

# **PERTH AND KINROSS COUNCIL**

## **Environment & Infrastructure Committee**

**15 May 2019**

### **LAND REFORM (SCOTLAND) ACT 2003 PROPOSED SECTION 11 EXEMPTION ORDER: 2019 SOLHEIM CUP**

#### **Report by the Depute Director (Housing & Environment) (Report No. 19/138)**

This report recommends approval of a Section 11 Exemption Order, to facilitate the 2019 Solheim Cup at the PGA Gleneagles Hotel.

This is to provide for public safety and security prior to, and during, the Solheim Cup for 23 days between 26 August 2019 and 16 September 2019.

## **1. BACKGROUND**

- 1.1 The Land Reform (Scotland) Act 2003 created a Statutory Right of Responsible Access to most land and inland water in Scotland. Under Section 13 of the 2003 Act, a specific duty is placed on the Council to uphold these access rights. Section 11 of the 2003 Act provides a mechanism whereby land may be exempted from access rights. These exemptions are for two periods, namely:
- short term exemptions (for up to 6 days). These are relatively straightforward. The power to do this has been delegated to officers and many short term exemptions have been granted, in the interests of safety and security, such as for forest stage car rallies on Forestry Commission land.
  - applications for longer term exemptions (6 or more days up to a maximum of 2 years) are subject to public consultation and are confirmed, not by the local authority, but by the Scottish Ministers. Such applications can raise more difficult issues and require careful consideration.
- 1.2 In interpreting and implementing the Act, the Council is required, by virtue of Section 27(3) of the 2003 Act, to have regard to the provisions of the Guidance for Local Authorities and National Park Authorities on this part of the Act. In terms of the Guidance, exemptions under Section 11 should, in general, be limited to the following purposes:
- to allow a charge to be levied for admission to a particular event,
  - in the interests of safety and security,
  - to ensure the protection of privacy, where the provisions of Section 6 (land over which access rights are not exercisable) are not deemed sufficient in individual circumstances, and the local authority considers the exclusion necessary.

- 1.3 The Guidance also suggests that, with regard to longer term exemptions, a degree of discretion is available to treat applications on an individual basis, weighing such issues as:
- the threat of responsible access to the viability of the enterprise;
  - the importance of the enterprise to the local economy; and
  - the loss to the public of excluding the land from access rights.
- 1.4 The Guidance makes it clear that exemption orders for longer term exclusions should be used sparingly, applied to the minimum area and for the minimum period necessary.
- 1.5 The Act requires that, for longer term exemptions, the local authority should consult the landowner(s), the local access forum and such other persons as they think appropriate, and give public notice of the intended purpose and effect of the proposed order.
- 1.6 The 2003 Act does not provide a specific mechanism for appeals in the event that the local authority refuses an application for an exemption order.
- 1.7 The Land Reform (Scotland) Act 2003 (Modification) Order 2013/356 permits exemption orders to be made in respect of core paths, as well as other access land.
- 1.8 The Solheim Cup is to be held at the PGA Centenary Course at the Gleneagles Hotel between 9 and 15 September 2019 (16 September has been included in the application as a contingency day). It is a biennial contest between the top women professional players from Europe and the USA. The Solheim Cup is the most significant event in women's golf, and one of the most prestigious women's sporting events in the world.
- 1.9 The event will be televised to a worldwide audience by more than 40 broadcasters. Globally, the TV coverage will reach over 600 million people. More than 100,000 spectators are expected to converge on Gleneagles over the course of the event, including people whose public profile or status may require additional security.
- 1.10 The Solheim Cup's event management contractor, IMG, submitted an application on 15 January 2019 (Appendix 1). This requested exemption from access rights, for the land on which the competition will be played (and certain surrounding areas) (see plan at Appendix 2).
- 1.11 The application includes a number of core paths detailed on the plan in Appendix 3. Rights of Way are to be closed under separate legislation, which do not require Committee approval.
- 1.12 The reason for requesting exemption for certain areas of land out with the Gleneagles Hotel's grounds requires some clarification. These are areas adjacent to the event site which Solheim Cup's security advisors consider could be used by unauthorised individuals to seek to gain access to the site.

Temporary suspension of public access rights makes it easier for security personnel to limit access to authorised personnel only.

- 1.13 Further information was submitted by the event organisers in the form of a short report entitled 'Core Paths Summary Notes' (see Appendix 3). This details the reasons and dates for the requested exemption from access rights, the event footprint and the core paths included.
- 1.14 The application is, therefore, seeking that the PGA Centenary Golf Course be exempted from access rights for a period of 23 days, between 26 August 2019 and 16 September 2019 with a similar exemption being applied to the identified surrounding areas between 9 and 16 September (the map in Appendix 3 colour codes these areas). This is on the grounds of safety and security, and to allow an admission charge to be made.
- 1.15 A council officer attended a meeting of the Perth and Kinross Outdoor Access Forum on 21 February 2019 and provided a briefing on the proposed Exemption Order, the likely area to be covered, and the time frame involved.
- 1.16 The Proposed Exemption Order was advertised by means of a Notice in the Perthshire edition of The Courier on Monday 18 March 2019, and notices were displayed on site during the consultation period. Copies of the Proposed Notice and Plan were sent to interested parties in line with Section 11(2) (a) of the 2003 Act.
- 1.17 In addition, copies of the Proposed Notice and Plan were lodged at the Council Offices in Pullar House Perth, 2 High Street Perth and Auchterarder Library. They were also posted on the Council's website (with links from Access and Solheim Cup/residents pages) on Monday 18 March 2019.
- 1.18 The formal consultation period ran for 5 weeks from the date of publication of the Notice in The Courier until 22 April 2019.
- 1.19 A list of those directly consulted in terms of Section 11.2(a) is shown in Appendix 4.
- 1.20 No representations or objections were received during the consultation period.

## **2. PROPOSALS**

- 2.1 The Applicant's Supporting Statement cites reasons of public safety and security for seeking the access restrictions before, and during, the event and to allow an admission charge to be made.
- 2.2 It is acknowledged that the level of public access within the site is normally quite high, particularly along the core paths (in this case following existing rights of way). However, there are other local paths. In addition, given there were no objections from the general public, this indicates that people acknowledge the status of this one-off event and the potential benefits which

will accrue from it, and are prepared to accept some inconvenience for a limited period of time.

- 2.3 It is also acknowledged that protection of the event site by allowing exemption of certain surrounding areas from public access prior to the event is necessary, given the advice from Solheim Cup's security advisors and the dynamic nature of overall threat levels.
- 2.4 It is proposed that the application for the Exemption Order be approved in line with the Guidance mentioned in point 1.2 above.

### 3. CONCLUSION AND RECOMMENDATIONS

- 3.1 The Solheim Cup is an internationally significant event which involves a considerable period of planning to ensure its safe and successful delivery.
- 3.2 It is recommended that the Committee:
- (i) approves the application to exempt the areas shown on the plan in Appendix 2 from the right of responsible access during the times detailed in the application for reasons of safety and security, and to allow a charge to be made for admission to the event
  - (ii) agrees that the application, together with supporting information, should be submitted to the Scottish Ministers for confirmation.

#### Author

Name	Designation	Contact Details
Jim Dixon	Project Officer	<a href="mailto:HECommitteeReports@pkc.gov.uk">HECommitteeReports@pkc.gov.uk</a> 01738 475000

#### Approved

Name	Designation	Date
Keith McNamara	Depute Director (Housing & Environment)	4 April 2019

If you or someone you know would like a copy of this document in another language or format, (on occasion, only a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000.

You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan / Single Outcome Agreement	Y
Corporate Plan	Y
<b>Resource Implications</b>	<b>N</b>
Financial	N
Workforce	N
Asset Management (land, property, IST)	N
<b>Assessments</b>	<b>N</b>
Equality Impact Assessment	N
Strategic Environmental Assessment	N
Sustainability (community, economic, environmental)	N
Legal and Governance	Y
Risk	Y
<b>Consultation</b>	<b>Y</b>
Internal	Y
External	Y
<b>Communication</b>	<b>Y</b>
Communications Plan	Y

### 1. Strategic Implications

#### Community Plan / Single Outcome Agreement

- 1.1 The proposals relate to the delivery of the Perth and Kinross Community Plan /Single Outcome Agreement in terms of the following priorities:
- (i) Promoting a prosperous, inclusive and sustainable economy
  - (ii) Creating a safe and sustainable place for future generations

#### Corporate Plan

- 1.2 The proposals relate to the achievement of the Council's Corporate Plan Priorities:
- (iii) Promoting a prosperous, inclusive and sustainable economy;
  - (ii) Creating a safe and sustainable place for future generations.

### 2. Resource Implications

#### Financial

- 2.1 There are no financial implications arising from this report.

### Workforce

- 2.2 There are no workforce implications arising from this report.

### Asset Management (land, property, IT)

- 2.3 There are no asset management issues arising from this report.

## **3. Assessments**

- 3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties.

- 3.2 This section should reflect that the proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

- (i) Assessed as **not relevant** for the purposes of EqIA

### Strategic Environmental Assessment

- 3.3 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. No further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

### Sustainability

- 3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions. These specific proposals have no impact on sustainability due to their temporary nature.

### Legal and Governance

- 3.5 The Head of Legal and Governance has been consulted on these proposals.

### Risk

- 3.6 There is a significant risk to the Solheim Cup if the Exemption is not granted, as it could compromise the safety and security of the event.

#### **4. Consultation**

##### Internal

- 4.1 The Head of Legal and Governance has been consulted on these proposals.

##### External

- 4.2 Police Scotland were consulted in the preparation of this report. They have no objections to the proposals. A list of consultees is provided in Appendix 4.

#### **5. Communication**

- 5.1 If the Exemption Order is approved by Scottish Ministers, the Council will publicise this in the local press, and also feature the details of the Exemption in the Solheim Cup section of its website.

#### **2. BACKGROUND PAPERS**

- 2.1 None

#### **3. APPENDICES**

- |     |            |                                                           |
|-----|------------|-----------------------------------------------------------|
| 3.1 | Appendix 1 | Application for An Order of Exemption                     |
| 3.2 | Appendix 2 | Applicant's Supporting Statement                          |
| 3.3 | Appendix 3 | The Proposed Notice, Order and Plan                       |
| 3.4 | Appendix 4 | A list of those consulted directly under Section 11(2)(a) |