development.

10.8 The appeal seeks the grant of planning permission in principle, rather than full planning permission, but the application was accompanied by extensive supporting material. More detailed proposals would be formulated at a later stage, if planning permission in principle is granted.

10.9 There was some confusion at the inquiry as to the composition of the 'Park of Keir Partnership' who submitted the planning application under appeal.

10.10 The Planning Statement<sup>251</sup> submitted in support of the application, explained at paragraph 4.10 under the heading 'The Park of Keir Partnership': "*The Park of Keir is a partnership between Judy Murray; Colin Montgomerie and King Group. The Partners have the relevant experience to ensure this is an exceptional facility and that it is both of highest standard and sustainable from an operational perspective.*"

10.11 Paragraph 4.18 of the Planning Statement confirmed that the "*King Group are the site owners, and have a long established track record in delivering construction projects of this kind as well as a number of strategic housing sites over the last 20 years and continue to operate a number of joint ventures with major Scottish housebuilders.*"

10.12 However it emerged at the inquiry that the applicant, also known as Park of Keir Partnership, is a legal partnership between members of the King family. This is distinct from the informal partnership between Judy Murray, Colin Montgomerie and the King Group which was described in the planning statement. Mrs Murray is closely engaged in the project, but Mr Montgomerie is now no longer involved (though he supports the proposals).

### **Planning history of the site**

10.13 There have been a number of previous proposals to develop land at Park of Keir.

10.14 Outline planning permission was granted on appeal in 2005 for a 150-bedroom hotel and 18-hole golf course on the current appeal site, subject to a section 75 agreement.

10.15 Although the 2005 consent was not implemented, and the section 75 agreement associated with the renewal application in 2008 was not concluded, it is reasonable to take the 2005 consent as the baseline for consideration of the current proposals. It follows that there could be no objection in principle to the development of an 18-hole golf course and 150-bed hotel in accordance with the previous approval.

10.16 However, the planning permission was subject to a number of conditions which restricted what could be built on the land, and was subject to a legal agreement explicitly preventing further development on the application site and on land to the south.

10.17 In granting outline planning permission in 2005, Scottish Ministers recognised the concerns expressed by local residents about any possible future development of the Park of Keir Estate. In his report the Reporter found that the "*prevention of development on this extensive area would be of major significance for the long term integrity of the green belt in*

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<sup>251</sup> POK03.07

*this area.”*

10.18 In that context I consider that the 2005 planning permission 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 explicitly to be protected from development.

## **DEVELOPMENT PLAN POLICIES**

### **The nature of the appeal proposals**

10.19 The appellant’s position on the proposals’ compliance with development plan policies is set out in the grounds of appeal, and in the supporting planning statement.<sup>252</sup>

10.20 The appellant submits that the proposed development is consistent with key development plan policies (to the extent that they are relevant to a multi-use development).<sup>253</sup> The proposed multi-use development at Park of Keir is described as an innovative and unique proposal. The proposed development was not considered during the preparation of the local development plan, primarily because the proposals had not been formulated. The site does not have a development allocation, and the development plan does not provide policy specifically relevant to this type of multi-use proposal.

10.21 The appellant draws substantial support for the proposal from development plan policies concerned with the delivery of economic development, sustainable economic growth, tourism, green network, sport and health and wellbeing.

### **Development plan – vision, spatial strategy & overarching policy**

10.22 The LDP vision for the Stirling area in 2034 *“is that it will have maintained its high quality rural and urban environments, enhanced by well designed and integrated new developments, by the evolving Green Network, and by the protection of the superb landscape setting.”*

10.23 In the countryside the LDP vision includes more houses (appropriately located and generally in small groups), more woodland (especially where it creates recreational opportunities or links fragmented habitats), more tourism and recreational activity and facilities close to the city, more free-standing business, tourism, etc. premises, and transport infrastructure that improves and encourages a modal shift from motor vehicles to other means, such as walking, cycling and public transport, via an improved, comprehensive and safe network.

10.24 The appellant contends that the appeal proposals can be viewed positively in the context of the LDP vision, as they provide all of these elements – tourism, recreation, employment, open space, woodland, habitat improvements, and new footpaths and cycleways.

10.25 The LDP spatial strategy underlines that the council supports sustainable economic growth, with a focus on urban consolidation, strategic development and regeneration. Different priorities are to apply in the rural villages area, which does not include Dunblane

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<sup>252</sup> POK03.07

<sup>253</sup> Appellant’s grounds of appeal, chapter 2

and Bridge of Allan. The appeal site lies within the Core Area, as shown on the LDP key diagram.

10.26 The appellant maintains that the appeal proposals accord with Primary Policy 2: Supporting the Vision and Spatial Strategy, which indicates that outwith allocated sites, the Core Area will be the preferred location for new build development on sites located close to, and easily accessible by, major public transport routes. In the rural villages area and areas of countryside, development will be more constrained by accessibility, infrastructure, landscape and biodiversity considerations, but new employment development, and other developments that will provide significant economic and social support to the rural area will be encouraged in appropriate circumstances.

10.27 The overarching policy confirms that the Plan supports good quality development, in the right place, that meets the community's needs (social, economic and environmental), in order to contribute positively to the creation of vibrant, mixed and healthy communities. All developments require to demonstrate that they are compatible with the spatial strategy and conform with the relevant sustainable development criteria, and appropriate measures for the safeguarding, conservation and enhancement of the historic and natural environment, amongst other considerations.

10.28 The appellant points out that the appeal proposals would provide a significant new sport and recreation facility and greater access to open space, cultural and heritage assets, and submits that they therefore accord with the LDP's overarching policy and sustainable development criteria.

10.29 I return to the compliance with the vision, spatial strategy and overarching policy of the Plan in paragraph 10.114 below.

10.30 I review the extent to which the proposals represent sustainable development in paragraphs 10.105-10.112 below, and in my consideration of Scottish Planning Policy at paragraphs 10.184-10.192.

### **Economic development in the countryside**

10.31 Policy 2.9: Economic Development in the Countryside states that, in order to support a healthy and vibrant rural economy, developments supporting rural economic activity in the countryside will be encouraged to locate in and around the Rural Activity Areas (not applicable here), or close to villages, where there is a greater possibility for a realistic choice of access. Businesses based on recreational activities that have a site-specific need for a countryside location will be encouraged.

10.32 The appeal proposals, which would involve a potential capital investment of £37.5 million, and are expected to generate 18.5 full-time equivalent (FTE) jobs during the construction phase and 152 net additional jobs when the development is in operation, would represent a very significant economic development in the countryside. The proposed development can therefore draw strong general support from this policy which seeks to encourage rural economic activity.

10.33 I consider the net economic benefit of the proposals in greater detail under 'other material considerations' at paragraphs 10.148-10.154 below.

10.34 In terms of Policy 2.9 the appeal site is close to the villages of Dunblane and Bridge of Allan, but the choice of access is considered below at paragraphs 10.90-10.104, in my conclusions on ‘addressing the travel demands of new development’.

10.35 The question arises whether the proposed development is based on recreational activities which have a site-specific need for a countryside location? The appeal proposals include a number of recreational activities which require a countryside location, including the golf course and country park, but other elements (e.g. hotel, housing development and sports centre) which would normally be located in or adjoining a town or village. This issue is discussed later at paragraphs 10.57-10.67.

### **Tourism and recreational development**

10.36 The proposed development at Park of Keir, which would provide very high quality sporting facilities, notably for tennis and golf, together with a hotel, country park, footpaths and cycleways, gains strong general support from Primary Policy 15: Tourism and Recreational Development, which notes that tourism and recreational activities make a significant contribution to the economy of the Plan area, and are based substantially on the quality of the natural and built environment.

10.37 In particular, it would increase the volume and value of tourism and recreation to the local economy, improve the ‘*tourism offering*’ in the area, and improve the provision of recreational facilities which promote local community wellbeing and quality of life benefits. Whether the proposals would “*preserve and enhance the quality of the natural and historic environment*” is considered in paragraphs 10.79-10.89 below.

10.38 In relation to LDP Policy 15.1 which promotes tourism development including facilities and accommodation, the proposals would promote a wider spread of visitors, and therefore economic benefits, to the area. However, the support in Policy 15.1 for tourism and recreational development is also subject to the caveat that the proposals are commensurate in scale with their location and setting within the built and natural environment (see paragraphs 10.79-10.89 below).

### **Mixed use policies**

10.39 LDP Policy 2.8: Sites Suitable for a Mix of Uses states that development incorporating a mix of uses will be expected and supported in a number of particular instances, which include: (iii) sites located close to, and easily accessed by, major public transport routes and nodes within the Core Area, and which are considered to support the Spatial Strategy; and (iv) “*sites where it can be demonstrated that provision of a mix of uses is required to deliver/enable development of the primary use on the site (where specifically referred to in the Key Site Requirements)*”.

10.40 I consider how close is the appeal site to major public transport routes and nodes below in paragraphs 10.100-10.103.

10.41 Below at paragraphs 10.159-10.173 I consider whether the proposed mix of uses at Park of Keir is required to deliver/enable the development of primary use on the site. However, the reference to ‘Key Site Requirements’ suggests that (iv) is intended to relate to allocated sites, and not to the appeal site which is not scheduled for development in the LDP.

## **Housing policies**

10.42 The appellant submits that the delivery of 19 houses on the appeal site would help to address a small element of the housing land shortfall, which is confirmed in the 2015 Housing Land Audit. LDP Policy 2.1: Housing Land Requirement allows unallocated sites to come forward to maintain an effective supply in accordance with Primary Policy 2.

10.43 The appellant contends that granting planning permission for the appeal proposals, including 19 houses, would not prejudice the preparation of the new LDP. However, by the same token I do not regard the provision of this small number of houses as making more than a marginal contribution to remedying the housing land shortfall. Primary Policy 2 states that in areas of countryside development will be more constrained by accessibility, infrastructure, landscape and biodiversity considerations – which I discuss below.

10.44 Policy 2.2: Planning for Mixed Communities and Affordable Housing provides that all new residential development schemes should provide a range of different types and sizes, and where required, different tenures and affordability. The proposed development envisages the development of 19 very substantial houses on extensive plots, rather than a range of types and sizes. However, there is no criticism of the design and massing of the proposed houses, and the appellant has offered to pay a commuted sum of £241,000 to help fund the delivery of affordable housing elsewhere in the local housing market area, so I do not consider that the proposals offend this policy to any material degree.

## **Housing in the countryside**

10.45 The appeal proposals include the development of 19 houses on an area of over 10 hectares at Park of Keir.

10.46 The appeal site lies in the countryside outwith the urban boundaries of Dunblane and Bridge of Allan, where the development plan (Policy 2.10(a) of the LDP) only supports new houses in certain limited circumstances, none of which apply in this case:

- (i) the development would not be within or closely visually related to existing building groups or clusters;
- (ii) the appeal site is not an infill site relative to existing rows of houses;
- (iii) the proposals are not for a single house;
- (iv) the replacement or renovation of a single house is not proposed;
- (v) this is not a proposal for the conversion, redevelopment or replacement of a farm steading or other range or cluster of non-domestic buildings; and
- (vi) the proposals would not result in the beneficial re-use of a brownfield site.

10.47 Rather, the site is in the green belt where Policy 2.10(b) indicates that development opportunities will be significantly constrained.

10.48 I conclude that the appeal proposals are contrary to the provisions of Policy 2.10: Housing in the Countryside of the local development plan.

## **Green belt**

### Objectives and function

10.49 Green belts are designated around Bridge of Allan and Dunblane to protect and enhance the quality, character, landscape setting and identity of these settlements. Those objectives are consistent with national policy set out in Scottish Planning Policy.

10.50 The green belt in this area is up-to-date, having been reviewed in recent years as part of the Stirling Green Belt Study, and the boundaries are defined in the local development plan. Supplementary Guidance SG03: Green Belts<sup>254</sup> highlights that the small scale of the green belt around Stirling, Bridge of Allan and Dunblane means that any built development within them is likely to have a significant impact, which could detract from their openness and undermine their objectives.

10.51 Aside from its small scale, the green belt in this area has a very distinctive character and purpose. Its main functions are to maintain the separate and distinct identities of Dunblane and Bridge of Allan and to protect their landscape settings. The Park of Keir, which is a protected landscape containing two prominent wooded hills, forms a substantial part of the gap separating the two towns, and provides an important component of their landscape and countryside setting.

#### Green belt policy

10.52 LDP Policy 1.5: Green Belts contains a number of requirements. Firstly, development should preserve the openness of the green belt, and its core role and function should not be undermined by individual or cumulative impacts. Secondly, development will only be supported in the green belt where it supports diversification of the rural economy and is for one (or more) of four specified purposes. Also, support may be given to single houses in the green belt for specific purposes.

10.53 Clearly this mixed-use proposal, which includes the development of 19 houses, does not qualify for the support given to certain single house proposals in part (b) of the Policy.

10.54 To draw support from part (a) of the Policy the proposals would have to be for purposes specified in the Policy and support diversification of the rural economy.

10.55 In relation to the specified purposes, the proposals would not re-use redundant rural vernacular buildings (purpose (iv)), nor do they qualify as essential infrastructure under purpose (iii). The proposed development is not for the purposes of agriculture, woodland, forestry and/or horticulture uses (purpose (i)), although there would be new tree planting and landscaping as part of the development.

10.56 The question then arises: is the proposed development for purpose (ii) – *“recreational uses compatible with an agricultural or natural countryside setting”*?

#### Recreational uses

10.57 The appeal proposal is for a mixed-use development. Many of the proposed uses are recreational: indoor and outdoor tennis courts; golf course with clubhouse and practice areas; multi-user sports pitch and outdoor play area; country park, cycle trails and footpaths.

10.58 Other elements are not themselves recreational uses, but are directly associated with the proposed tennis and golf centre, including the proposed museum and visitor centre.

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<sup>254</sup> POK13.04

10.59 Further aspects of the proposals, such as SUDS pond and associated drainage works, car parking and servicing, and new access roads and junction, are ancillary to the main uses.

10.60 However, neither the enabling housing development nor the hotel with leisure and conference facilities, which are two major elements of the appeal proposals, can be described as recreational uses under the terms of Policy 1.5.

10.61 The next question to be answered is – are the proposed uses compatible with an agricultural or natural countryside setting?

#### Agricultural or natural countryside setting

10.62 The cycle trails and footpaths, the tree planting and landscaping and the wider country park, would undoubtedly be compatible with an agricultural or natural countryside setting. It can also be argued that a golf course which is designed around the natural contours of the land, and requires only relatively minor modifications to form tees, greens and bunkers, is compatible insofar as it retains the countryside character of the area. I agree with the previous Reporter that a golf course is an extensive recreational use which generally needs a rural location and is, in principle, an appropriate use in the green belt.<sup>255</sup>

10.63 However, the coloured artificial surfacing, high fencing and possible lighting of the proposed 3G football pitch and the six outdoor tennis courts would not convey the natural or semi-natural appearance which one might expect in an agricultural or natural countryside setting.

10.64 More importantly the proposed 150-bedroom hotel, together with the substantial buildings (with a potential gross internal floor area of 1,000 square metres<sup>256</sup>) which are proposed to accommodate the sports and allied facilities, including six indoor tennis courts, coaching suites, changing rooms, gym, café, shop, visitor centre, museum, crèche and indoor golf training bays – no matter how sensitively designed – would represent a significant change in the character of this sensitive area.

10.65 I note the previous Reporter's observation that a new hotel is generally seen as being contrary to green belt policy.<sup>257</sup>

10.66 Similarly, the proposed development of 19 houses over a wide area of over 10 hectares would signify a substantial change to the rural character of this area of attractive parkland, and would threaten to suburbanise the area of countryside between Dunblane and Bridge of Allan.

10.67 Taken together, the proposed sports facilities, hotel and housing would occupy an area of more than 15 hectares which is currently undeveloped countryside within the green belt.<sup>258</sup> I do not consider that a development of that scale and composition is what was envisaged when Policy 1.5 made an allowance for recreational uses compatible with an agricultural or natural countryside setting.

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<sup>255</sup> RAGE 037, paragraph 6.10

<sup>256</sup> POK08.03, paragraph 4.11

<sup>257</sup> RAGE 037, paragraph 6.10

<sup>258</sup> POK08.02

10.68 I am not persuaded that the inclusion of the country park and golf course within the proposed development would provide a more robust and permanent landscaped buffer than exists at present. The site lies within the designated green belt where only very limited development is permissible under the policies of the statutory development plan.

#### Diversification

10.69 I also need to consider whether the proposal would support diversification of the rural economy. The appeal site is in the countryside, and as discussed later in my conclusions, the proposed development would have significant economic benefits in terms of jobs and tourism.

10.70 Planning Advice Note PAN73: Rural Diversification notes that rural diversification helps to broaden the economic activity of rural areas, providing opportunity and creating a more balanced and stable economy.

10.71 PAN73 points out that housebuilding, in itself, is not diversification, though there are circumstances where, in relation to a business, new housing may be acceptable as a complementary part of a development. In some instances new housing may be acceptable as a mechanism to cross-fund a business proposal, after considering the proposal against planning policies.

10.72 However, PAN73 also advises that rural Scotland cannot be considered as a single entity: *“The character of rural areas and the challenges they face varies greatly across the country: from remote and sparsely populated regions to pressurised areas of green belt, from areas that are thriving and prosperous to others facing economic difficulties. Different policy approaches, using different typologies, are required in different areas.”*

10.73 Paragraph 81 of Scottish Planning Policy (SPP) states that a more restrictive approach to new housing development is appropriate in accessible or pressured rural areas, where there is a danger of suburbanisation.

10.74 This site between Dunblane and Bridge of Allan, and close to the regional centre of Stirling is not remote or sparsely populated; nor is it in an area facing particular economic difficulties. Instead, it lies between two thriving and prosperous towns in a highly accessible location in Central Scotland. It is subject to considerable development pressure. As such, it can be correctly described as a pressurised area of green belt, where a more restrictive policy approach is required.

#### Enabling development

10.75 It is a key plank of the appellant’s case that the housing element of the proposals is essential in order to deliver the sport and recreation facilities at Park of Keir. It is argued that the construction of 19 houses is the least required to enable the facilities to be affordable and accessible to all. The appellant submits that this can be viewed as an exceptional case which would therefore not set a precedent for other housing development in the green belt.

10.76 I consider the funding model below at paragraphs 10.159-10.173, but I can find no development plan policy which recognises the type of special case being advanced here, or that sanctions development in the green belt in these circumstances. Policy 2.8, which is in general terms, is discussed above at paragraphs 10.39-10.41.

## Conclusion

10.77 I conclude that the proposed development in the green belt at Park of Keir is not justified by any of the purposes listed in parts (a) or (b) of Policy 1.5, or as diversification of the rural economy. I also conclude that a development of this scale, which includes substantial buildings and an area of 15 hectares devoted to the housing, tennis/golf centre and hotel, within a wider site area of 110 hectares, would seriously erode the openness of the green belt between Dunblane and Bridge of Allan and have a significant negative impact on its core role and function to maintain the separate and distinct identities of these towns and to protect their landscape settings.

10.78 I therefore conclude that the appeal proposals are in conflict with Policy 1.5: Green Belts of the local development plan and the associated supplementary guidance.

### **Protecting special landscapes**

10.79 SG27: Protecting Special Landscapes<sup>259</sup> advises that the Keir Local Landscape Area (LLA) is sensitive to change from man-made elements of a scale or nature that are at odds with the small to medium scale of the rolling farmed and wooded landscape, and buildings in prominent locations which begin to 'infill' the open rural landscape between the settlements of Bridge of Allan and Dunblane.

10.80 SG27 notes the planning permission in principle for a golf course at Park of Keir, and underlines the need for high standards of siting, scale and design of the final proposals to avoid adverse effects on the setting of either settlement, or the overall character and integrity of adjacent inventory designed landscapes and of the LLA. It also draws attention to the cumulative effects of other development eroding the character and quality of the LLA and 'suburbanising' valued countryside: "*acceptance of development potential at Park of Keir increases the sensitivity of the remaining undeveloped land in the LLA to larger-scale development or cumulative effects of smaller developments.*"

10.81 I consider that development of the scale proposed would change the character of the landscape in the eastern part of the LLA, and would have a significant visual impact from certain locations. Whilst the housing development would be largely contained from view from the west, it would be highly visible from the east and south-east, and the largest buildings (tennis/golf centre and hotel) would be open to view from the west.

10.82 On the basis of my site visits and a study of the visualisations, I consider that the LVIA in the Environmental Statement (ES) and Addendum understates the impact from certain key viewpoints. From representative viewpoint 1 (Keir Roundabout) the main building complex would be in full view, and would introduce a series of prominent urban features into this rural landscape, which would be hard to absorb (even after mitigation) because of their bulk, scale, form and articulation. On that basis, I consider the residual impact from that viewpoint to be major, rather than moderate. The lighting of roads, car parks, buildings and outdoor sports facilities (tennis courts and football pitch) would add to the impact of the sporting and hotel complex.

10.83 Similarly, I consider that the LVIA has underestimated the impact of the housing part of the development seen from elevated viewpoints on the northern edge of Bridge of Allan, including viewpoint 7 (Pendreich Road) from where there is a clear view of the site and little

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<sup>259</sup> SC01.05

prospect of effective screening. I would assess the residual impact as moderate (i.e. significant), as the substantial new houses in extensive plots, spread across the field at the foot of Gallow Hill, would draw the eye and distract from the wider view towards the mountains in the distance. From this vantage point and others on the north side of Bridge of Allan, and to a lesser degree from Dunblane Golf Course (viewpoint 5), the housing development would create the suburbanising effect which the supplementary guidance is at pains to prevent.

10.84 I find that the appeal proposals would have an adverse effect on the landscape character, scenic interest and qualities for which the Keir LLA was designated. Consequently, I conclude that the proposed development would be contrary to the provisions of LDP Primary Policy 9: Managing Landscape Change, which states that the integrity, character and special qualities of key areas of nationally and locally valued landscapes will be protected.

10.85 For the same reasons the proposals would be contrary to Policy 9.1: Protecting Special Landscapes, unless it can be shown that there is a specific nationally recognised need for development at that location which could not be satisfied in a less sensitive area, and any adverse effects are clearly outweighed by social, environmental or economic benefits of local importance. The special justification for the proposals is considered below under 'other material considerations'.

### **Historic environment**

10.86 Knock Hill fort is a scheduled monument, and there are other numerous cultural heritage sites within and in the vicinity of the appeal site, including inventory gardens and designed landscapes, listed buildings, conservation areas and a historic battlefield. However, Historic Environment Scotland (previously Historic Scotland) did not object to the proposals, and I agree that there would only be a minor impact, at most, on the historic assets.

10.87 I therefore conclude that the proposals are consistent with LDP Primary Policy 7: Historic Environment, and Policies 7.1 (archaeology), 7.2 (conservation areas), 7.3 (listed buildings) and 7.8 (battlefields, gardens and designed landscapes).

### **Natural heritage**

10.88 Having regard to the evidence in the Environmental Statement, I accept the judgement of Scottish Natural Heritage (SNH) that the proposals would be unlikely to have a significant effect on either the adjacent Kippenrait Glen SAC/SSSI or the River Teith SAC to the south west, and hence that there is no requirement for appropriate assessments in either case. The evidence in the ES (confirmed by SNH) also indicates that, with appropriate mitigation, there would not be undue adverse impacts on protected species, birds or woodlands in the area.

10.89 Accordingly, I conclude that the proposed development complies with LDP Primary Policy 8: Conservation and Enhancement of Biodiversity, and the associated Policy 8.1 (biodiversity duty).

### **Addressing the travel demands of new development**

10.90 The proposed development, because of its scale and the range of the uses proposed at Park of Keir, would be a major generator of traffic.

#### Motor vehicles

10.91 The proposed development would be accessed from a new priority junction on the A9, some 300 metres south of Keir Roundabout. That single point of access would serve all of the main activities within the site – the hotel, tennis/golf centre and the residential development – by means of an internal road network, part of which would be designed to cater for buses and coaches.

10.92 The appeal site, due to its location at the junction of the M9 and the A9 to the south of Dunblane, is in an ideal position to cater for motor vehicles approaching the site from Stirling, Perth, Dunblane, Bridge of Allan, Doune and a variety of directions in Central Scotland and beyond.

10.93 The council's Road Development Control service is content with the proposed access, providing it incorporates a right turning lane. The analysis in the Transport Assessment (TA) indicates that the local road network would cope with the additional traffic generated by the proposals. Transport Scotland confirmed that the M9 could comfortably accommodate the relatively small increase in traffic on the motorway.

10.94 I am therefore satisfied that the development could be safely and conveniently accessed by motor vehicles.

10.95 However, in order to comply with LDP Policy 3.1: Addressing the Travel Demands of New Development, the development would need to be located where it is safely and conveniently accessible by walking, cycling and public transport, as well as by motor vehicles. It would also have to aim to ensure that there is a safe and realistic choice of access by walking, cycling, public transport and motor vehicles.

#### Walking and cycling

10.96 There is already a network of footpaths in and around the appeal site. The appeal proposals make extensive provision for walking and cycling within the development site, including new and upgraded footpaths. They also propose a 3 metre wide adoptable walking/cycle path on the east side of the A9/B8033, which would provide a safe off-road route for a distance of 2km along the site frontage. It would terminate at either end onto the existing footway within the 30mph speed restriction. This footpath/cycleway, which was supported in principle by Sustrans, would potentially be a significant boon to residents, staff and visitors to the Park of Keir development, and to the nearby communities of Dunblane and Bridge of Allan.

10.97 However, at this stage it is not known whether the footpath/cycleway would be lit; if not, it is less likely to be attractive to users at night or in the dark evenings and early mornings which are experienced for a significant part of the year. Also, it does not appear that the road giving access to the housing development (to be designed in accordance with the council's housing in the countryside guidance) would be illuminated, in which case residents might be discouraged from walking or cycling in the hours of darkness.

10.98 On the other hand, if either the 2km footpath/cycleway or the road serving the housing or both were illuminated, the development would have a greater visual impact on the green belt.

10.99 Even with a Green Travel Plan to encourage residents and staff to use more sustainable modes of travel, for the following reasons I share the council's scepticism that as many as 27% of trips to and from the site would be made on foot:

- the potentially extensive catchment of the proposed tennis/golf centre and the 150-bedroom hotel;
- the location of the site in the countryside detached from any city, town or village;
- the site's position adjacent to a motorway junction and within 90 minutes' drive time of 70% of Scotland's population (also, one million people live within 30 minutes of the site<sup>260</sup>); and
- the distance from the nearest shops, services and railway stations.

### Public transport

10.100 Both the nearby towns have railway stations, but they are located 1.6km (Bridge of Allan) and 1.8km (Dunblane) from the centre of the site, which is at least double the acceptable walking distances recommended in Planning Advice Note: PAN75 – Planning for Transport. Even the nearest parts of the residential development and of the sports centre and hotel complex would be too far from a railway station to meet the PAN75 standard. Using the proposed segregated footpath/ walkway along the site frontage, this would still be a long walk and an unattractive one in poor weather or in limited daylight. Consequently, I would not expect a significant proportion of people would come to the site by train.

10.101 There are existing bus stops on the B8033 outside the site, around 500 metres from the site entrance, and to the south of the site near Lecropt Kirk. It was initially intended to route bus services into the development and provide bus stops within the site but, with the reduced number of houses proposed, parties now agree that the bus stops should be on the roadside as at present.

10.102 The TA records that these stops are serviced by eight current bus routes. However the evidence at the inquiry was that buses are infrequent during the day, with no service in the evenings or at weekends, and that services in the area are reducing, particularly in the evening. The appellant hopes that bus operators would increase the service if the development went ahead, but it does not appear that the operators have been approached to explore that possibility, so the likelihood of that occurring is unclear.

10.103 The proposal to provide or subsidise a shuttle bus from the stations, as part of the Green Travel Plan, could encourage people to travel by rail, but this option has not been costed and it is not known whether a shuttle bus service would be viable and would endure in the longer term.

10.104 For the above reasons, I conclude that the proposed development is likely to be predominantly dependent on the private car, and would not be conveniently accessed by walking, cycling and public transport. I therefore conclude that the proposals are contrary to the provisions of LDP Policy 3.1: Addressing the Travel Demands of New Development.

### **Sustainable development**

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<sup>260</sup> Appellant's grounds of appeal, paragraph 2.51

10.105 The LDP's overarching policy advises that development is required to conform with relevant sustainable development criteria (below):

1. Improve the overall quality of the built environment.
2. Contribute to reduction in greenhouse gas emissions, in line with or better than national targets, and encourage energy and heat efficiency, and the use of low and zero carbon power generation.
3. Reduce the need to travel and encourage active travel and other more sustainable travel and transport opportunities.
4. Support Zero Waste objectives, and minimise the life-cycle resource requirements.
5. Avoid areas at risk of flooding and erosion.
6. Protect and enhance the historic and cultural environments, and the natural environment (including biodiversity and landscape).
7. Minimise adverse impacts on water, air and soil quality.
8. Support healthy and safer lifestyles, by improving access to amenities, promoting access to open space and other recreation opportunities and by addressing environmental problems.
9. Involve re-use and/or regeneration of previously used land and property, including derelict and contaminated land, and the re-cycling of construction materials.
10. Make efficient use of existing and new infrastructure.

10.106 The proposed replacement LDP includes net economic benefit as an additional criterion, to accord with SPP. Compliance with the sustainability criteria in SPP is addressed at paragraphs 10.184-10.192 below.

10.107 In relation to the LDP sustainability criteria, there is no criticism of the design of the proposed sports complex buildings or the housing development, in which case the proposals would comply with criterion 1. The Design & Access Statement advises that energy efficient design would mitigate against climate change (criterion 2), and the Outline Drainage Strategy, which includes the provision of sustainable urban drainage, addresses the issue of flood risk (criterion 5). On the basis of the ES, and the responses of consultees, including SEPA, I am satisfied that the proposals would minimise any adverse impacts on water, air and soil quality (criterion 7). There is no reason why the development should not support zero waste objectives (criterion 4).

10.108 The proposal would take access from the existing A9, using the Keir roundabout, and would not require major new infrastructure (criterion 10).

10.109 The proposed tennis and golf centre, and associated facilities such as the 3G pitch and outdoor play area, together with the country park, cycle trails and footpaths, would draw strong support from criterion 8, as it would support healthy lifestyles, by improving access to amenities, promoting access to open space and other recreation opportunities. The country park would also gain support from Policy 1.3: Green Network and Open Space, insofar as they contributed to the green network and provided additional open space and improved footpaths.

10.110 However, the proposals would not re-use or regenerate previously used land and property, including derelict and contaminated land, as recommended in criterion 9. Although it would protect the historic and cultural environments, it would detract from the protected landscape at Park of Keir.

10.111 I have already concluded above that the proposed development would be predominantly dependent on the private car, and would not be conveniently accessed by walking, cycling and public transport. I therefore conclude that the proposals are not consistent with LDP sustainability criterion 3, which seeks to reduce the need to travel and encourage active travel and other more sustainable travel and transport opportunities.

10.112 I regard this as a serious deficiency of the proposals when judged against the LDP sustainability criteria and the overarching policy of the Plan.

### **Compliance with the development plan**

10.113 In summary I conclude that, whilst the appeal proposals draw significant support from LDP policies which seek to promote recreation and tourism and economic development, they 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.

10.114 Due to the landscape impact of the proposals and their dependency on the private car, I do not consider that the proposals are consistent with the vision, the spatial strategy or the overarching policy of the Plan, the LDP sustainability criteria or Primary Policy 2. The policy support for economic development and recreation and tourism development in the countryside is qualified by a requirement to demonstrate the need for a countryside location, a realistic choice of access, and to preserve the quality of the natural environment

10.115 Because of the scale and potential impact of the proposed development on the green belt and on a protected landscape, and the likelihood that it would be predominantly accessed by unsustainable modes of travel, I conclude that overall the proposals are not in conformity with the development plan. Despite the potential recreation, health, tourism and economic benefits of the proposed development, I conclude that it would be in the wrong location to comply with the key provisions I have identified above, even taking into account the previous planning permission for a hotel and golf course on the land.

10.116 I now require to consider whether the arguments in favour of the proposals outweigh the non-conformity with the development plan.

## **OTHER MATERIAL CONSIDERATIONS**

### **Benefits for sport and recreation**

10.117 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, in particular, which are not available in Scotland at present, and would create a multi-user complex which would house a variety of recreational activities on the same site. The integration of tennis and golf with the gym and other indoor facilities, together with the outdoor play area, footpaths, cycleways and country park would enable the development to cater for the various sporting needs of family members on one site. It would also contribute to the viability of the project by allowing some elements (e.g. golf and gym) to cross-subsidise others (e.g. tennis and country park).

10.118 The application is supported by the relevant national sporting bodies – the Lawn Tennis Association, Tennis Scotland, Scottish Golf and the Scottish Professional Golfers Association.

10.119 A key part of the ethos of the scheme is the commitment to encourage participation in sport at all levels, and to develop sporting talent.

10.120 The proposed development also gains general support from the aim in Stirling's Physical Activity and Sports Strategy for Stirling to be an inspiring place to be active, sporty and ambitious, and from the emphasis in the strategy on the contribution of physical activity and sport to health and wellbeing, the local economy and tourism. The proposals are also consistent with the integrated approach to planning and investment in sporting infrastructure commended in the strategy.

### Tennis

10.121 Tennis is the main driver for the proposed development, and the active involvement of Judy Murray is an important asset of the scheme. However, the pivotal role of Mrs Murray in the project might be seen as a potential weakness of the application if she had to withdraw from the project for any reason. Without her personal authority, vision, drive and commitment to the project there is an enhanced risk that the development, in its current form, would not be delivered.

10.122 The proposed tennis centre at Park of Keir would provide six indoor and six outdoor courts. The centre would have two main, related functions: to provide an enduring legacy to build on the outstanding success of Andy and Jamie Murray in world tennis; and to provide a community sports hub (along with golf and football) to increase grassroots participation. The proposals would be principally directed at grassroots tennis, but would also provide a venue which could cater for elite tennis players.

10.123 The local community sports hub would be aimed at providing high quality but affordable facilities on a pay and play basis. The focus would be on beginners, and the tennis centre would offer starter coaching to introduce new players of all ages to tennis. The centre would serve the wider Stirling area, including Falkirk, Linlithgow and Clackmannanshire.

10.124 The provision of indoor courts would enable year-round tennis, which would increase participation and hence the potential viability of the scheme, though they would be very expensive to build.

10.125 The outdoor hardcourts would be unique in Scotland, and would therefore be used for competitions and for training by top young players who currently have nowhere suitable to train for international tournaments.

10.126 Mrs Murray also envisages the tennis centre as a centre for training tennis coaches, trainers and others at all levels, through best practice coaching sessions, competitions, conferences and workshops. This, together with the proposed museum, would create a tangible legacy to the achievements of the Murray brothers in a development close to their home town.

10.127 Scotland as a whole is poorly served with high quality tennis facilities (notably indoor courts) when compared to the rest of the UK and other countries in Europe.

However, there are encouraging national indicators – Tennis Scotland membership has grown in recent years, and Sportscotland is committing substantial funds to provide new courts and resurface existing ones.

10.128 The existing level of provision varies across Scotland, and it can be argued that the Stirling area (including Dunblane and Bridge of Allan) is already well served with tennis courts, including indoor courts. There are nine tennis clubs and 59 tennis courts<sup>261</sup> within 15 miles of Park of Keir serving a population of around 100,000 (compared to 39 courts throughout the City of Glasgow). There are active clubs in Dunblane, Bridge of Allan, Stirling (two), Menstrie, Denny, Kippen and Dollar, and public courts at Bridge of Allan, Stirling and Stirling University.

10.129 Specifically, there are already 12 indoor courts in the area – six nearby at the Gannochy National Tennis Centre at Stirling University, four at Gleneagles, and two at Denny.

10.130 This does not suggest that the Stirling area is poorly provided with tennis courts relative to the rest of Scotland.

10.131 It is accepted that some of the outdoor courts in the area are underused or poor quality; others have restricted availability; coaching activity has reduced recently; and participation has declined markedly over the years. Nonetheless, there are 20 public courts within 15 miles and most clubs in the area offer pay and play and some element of coaching.

10.132 The facilities at the National Tennis Centre (only 3 miles from Park of Keir) and at Gleneagles Arena in particular are of a very high quality.

10.133 Although Tennis Scotland envisage that Park of Keir would feed new players into local clubs, I consider that there is also a risk that the availability of superior facilities at low cost would draw some members (especially 'social' players) away from existing tennis clubs in the area, to the detriment of those established community facilities.

10.134 I acknowledge that the proposed tennis centre would offer something which is not currently available in the area or, to my knowledge, elsewhere in Scotland. However, I am not persuaded that there is a compelling local need for a new tennis complex at Park of Keir, taking account of the existing level of provision in the area and the drawbacks of this location which I have already identified above. Nor am I convinced that a national centre to develop coaches, train elite players and host competitions would be best developed in a countryside location away from Scotland's main centres of population. I note in that regard that the appeal proposals do not form part of any published national strategy for tennis.

### Golf

10.135 The golfing element of the appeal proposals has evolved during the progress of the planning application and appeal. It would perform essentially a supporting role to the tennis centre, with which it would share some facilities and which it would help to subsidise.

10.136 The six hole pay and play format with large holes would appeal to beginners, but would be unlikely to attract experienced golfers, who would prefer to play on nine and 18

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<sup>261</sup> RAGE 008

hole courses in the area where they could compete and gain a handicap. I do not consider that the golf course would be in direct competition with the existing courses at Dunblane and Bridge of Allan. Indeed, it seems likely that some of those introduced to golf at Park of Keir would join local clubs in order to progress.

10.137 On a national level it is necessary to find new ways to attract newcomers to take up golf, if the declining numbers and ageing profile of club membership in Scotland are to be addressed. The proposed format, which enables players to learn the game on an easy course and on a pay and play basis, and to complete a round within an hour, would make it accessible to novices. The driving range and indoor and outdoor practice facilities would strengthen the appeal to beginners.

10.138 Although the large hole trainer course would be unusual in Scotland, the surrounding area is well served by golf courses and driving ranges. There are nine 18 hole golf courses, and six 9 hole courses within 15 miles of Park of Keir, including an 18 hole course at Dunblane and a nine hole course at Bridge of Allan.

10.139 All of the local clubs offer pay and play and practice facilities, and there are specific initiatives to encourage local golfers at Stirling University, Bridge of Allan Golf Club and Brucefield Family Golf Centre at Stirling (which includes a driving range with 30 floodlit bays). Bridge of Allan Golf Club in particular is heavily engaged in programmes aimed at young golfers and adult beginners.

10.140 I have no doubt that the proposed golfing facilities would help encourage people in the area, particularly young people, to take up golf, and that they could make a modest contribution to reversing the decline in golf club membership in Scotland. However, by its nature, I would expect this small, six-hole trainer course to have a mainly local rather than national catchment, and the evidence indicates that this area is already relatively well provided with golf courses and practice and coaching facilities.

10.141 Therefore I do not consider that any compelling local need has been established for the proposed six-hole course at Park of Keir, though I acknowledge the benefits of encouraging more people to take up golf, and I have to take account of the previous planning permission for an 18-hole golf course on the land.

#### Football

10.142 The appellant now intends to increase the size of the general multi-purpose all weather 3G pitch to a full 11 a side football pitch which could be used for training and matches by Dunblane Soccer Club, a thriving local sports club with eight 11 a side football teams.

10.143 However, as recently as August 2016 a new 3G football pitch was opened at Dunblane High School, which is now used by Dunblane Soccer Club at all age groups. Although the new pitch is already heavily used, I do not consider that the desire of the club to have access to a second 3G football pitch in the area amounts to a strong local need.

#### Country park

10.144 The intention to reserve 40 hectares of the site as a new community woodland/parkland, including a children's outdoor adventure park with picnic areas, is an important feature of the revised proposals. Existing footpaths would be upgraded and new footpaths created, and new structure planting would be carried out.

10.145 However, Park of Keir is already highly accessible on foot, with a network of footpaths which are well used and appreciated by residents of the neighbouring towns. I do not detect any appetite for the proposed changes on the part of existing users; nor is there a demand for additional structure planting, which would alter the balance between woodland and farmland within the protected landscape at Park of Keir.

10.146 The country park (together with the golf course) is intended to establish a more robust and permanent landscaped buffer which would prevent the coalescence of Dunblane and Bridge of Allan and protect their separate identities. It is proposed that the country park be managed and operated by a non-profit making community interest company (CIC) for the benefit of the nearby communities and the general public.

10.147 However, I am not convinced that it is necessary to develop a country park at Park of Keir to prevent its development, since the designation of the land between Dunblane and Bridge of Allan as green belt should secure the same objective.

### **Net economic benefit**

10.148 The appeal proposals would create employment and economic activity and promote recreation and tourism in the area. As such they are consistent with, and gain general support from, Scotland's Economic Strategy, Tourism Scotland 2020, Stirling's Economic Strategy and Destination Stirling Action Plan. The proposals could also meet Invest in Stirling's objective of attracting a four-star hotel to the area.

10.149 The proposals would attract new visitors to the area, and bring wider spin-off benefits to other attractions and businesses in the locality.

10.150 The economic impact assessment found that, at the construction phase, the proposed development would create 18.5 FTE jobs, a regional economic benefit of £7.6 million and a national economic benefit of £11.3 million.

10.151 When the development is in operation, it is predicted that it would generate 22 net additional jobs at the tennis/golf centre, 130 net additional jobs associated with the hotel, and a regional economic benefit of £4.7 million.

10.152 The introduction of 54 new residents is expected to bring further socio-economic benefits through tax revenue (£60,800 pa) and retail spending (£420,000 pa).

10.153 It can be seen that the substantial majority of long term jobs which are predicted to flow from this project would be in the 150-bedroom hotel. The calculation in the outline business case<sup>262</sup> assumes a four-star hotel, but the appellant accepts that only one job per three rooms might be expected if only a three-star hotel was secured. If planning permission in principle were granted for the current proposals, including a 150 bedroom hotel, there is no means of ensuring that it would be four star, as the market would determine what was achievable on the site.

10.154 I conclude that the net economic benefit of the proposals is an important factor in their favour, and that the economic benefit would be significant in a regional context.

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<sup>262</sup> POK08.03, paragraph 4.12

However, there is real uncertainty about the number of operational jobs which would be generated by the project, and hence whether the economic impact would be significant on a national scale.

### **Enabling housing development**

10.155 I have already concluded that there is no policy support in the development plan for allowing enabling housing development to subsidise new build development. Similarly, SPP makes no suggestion that there should be an allowance for enabling development in these circumstances. The only reference to enabling development in SPP is in the context of development to fund the restoration of listed buildings.

10.156 That means that this form of enabling development is not endorsed by SPP, but SPP is not comprehensive and it does not follow that a type of development which is not foreseen by SPP is necessarily contrary to it.

10.157 It is notable that other planning authorities in Scotland have policies which allow for enabling housing development to fund the start-up of new businesses in exceptional cases, where the benefits significantly outweigh the disadvantages of the development. Moreover, planning permissions have been granted in Angus and Aberdeenshire for developments where new build housing has been accepted to help fund sport and tourism related developments.

10.158 Although there is no such policy in the Stirling Council area, I consider that there might be circumstances where enabling housing development is acceptable to cross-fund a business proposal, as envisaged in paragraph 28 of PAN73.

### **Funding model**

10.159 The appellant submits that the enabling housing development is required in order to deliver the capital components of the scheme, procure further funding for the sports facilities, and thereby enable the facilities to be more affordable and accessible to all.

10.160 The delivery model aims to avoid any borrowing, to make sure that the sports facilities are debt free at the outset and the facilities are priced at a level that can be enjoyed by all. Any surplus would be reinvested in the venture.

10.161 The ability to provide high quality tennis and golf facilities at affordable prices would undoubtedly be a major potential benefit of this scheme. However, it is necessary to examine the funding model in order to consider whether this model is likely to be achievable and sustainable in the longer term. Elsewhere I consider whether the approach could be secured by planning conditions or a legal agreement.

10.162 The appellant's development viability appraisal<sup>263</sup> estimates the indicative construction costs at around £12.5 million, but expects that figure to be offset by equity and sports funding contributions of £8.5 million, leaving an 'enabling funding requirement' of around £4 million.

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<sup>263</sup> POK08.03, Table 6.1

10.163 Enabling funding is expected to come from the sale of the housing site (£4 million) and the hotel site (£1 million), and from debenture memberships (£900,000). Taking away 'historic costs (including land purchase cost)' of £1.9 million produces 'total enablement funding from housing' of £4 million.

10.164 I consider that certain of these figures need to be viewed with caution, especially when compared with the values contained in the previous version of the same table lodged in support of the original proposal which included enabling housing of 100 units.

10.165 Firstly, the basis for increasing the amount of money attributed to equity and sports funding contributions from £5 million (July 2014)<sup>264</sup> to £8.5 million (May 2015) is unclear. There is no suggestion that any funding pledges have been made at this stage, and there must be a high degree of uncertainty as to the amount of private and public funds that would be available for a project of this kind.

10.166 Where it agrees to fund sports facilities, Sportscotland<sup>265</sup> only covers 50% of costs directly associated to the provision of sports pitches or courts, and expects applicants to contribute 25% of the total project cost. The 25% reduces to 10% in 'areas of deprivation', which does not include Dunblane and Bridge of Allan.

10.167 Secondly, the latest appraisal relies on securing £0.9 million from the sale of debentures. The willingness of those buying houses at Park of Keir to make a debenture payment of £50,000 each is open to question. Debenture holders would enjoy free entry and preferential booking rights to the sports facilities at Park of Keir, but given the grassroots, affordable ethos of the complex that might appear to be a limited privilege.

10.168 Thirdly, the latest appraisal has deleted the allowance of £500,000 for construction inflation, which indicates that the funding requirement could be greater than now suggested.

10.169 More widely, it appears that the appellant has not fully explored alternative means of funding the sports facilities, including the potential benefits of charitable status, borrowing some of the money to fund the facilities, or incorporating a commercial element to help fund the project. Nor is there an assessment of the financial implications of developing the sports facilities without the housing development.

10.170 If housing was removed from the scheme, the cost of 'infrastructure and general externals' (almost £4 million) would reduce, and the £0.5 million planning gain contributions would no longer be required. The extent to which the 'historic land costs' of £1.9 million require to be paid as part of the calculation is debateable, since the land was bought at agricultural land value (£1.25 million) in 2010, in the knowledge that it lies in the green belt and that housing development had previously been rejected on the land.

10.171 I find 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. It is not clear what would happen if construction costs increase, funding bodies do not produce the anticipated level of support, or house purchasers decline to pay an extra £50,000 each for debenture memberships. In those circumstances the developer would have to consider whether to abandon the project, vary it, pare it back, or introduce a more

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<sup>264</sup> POK03.05, Table 6.1

<sup>265</sup> POK15.19

commercial element to the scheme. One option might be to seek to increase the number of houses on the site, to make up the funding shortfall.

10.172 Separately, there is an unresolved concern about the ongoing viability of the project. The appellant's amended business case appears to be founded on an unrealistically high level of patronage at the tennis centre and golf course. It assumes 60% usage of both facilities in year one, rising to 90% (270,000 visits per year) in year four. Little account is taken of the variable weather in the area, which would prevent or limit use of the outdoor facilities on many days in the year.

10.173 In the event that patronage was not as high as expected, there could be pressure to raise admission prices or even to relax the non-commercial ethos of the sports complex.

### **Alternative sites**

10.174 I have already concluded that the proposed development at Park of Keir is contrary to development plan policies which seek to protect the green belt and areas of special landscape, and direct new developments to more sustainable locations. I now need to consider whether there are still compelling reasons why it requires to be located at Park of Keir, and whether there might be suitable alternative sites which did not have the identified shortcomings of the appeal site.

10.175 I can well understand the appellant's desire to site a tennis and golf complex, which aims to build on the impressive sporting legacy of the Murray family, in or close to their home town of Dunblane. A Dunblane location would help to raise the profile of the development, and thereby attract people to the site to play tennis and golf and perhaps stay overnight in the hotel. However, there is no suitable site within the town which could accommodate a development of this type and scale.

10.176 Although the appellant considered various alternative sites in the Stirling area and elsewhere in central Scotland, they were ruled out for various reasons, including inadequate size. Ultimately the appellant decided that a site in Dunblane was essential to the success of the project.

10.177 I recognise the difficulty in identifying a suitable site to accommodate a mixed-use development of this scale and type, although the combined recreational space (including the golf course and football pitch) would occupy around 26 hectares of the 110 hectare appeal site.

10.178 Nonetheless I am not persuaded that an alternative site does not exist in the Stirling area or elsewhere in central Scotland to construct a tennis and golf centre in this vein which does not involve a major incursion into the green belt. By insisting on a Dunblane location at Park of Keir the appellant has selected a site in an unusually sensitive area of green belt which separates Bridge of Allan from Dunblane, and where there is a legal agreement restricting built development.

### **National planning policies**

10.179 Paragraph 49 of SPP states that the development plan may designate a green belt to support the spatial strategy by: directing development to the most appropriate locations

and supporting regeneration; protecting and enhancing the character, landscape setting and identity of the settlement; and protecting and providing access to open space.

10.180 For the reasons I have already given above, I have concluded that the appeal site is not the appropriate location for a development of this type and scale, and that the appeal proposals would detract from the landscape character and identity of the neighbouring towns of Dunblane and Bridge of Allan.

10.181 I have also concluded that Park of Keir is located in an accessible, pressured rural area where paragraph 76 of SPP indicates that it is important to protect against an unsustainable growth of car-based commuting and the suburbanisation of the countryside, and where paragraph 81 of SPP advises that a more restrictive approach to new housing development is appropriate.

10.182 As already stated above, the appeal proposals would create employment and economic activity and promote recreation and tourism in the area, in line with the Scottish Government's aim to increase sustainable economic growth which is referred to in paragraph 9 of SPP and outlined in the Government Economic Strategy.

10.183 Paragraph 33 of SPP states that where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

10.184 Paragraph 28 of SPP indicates that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. Paragraph 29 explains that this means that policies and decisions should be guided by a series of principles, which are discussed below.

10.185 As previously stated, the *net economic benefit* of the proposals is a significant point in their favour, and the proposals might be seen to *respond to economic issues, challenges and opportunities*.

10.186 The proposals would *support climate change mitigation and adaptation, including taking account of flood risk, and would support delivery of infrastructure, for example transport and education*.

10.187 Most importantly, they would *improve health and wellbeing by offering opportunities for sport and recreation*, in keeping with principle (h) of *the principles for sustainable and use set out in the Land Use Strategy*.

10.188 However, although the proposed development would *protect and promote access to the historic environment, and promote access to green infrastructure*, I have concluded that it would not *protect the landscape*. For the same reason it would conflict with principle (e) of the Land Use Strategy which advises that landscape change should be managed sympathetically, given the importance of Scotland's landscapes to our sense of identity and to our individual and social wellbeing.

10.189 The development would exhibit *good design*, but it would not *support the six qualities of successful places*. One of these qualities – *easy to move around and beyond* – aims to reduce reliance on private cars and to prioritise sustainable and active travel choices.

10.190 Although the *housing and leisure development* would be highly *accessible* by car, because of the out of town location and poor public transport links it would not be easily accessible by more sustainable modes of travel.

10.191 Whilst the proposals would avoid *over-development*, the extensive nature of the proposed development, including the extremely low density housing in the countryside, would not *make efficient use of land* or *support regeneration priorities*.

10.192 Overall I conclude that due to the failure of the appeal proposals to meet certain of the key sustainability principles set out in paragraph 29 of SPP, they do not qualify as development that contributes to sustainable development for the purposes of paragraph 33 of SPP.

### **Proposed conditions and legal agreement**

10.193 Most of the conditions discussed by the parties are uncontroversial and relate to matters such as the submission of further details, footpath links, flood risk assessment, maintenance of landscaped areas, new access junction, roads design, parking requirements, species protection plans, habitat management plan, and archaeological works. Amongst the important provisions are those limiting the number of houses and scale of the hotel building, and providing the off-road walking/cycle path.

10.194 However, I propose to add a new condition 1, to ensure that any consent accords with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.)

10.195 I see no need to require Network Rail to approve the arrangements in condition 3 (flood risk assessment); impose additional restrictions on the hotel development (condition 6); or require the new access junction to be completed before work commences (condition 12).

10.196 I consider that the appellant's revised suggestion for the timing of the 3G pitch and adventure park provision (condition 9) represents a reasonable compromise.

10.197 I accept that the previous requirement for bus stops within the development site (condition 14) is no longer applicable to the 19-house scheme now proposed.

10.198 Other conditions raise unresolved questions, some of which have implications for the decision on whether to grant planning permission for the proposed development.

#### **Condition 8 – timing of development**

10.199 The council wishes to ensure that the tennis and golf centre is completed before work starts on the housing element of the scheme. However, the appellant wants to be able to commence the first phase of 10 houses after entering a legally binding contract to construct the tennis and golf centre. Under the appellant's version of the condition the

tennis and golf centre would be completed before the second phase of nine houses is commenced.

10.200 I can understand the appellant's potential difficulty in attracting a buyer of the residential site if the overall development were subject to the council's phasing restriction, but I am not convinced that the appellant's alternative condition provides sufficient assurance that some of the houses could not be built without the tennis and golf centre going ahead. Given the sensitive green belt location of the site, I regard that as an unacceptable risk.

10.201 The contract, once signed, could be varied or rescinded with the agreement of the signatories, and circumstances could change in relation to the proposed funding and development of the tennis and golf centre – by which time the first phase of the housing development might be under way.

10.202 I therefore conclude that the council's version of condition 8 should be imposed in the event that planning permission in principle is granted for the proposals.

#### Condition 22 – debenture scheme

10.203 This additional condition, suggested by the appellant, states that no development shall commence until the details of the debenture scheme have been submitted to the planning authority in writing, and that the development shall thereafter be implemented in accordance with the submitted debenture scheme.

10.204 I am not persuaded that the requirement is meaningful, relevant to planning or enforceable. I appreciate that the appellant is seeking to tie the housing development to the sports and golf centre, but I do not consider that the condition would serve any planning purpose. The debenture scheme forms part of the appellant's proposed funding arrangement for the wider development, but there is no planning reason to impose a condition requiring such a scheme.

10.205 In its commentary on its suggested condition the appellant explained that there was no provision for any review or approval by the council of the terms of the debenture scheme, on the basis that these were commercial points rather than serving a planning purpose.

10.206 There would seem little purpose in submitting details of the scheme to the council unless the council were in a position to review and approve or reject the scheme, but even if the council's consent was required, it is not clear on what basis it could be withheld. I therefore conclude that this condition should not be imposed on any consent for the proposed development.

#### Condition 23 – business case

10.207 The appellant suggested this additional condition, which provides that no development shall commence until a detailed business case, including information on the funding package for the development and details of public charges for the use of sports facilities, has been submitted to the planning authority in writing. The development is then to be implemented in accordance with the submitted business case.

10.208 Once again, the appellant's condition contained no provision for any review or approval by the council of the terms of the detailed business case, for the same reason

given in condition 22 above, but I can see little value in the appellant lodging details of the detailed business case to the council unless the council is in a position to review and approve or reject it.

10.209 Once again, even if the council's consent was required, it is not clear on what basis it could be withheld, and given that the council has no control over the funding package, the charging regime or other aspects of the detailed business case, and no means of ensuring that they are enforced, this condition does not meet the tests in Circular 4/1998: The Use of Conditions in Planning Permissions that planning conditions should only be imposed where they are necessary, relevant to planning and enforceable.

10.210 The shortcomings of the suggested condition also highlight the difficulty in attempting to tie the grant of planning permission for the appeal proposals to the justification of the proposed development.

10.211 I conclude that this condition should not be attached to any permission granted for the development.

#### Section 75 agreement

10.212 There is no dispute that any planning permission in principle for the development should be subject to a legal agreement committing the appellant to make contributions to affordable housing and education provision in the area in line with the council's supplementary guidance.

10.213 The council's suggested provisions relating to walking and cycling are now to be addressed in planning conditions (see above).

10.214 For the same reasons as given in relation to condition 22 above, I do not consider that it would be necessary or appropriate to attempt to link the housing to the recreational facility by means of a payment in perpetuity.

#### **Overall conclusions**

10.215 In summary, I conclude that, whilst the appeal proposals draw significant support from LDP policies which seek to promote recreation and tourism and economic development, they 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.

10.216 I have concluded that overall the proposals are not in conformity with the development plan, due to the scale and potential impact of the proposed development on the green belt and on a protected landscape, and the likelihood that it would be predominantly accessed by unsustainable modes of travel.

10.217 In relation to the other material considerations, the proposed tennis and golf centre in particular would make an important contribution to the aim of increasing participation in both sports, and the complex would give a real boost to employment and tourism in the area. The sporting and economic benefits of the proposals are important factors in their favour.

10.218 However, I have found that 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, which could result in the need to change the scale or nature of the project if it were to go ahead. I am not persuaded that the tennis and golf centre require to be built on a site which involves such a major incursion into the green belt.

10.219 I have also concluded that the appeal proposals fail to meet key sustainability principles which are set out in Scottish Planning Policy, and that the site lies in an area where SPP expects a more restrictive approach to new housing development.

10.220 I therefore conclude that other material considerations do not override the proposals' failure to comply with important provisions of the development plan. Moreover, I do not consider that the proposals could be made acceptable by imposing planning conditions.

### **Recommendations**

10.221 Accordingly, I recommend that Scottish Ministers dismiss the appeal and refuse to grant planning permission in principle for the proposed development at Park of Keir.

10.222 However, if Ministers are minded to allow the appeal, I recommend that they grant planning permission subject to the conclusion of a section 75 agreement to secure education and affordable housing contributions in line with the provisions of Stirling Council's Supplementary Guidance SG15 and SG16 respectively, and subject to the conditions attached to this report at Appendix 2.

*Timothy Brian*  
Reporter

## CHAPTER 11: CLAIM FOR EXPENSES

11.1 In commenting on the council's response to the appeal, the appellant lodged an application for an award of expenses against the council in the following terms:

*"1. The introduction to SPP<sup>266</sup> states that 'all those involved with the [planning] system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland'.*

*2. Regrettably, in this instance the Council has acted in a manifestly unreasonable manner, specifically through their failure to:*

*2.1 Assess the Development as a whole against relevant development plan policies so that incomplete reasons for refusal are given in the Decision Notice [POK1.1] (reflected in the discussion at paragraph 9.10 – 9.12 of the Grounds of Appeal Statement and Section 6 above, particularly when comparing POK12.3 and POK15.5);*

*2.2 Assess the Development relative to the development plan without considering (a) whether the Development could be said to comply with the LDP notwithstanding it (allegedly) does not accord fully with all relevant policies (see discussion at paragraph 8.10 – 8.12 of the Grounds of Appeal Statement);*

*2.3 Assess the Development relative to the development without having adequate regard to other material considerations, in the event that the Development could be considered not to accord with the LDP (highlighted in Section 2 of the Grounds of Appeal Statement and paragraph 3.14 – 3.17 above); and*

*2.4 Apply relevant development plan policies and the policies of SPP consistently to the Park of Keir and Airthrey Kerse developments so that the reasons for refusal given by the Council in respect of the present Application/Appeal cannot be said to be reasonable grounds to refuse planning permission in principle (as per Section 3 above).*

*3. These actions on the part of the Council have harmed the Appellant, in terms of project time delay and appeal costs.*

*4. Therefore, as a matter of principle, the Appellant intimates a claim for an award of expenses against the Council.*

*5. An award of expenses should be made because the criteria in the Circular 6/1990 paragraph 5 [POK15.9] have been satisfied:*

*5.1 The Appellant has applied for the award before the proceedings have concluded;*

*5.2 The Council has acted unreasonably; and*

*5.3 This unreasonable conduct has caused the Appellant to incur unnecessary expense because it was unnecessary for the case to come before the Reporter for determination.*

*6. It is obvious from the Grounds of Appeal Statement and this Response that there has been the following unreasonable behaviour by the Council, all within the examples given in the Circular paragraph 7. (The Reporter is also directed to the cross references provided in paragraph 10.2 above):*

*6.1 Failing to give complete, precise and relevant reasons for refusal.*

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<sup>266</sup> POK13.13

6.2 *Reaching their decision without reasonable planning grounds for doing so.*  
6.3 *Refusing the Application solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations.*

7. *This unreasonable conduct has caused the Appellant to incur the unnecessary expense of pursuing the Appeal.*

8. *The award of expenses should clearly specify that the Council must pay the Appellant's entire costs incurred in dealing with this Appeal; that the costs should be assessed on an agent/client, client paying basis; and that Brodies LLP and John Handley Associates Ltd should be certified as experts for their input into the Appeal."*

11.2 In its response to the grounds of appeal, the council stated:

*"..the Panel Report clearly undertakes this exercise of balancing whether or not the proposed development complies with the relevant plan policies. The Council considered that the comprehensive package of the proposed development did not comply with the development plan as a whole yet, as outlined in the Panel Report, some aspects of the development could be supported contrary to policy due to the benefits that these aspects may bring to the area. It was considered that the housing aspect did not bring such benefits and the case for it being necessary and unique were not made to the extent that the Council could set aside the policies of the development plan. This exercise was therefore properly undertaken and the balance of policy was found to be against the granting of planning permission."*

### **Conclusions on claim for expenses**

11.3 In relation to the first criterion in paragraph 5 of Circular 6/1990, the appellant lodged the claim for expenses at the correct time.

11.4 In order to satisfy the second criterion, the council must have acted unreasonably. In the grounds of appeal the appellant argues that the council was wrong in breaking down the proposal into its component parts, and that instead the development as a whole should have been assessed against relevant policies.

11.5 I do not regard that as a fair criticism, as the report to the council's Planning & Regulation Panel, correctly in my view, considered the different elements of the proposals and the development in the round against the range of relevant policies. At some stage in the process the council was bound to disaggregate the proposals in order to explore fully the implications of the many aspects of the development. Equally, the council was obliged to consider the entire package of proposals against the provisions of the development plan. I am satisfied that the council did both.

11.6 I agree that the Panel report lacks a section which explicitly draws together the various policies and explains why the council has concluded that the proposals conflict with the development plan overall. Having decided that the proposals did not comply with the development plan, there is also a failure in the Panel report to consider whether other material considerations should prevail in this case, although many of those are set out in a different form elsewhere in the report.

11.7 However, from the information before me, I am not persuaded that the case at Airthrey Kerse is strictly comparable to, and therefore has the same policy implications as, the appeal proposals which represent a very unusual multi-use development on a particularly sensitive green belt site.

11.8 I conclude that, strictly, the council did act unreasonably in its failure in the Panel report to set out explicit conclusions on overall compliance with the development plan, and the balance between the development plan and other material considerations. I do consider, however, that the council was entitled to conclude that, due to the residential element of the development, the proposals were unacceptable overall.

11.9 I therefore conclude that the third criterion for an award of expenses is not met, because I do not accept that the council's unreasonable behaviour has caused the appellant the expense of an unnecessary appeal.

### **Recommendation**

11.10 Accordingly, I recommend that Scottish Ministers decline the appellant's application for an award of expenses against Stirling Council.

*Timothy Brian*  
Reporter

## **APPENDIX 1: LIST OF APPEARANCES**

### **For the appellant**

Neil Collar, Partner/Head of Planning Law, Brodies LLP called:

- Judy Murray, tennis coach and former GB Federation Cup captain
- Blane Dodds, Chairman of Tennis Scotland
- Eleanor Cannon, Chair of Scottish Golf
- David Dale, Chair of Dunblane Soccer Club
- Mark Kummerer, MKA Economics
- Alston Birnie, Property Consultant
- John Handley, Chartered Town Planning Consultant

### **For Stirling Council**

Mark McMurray, Senior Associate, CMS Cameron McKenna LLP called:

- Jane Brooks-Burnett, Senior Planning Officer, Stirling Council

### **For Dunblane and Bridge of Allan Community Councils**

David Prescott, Dunblane Community Council

### **For Arnbathie Developments Ltd**

Colin Innes, Partner, Planning and Environment, Shepherd and Wedderburn LLP called:

- Stuart MacGarvie, Chartered Town Planner

### **For RAGE**

Maurice O'Carroll, Advocate called:

- Mark Ruskell MSP, councillor for Dunblane and Bridge of Allan
- Ian Thomson, former Director of Sports Development, Stirling University
- Chris Whaley, President of Bridge of Allan Golf Club
- Malcolm Allan, former chair of Bridge of Allan Community Council
- Geoffrey Harris, chartered engineer

## APPENDIX 2: PROPOSED CONDITIONS

1. **Timescales:** 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 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.
2. **Application for Approval of Matters Specified in Conditions:** Prior to commencement of development on site, further applications for approval of matters specified in the conditions shall be submitted to and approved in writing by the Planning Authority; such further applications shall include the following details:
  - a) Drawings illustrating the layout of the site and position of all buildings including existing and proposed levels.
  - b) Drawings illustrating the design of each building, in accordance with the Design and Access Statement submitted with the planning application.
  - c) Foul and surface water drainage arrangements.
  - d) Floor plans, elevations, and sections of all proposed buildings.
  - e) Full details of the extent, surfacing, equipment to be provided and boundary treatment of the proposed tennis courts, the all-weather 3G multi-purpose pitch and children's adventure park.
  - f) Section drawings showing the proposed buildings in relation to the existing and proposed ground levels.
  - g) External facing materials.
  - h) Retention of existing landscaping and proposals for hard landscaping including boundary treatment and new planting.
  - i) All external lighting
  - j) An assessment of noise from the commercial/sporting facilities on existing and proposed Noise Sensitive Receptors (NSRs).
  - k) A tree survey in accordance with BS5837:2012.
  - l) Footpath links.

In the event that the development proceeds to be constructed in phases, it shall be competent for applications for the approval of matters specified in conditions to be submitted prior to the commencement of each phase in order to discharge this Condition 1.
3. **Flood Risk Assessment/SUDS:** In support of a further planning application, a flood risk assessment shall be provided that gives further consideration to surface water flood risk. These details shall show what mitigation measures are proposed to protect the development from any flood risk and how surface water runoff from the site will be discharged without risk to existing infrastructure. The surface water drainage system shall be designed to the requirements and satisfaction of SEPA, Scottish Water and Stirling Council, taking account of the sustainable urban drainage (SUDS) principles and in accordance with the guidance given in "SUDS for Roads". The SUDS strategy will include details of measures to be employed during the construction phase of the project.
4. **Maintenance of Landscaped areas:** Prior to the operation of the tennis and golf centre, a detailed statement illustrating the proposed provisions for the establishment and maintenance of all areas of landscaping (including all landscaped areas associated with the commercial aspects of the development, maintenance of the country park and open space facilities such as the pitch and adventure park), including identification of persons responsible for maintenance, and any phasing of works shall be submitted to and approved in writing by the Planning Authority. The landscape statement as approved shall require to be implemented within 24 months from the commencement of use of the tennis and golf facilities. If the development is to be constructed in phases, the landscape statement so far as applicable to each phase shall require to be implemented within 24

months of completion or commencement of use as appropriate of the relevant, corresponding phase.

5. **Distribution of uses:** Unless otherwise agreed in writing with the Planning Authority, the uses hereby approved in principle shall be distributed throughout the site only as identified on the site plan (Drawing No. sk-01, Rev L).
6. **Hotel building:** The hotel building hereby approved in principle shall have a maximum of 150 bedrooms and a maximum ridge height of 12 metres above existing ground levels, unless otherwise agreed in writing with the Planning Authority.
7. **Residential Development:** This permission in principle shall limit the number of residential units to a maximum of 19. The design of these units and plots shall conform to Section 12 (Residential Design Brief Principles) of the applicant's Design and Access Statement submitted as part of the planning application.
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.
9. **Timing of pitch and adventure park provision:** Within 12 months of the commencement of operation of the tennis and golf complex, an all-weather 3G multi-purpose pitch and children's adventure park shall be provided.
10. **Restriction on Construction Hours:** No machinery shall be operated, no activity carried out and no deliveries received at or despatched from within the site outwith the hours of 8.00am to 6.00pm Monday to Friday, and 9.00am to 1.00pm on Saturdays, nor at any time on Sundays; unless otherwise agreed in writing by the Planning Authority.
11. **Contamination:** The presence of any previously unsuspected or unencountered contamination that becomes evident during the development of the site shall be brought to the attention of the planning authority within one week. At this stage, a comprehensive contaminated land investigation shall be carried out if requested by the planning authority.
12. **A9/Site Access Junction:** The site will be accessed directly from the A9 via a junction with dedicated right turn lane located in a similar position to the previously consented access junction under Planning Ref. 08/00726/PPP. The layout shall comply with the design Manual for Roads and Bridges, The Traffic Signs Manual and incorporate kerbed pedestrian refuge islands and road lighting as appropriate. A pedestrian refuge island will be included on the main road. The final design shall include measures that help reduce vehicle speed on the approach to the new junction. The new junction shall be fully formed prior to occupation of any building.
13. **Roads Design:** The design and construction of all roads within the proposed development shall be in accordance with the requirements of this Authority's "Development Roads Guidelines and Specification", and incorporate the design guidance given in Designing Streets, and shall be offered for adoption upon satisfactory completion.
14. **Parking Requirements:** Parking requirements, including disabled spaces and cycle parking provision, shall be provided in accordance with Supplementary Guidance SG14: Ensuring a Choice of Access for New Developments.
15. **Waste Collection:** Waste collection provisions shall be in accordance with Proposed Supplementary Guidance SG19: Waste Management: Requirements for Development Sites.
16. **Travel Plan:** No part of the development shall be brought into use until a Travel Plan and Residential Travel Pack aimed at encouraging more sustainable means of travel, has been submitted and approved in writing with the Planning Authority. The Travel Plan and Residential Travel Pack will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review reporting and the duration of the plan. Once agreed the Travel Plan and Residential travel pack shall

be fully implemented concurrently with the opening of the premises to the public, and shall remain so unless agreed otherwise in writing by the Planning Authority.

17. **A Badger Species Protection Plan:** Prior to works commencing on site a badger species protection plan shall be submitted to and approved in writing by the Planning Authority. The scope of this plan shall be agreed in advance with the Planning Authority, in consultation with Scottish Natural Heritage.
18. **Bats Species Protection Plan:** Prior to works commencing on site a bats species protection plan shall be submitted to and approved in writing by the Planning Authority, in consultation with Scottish Natural Heritage.
19. **Red Squirrel protection:** All works at the site shall only proceed following the procedure set out within Chapter 4 (Ecology and Nature Conservation) of Volume 1 of the Environmental Statement at paragraph 4.7.4.
20. **Habitat Management Plan:** Prior to works commencing on site a Habitat Management Plan shall be submitted to and approved in writing by the Planning Authority. The scope of this plan shall be agreed in advance with the Planning Authority, in consultation with RSPB Scotland.
21. **Programme of Archaeological Works:** 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 Stirling Council Planning Officer (Archaeology), 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 Stirling Council Planning Officer (Archaeology). Such a programme of works could include some or all of the following historical research, excavation, post-excavation assessment and analysis, publication in an appropriate academic journal and archiving.
22. **Off-Road Walking/Cycle Path:** Prior to the commencement of use of the tennis and golf facilities, a 3 metre wide, off-road walking/cycle path shall require to be provided along the east side of the A9/B8033. The extent and route of the off-road walking/cycle path is marked by an orange, dotted line on the Amended Masterplan.

#### 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 that the overall layout, design, scale, drainage arrangements and noise levels respect the site and its setting as the present application is only for planning permission in principle.
3. To ensure that any risk of flooding occurring on or off the site has been fully considered.
4. To ensure that the scheme of landscaping for the proposed development is of a satisfactory standard relative to the functional requirements and visual amenity of the site and its setting in the locality as such information did not accompany the initial application.
5. Since critical aspects of the Environmental Statement, such as the landscape and visual assessment, the impact on the Scheduled Ancient Monument and ecology, which accompanied the application were based on the buildings being positioned in the locations indicated on the site plan.
6. Since the application was supported by a Transport Assessment and feasibility study based on a hotel of this size and the landscape and visual impact of the hotel was based on a building of this height.

7. In order to restrict the number of units to an absolute minimum required to support the overall recreational development and to ensure that the future design of the houses is coherent and respects the character of the rural area.
8. 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.
9. In order to ensure that the facilities presented by the applicant as part of the package of development are realised timeously.
10. To protect occupants of nearby housing from excessive noise/disturbance associated with the implementation of this permission.
11. To ensure all contamination within the site is dealt with.
12. To ensure that a satisfactory means of access is provided timeously.
13. To ensure that the roads within the development are suitably designed to meet their purpose.
14. To ensure that the development is served by an appropriate level of car parking provision.
15. To ensure that the appropriate waste collection receptacles are provided to serve the development.
16. To encourage the occupiers and users of the development to utilise more sustainable means of travel to and from the development.
17. To ensure that appropriate mitigation measures are in place to minimise the adverse impact of this development on badgers.
18. To ensure that appropriate mitigation measures are in place to minimise the adverse impact of this development on bats.
19. To ensure that appropriate mitigation measures are in place to minimise the adverse impact of this development on squirrels.
20. To minimise recreational disturbance and damage, maintaining connectivity of habitats, ensure appropriate habitats are created for tree pipit, grasshopper warbler and yellowhammer.
21. To safeguard and record the archaeological potential of the area.
22. To ensure that a satisfactory means of pedestrian and cycle access is provided timeously.

## APPENDIX 3: LISTS OF INQUIRY DOCUMENTS

### [List of documents on behalf of Park of Keir Partnership](#)

### [List of documents on behalf of RAGE](#)

### [List of documents on behalf of Stirling Council](#)

- Local Development Plan Main Issues Report
- Stirling Green Belt Landscape Study
- Stirling LDP Proposed Plan June 2016
- Stirling LDP Proposed Plan – Settlement Statements June 2016

### [List of documents on behalf of Dunblane Community Council](#)

- Tourism in Scotland Factsheet 2015
- VisitScotland Annual Report 2015
- RAIB report – April 2014

### [List of documents on behalf of Arnbathie Developments Ltd](#)

ADL 001 Original planning objection

ADL 002 Objection lodged to amended application

ADL 003 Inverclyde Council LDP – Supplementary Guidance on Enabling Development

#### **APPENDIX 4: ABBREVIATIONS USED IN REPORT**

|       |  |
|-------|--|
| 3G    | third generation (artificial turf)     |
| AOD   | above ordnance datum                   |
| CIC   | community interest company             |
| DCC   | Dunblane Community Council             |
| EIA   | Environmental Impact Assessment        |
| ES    | Environmental Statement                |
| HES   | Historic Environment Scotland          |
| IRR   | internal rate of return                |
| km    | kilometre                              |
| LDP   | local development plan                 |
| LIBOR | London Interbank Offered Rate          |
| LLA   | local landscape area                   |
| LTA   | Lawn Tennis Association                |
| LVIA  | landscape and visual impact assessment |
| NTC   | National Tennis Centre                 |
| OBC   | outline business case                  |
| PAN   | Planning Advice Note                   |
| PGA   | Professional Golfers' Association      |
| PPP   | planning permission in principle       |
| RAGE  | Residents Against Green Belt Erosion   |
| SAC   | Special Area of Conservation           |
| SEPA  | Scottish Environment Protection Agency |
| SG    | supplementary guidance                 |
| SNH   | Scottish Natural Heritage              |
| SPP   | Scottish Planning Policy               |
| SSSI  | site of special scientific interest    |
| TA    | transport assessment                   |
| VP    | viewpoint                              |