

From: [Foi Enquiries](#)
To: [REDACTED]
Subject: EIR-18-0322 - Kingsford Stadium
Date: 15 March 2018 11:20:50
Attachments: [Further Information - Right to Review & Appeal.pdf](#)
[EIR-18-0322 - Text from draft report already published.pdf](#)

Dear [REDACTED]

Thank you for your information request of 19 February 2018. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

A) A copy of the initial final Report and Recommendation for Planning Application 170021 which, according to Standing Orders 2017 (9.1), should have been made available to elected members on Tuesday 3rd October 2017 to give five clear days prior to the meeting of the full Council on the 11th October 2017.

Whilst it had previously been intended to refer the application to the Council meeting in October 2017, no report was ever completed or published for the October meeting. The agenda for the Council meeting was published (on the ACC website and available to both Councillors and members of the public) on 3rd October 2017. Because the relevant report had not been completed in time for publication of the agenda for the Council meeting, it was anticipated that the Director of Communities, Housing and Infrastructure would be required to submit a 'Late Docquet' to the Clerk explaining why the report would be late and why it should be considered. The submission of late reports in this manner is provided for by standing orders. Ultimately, however, the application was withdrawn from the agenda at the applicants' request, prior to the completion of a report.

The Officers' report on the application in question was presented to members as part of the agenda pack for the Special Council Meeting of 29 January 2018 and can be found here:

<https://committees.aberdeencity.gov.uk/mgChooseDocPack.aspx?ID=6092>

Areas within the draft report which officers had worked on in anticipation of referral to the October 2017 meeting were extensively re-worked over time, reflecting the additional supporting information submitted by the applicant and the further representations and consultee responses received in the intervening period, as well as the holding of a second pre-determination hearing, to become the final report published ahead of the 29 January 2018 Special Council Meeting.

A number of sections from the draft report were included in the report presented at the Pre-Determination Hearing on 13 September 2017 and in the final report presented at the Special Council Meeting of 29 January 2018. These sections are available on our website. Please see attached a document which lists the published parts that make up elements from the draft report, including links to where the reports are published.

As **Sections of the draft report** is otherwise accessible on our website at the links and details provided in the attached document, it is exempt from disclosure. In order to comply with its obligations under the terms of Regulation 13 of the EIRs, ACC hereby gives notice that we are refusing your request under the terms of Regulation 6(1)(b) - Information Already Publicly Available - of the EIRs.

Unfortunately, there are some areas of the draft report that cannot be released into the public domain. This is because we consider them to be excepted from release under Regulation 10(4)(e) of the Environmental Information (Scotland) Regulations 2004. Sections from the earlier draft report are considered to represent 'internal communications' between officers.

In making this decision ACC considered the following points:

Is the information requested an internal communication?

Yes, the information requested is an internal communication, being an internal exchange of a draft report between officers for the purposes of discussion, comment and refinement.

Under our duty to advise and assist, we have provided information on elements of the draft report which were previously or have subsequently been published and are available on our website. Please see our response above and the attached document for more details.

What are the public interest arguments?

In applying the public interest test, it is recognised that there is likely to be a public interest in the report being released on the basis of transparency in decision-making. Nevertheless, it must be recognised that any earlier draft versions of this report are incomplete and based on an earlier point in time, prior to the submission of further supporting information and associated consultation and representation (including the second Pre-determination hearing). These factors mean that the benefit to the public from releasing such draft reports is much reduced. The Planning Authority should be permitted to make professional decisions freely and frankly and Planning Officers should be permitted to make professional recommendations freely and frankly based on the information on hand at the time. Disclosure of draft reports could harm the ability of the planning authority to apply its judgement freely, and officers are likely to refrain from producing draft reports for internal consultation if they believe that these will be made public at a later date. It is in the public interest to ensure that the planning authority can produce high quality reports effectively. It is also in the public interest that reports are correct and accurate. In conclusion, it is considered that the public interest in publishing internal communications such as draft reports is outweighed by the greater interest in non-disclosure.

As such, we consider that elements of the draft report are excepted from release under Regulation 10(4)(e) – Internal Communications - of the Environmental Information (Scotland) Regulations 2004.

We would like to advise you that a significant amount of information regarding the Kingsford Stadium is published on our website, through our planning application portal which can be found here:

<https://publicaccess.aberdeencity.gov.uk/online-applications/>

The Kingsford Stadium application can be found by searching for 'Kingsford'.

We have also responded to previous requests for information regarding Kingsford Stadium which may be of interest to you. These can be found on our Disclosure Log:

FOI-17-0545 – Kingsford Stadium:

<https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/FOI-17-0545%20-%20Kingsford%20Stadium.pdf>

EIR-17-0748 – Kingsford Stadium:

<https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/EIR-17-0748%20-%20Kingsford%20Stadium.pdf>

EIR-17-0846 – Kingsford Stadium:

https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/2018-02/EIR_17_0846_KingsfordStadium_Redacted.pdf

EIR-17-1428 – Kingsford Stadium:

https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/2018-01/EIR_17_1428_KingsfordStadium.pdf

EIR-17-1440 – Kingsford Stadium

https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/2018-02/EIR_17_1440_KingsfordStadium_Redacted.pdf

EIR-17-1877 – Kingsford Stadium Funding

https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/2018-01/EIR_17_1877_KingsfordStadiumFunding_Redacted.pdf

B) A copy of the responses to the initial draft of the Report and Recommendation (in A above) from the following:

- Clerk,
- Head of Finance,
- Head of Legal and Democratic Services and
- others who were invited to comment on the initial draft as per Standing Orders 2017 (Sections 12.2 and 12.3)

Aberdeen City Council's established practice has been to not circulate reports by officers in draft form to those listed at section 12 of the Standing Orders where that report relates to a planning application which is to be considered on a quasi-judicial basis.

On that basis, we can advise that the information sought by this request is not held by Aberdeen City Council.

ACC is unable to provide you with information on **the responses to the initial draft of the Report and Recommendation (in A above) from the following: Clerk, Head of Finance, Head of Legal and Democratic Services and others who were invited to comment on the initial draft as per Standing Orders 2017 (Sections 12.2 and 12.3)** as it is not held by the Council. In order to comply with its obligations under the terms of Regulation 10(4)(a) - Information Not Held - of the EIRs, ACC hereby gives notice that this information is not held by it. ACC is required by Regulation 10(1)(b) of the EIRs to inform you as to why in all the circumstances of the case, the public interest in maintaining this exception outweighs the public interest in disclosing this information to you. ACC is satisfied that it does not hold this information and considers that, as

there is no information held, the public interest lies with the exception.

C) The date that AFC, and/or its representatives, was made aware, and by whom, of the content of the initial final Report and Recommendation (in A above).

An informal meeting was held between Angela Scott (ACC Chief Executive), Eric Owens (Interim Head of Planning and Sustainable Development) and representatives of Aberdeen Football Club at Burness Paull LLP offices in Aberdeen from 10.30am on 3rd October 2017. No agenda was produced and no minutes were taken.

The purpose of the meeting was to inform the applicants of the status of the application in the lead up to the publication of the report. It was noted that the report was still in the process of drafting, including legal review so the discussion was undertaken on that basis.

Matters discussed covered the broad information submitted and assessed by the Planning Authority as part of the assessment process and the drafting of the report. The draft recommendations of the Planning Authority also were discussed with it being confirmed that these were still to be finalised. After the meeting a number of telephone discussions took place with the above, which led to legal advice being sought on the matters raised.

A statement was released by Aberdeen City Council on 5th October, as follows:

"We can confirm that item 9(h), in relation to the application for planning consent for proposed community and sports facilities at West Kingsford, has been withdrawn from the agenda for the meeting of Full Council on 11 October 2017 at the request of the applicant, Aberdeen Football Club.

"Having regard to the nature of the application and the associated complexities, and in light of the public interest, the Planning Authority has acceded to the request on this occasion.

"The request has been made to enable the applicant to seek further discussions and clarification to take place with the Planning Authority. If necessary, further planning consultation will follow."

This statement reflects that the withdrawal from the Council agenda was at the applicants' request. The statement can be found at the following address:

<https://news.aberdeencity.gov.uk/statement-for-kingsford-proposal-withdrawn-from-agenda/>

D) The date that planning application 170021 was pulled from the agenda for the meeting of the full Council on 11th October 2017.

Burness Paull LLP, in their role as AFC's appointed agents, wrote to Eric Owens, Interim Head of Planning and Sustainable Development, on the evening of 4th October to request that the application be removed from the agenda for the Full Council meeting of 11th October. The statement released by Aberdeen City Council on 5th October confirmed that this item would be withdrawn from the agenda per the applicants' request.

E) A copy of the responses to the final draft of the final Report and Recommendation for Planning Application 170021 which was submitted for determination at the meeting of the full Council on 29th January 2018.

- **Clerk,**
- **Head of Finance,**
- **Head of Legal and Democratic Services and**
- **others who were invited to comment on the initial draft as per Standing Orders 2017**

(Sections 12.2 and 12.3)

Aberdeen City Council's established practice has been to not circulate reports by officers in draft form to those listed at section 12 of the Standing Orders where that report relates to a planning application which is to be considered on a quasi-judicial basis.

On that basis, we can advise that the information sought by this request is not held by Aberdeen City Council.

ACC is unable to provide you with information on **the responses to the final draft of the final Report and Recommendation for Planning Application 170021 which was submitted for determination at the meeting of the full Council on 29th January 2018: Clerk, Head of Finance, Head of Legal and Democratic Services and others who were invited to comment on the initial draft as per Standing Orders 2017 (Sections 12.2 and 12.3)** as it is not held by the Council. In order to comply with its obligations under the terms of Regulation 10(4)(a) - Information Not Held - of the EIRs, ACC hereby gives notice that this information is not held by it. ACC is required by Regulation 10(1)(b) of the EIRs to inform you as to why in all the circumstances of the case, the public interest in maintaining this exception outweighs the public interest in disclosing this information to you. ACC is satisfied that it does not hold this information and considers that, as there is no information held, the public interest lies with the exception.

We hope this helps with your request.

Yours sincerely,

Grant Webster
Information Compliance Officer

INFORMATION ABOUT THE HANDLING OF YOUR REQUEST

As the information which you requested is environmental information, as defined under Regulation 2(1) of the Environmental Information (Scotland) Regulations 2004 (the EIRs), ACC considered that it was exempt from release through FOISA, and must therefore give you notice that we are refusing your request under Section 39(2) of FOISA (Freedom of Information (Scotland) Act 2002). However, you have a separate right to access the information which you have requested under Regulation 5 of the EIRs, under which ACC has handled your request. Please refer to the attached PDF for more information about your rights under the EIRs.

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*03000 numbers are free to call if you have 'free minutes' included in your mobile call plan.
Calls from BT landlines will be charged at the local call rate of 10.24p per minute (the same as 01224s).

www.aberdeencity.gov.uk

Already published info contained within Draft Report (Oct)

From report to Special Council meeting 29th Jan

<https://committees.aberdeencity.gov.uk/mgChooseDocPack.aspx?ID=6092>

Please use the link above and then select 'Public Reports Pack' or copy and paste the link below into your browser.

<https://committees.aberdeencity.gov.uk/documents/g6092/Public%20reports%20pack%2029th-Jan-2018%2010.30%20Council.pdf?T=10>

The report starts on page 5 of the agenda. Below are the sections which are in the draft report and published as part of the final report:

2. Application Background (pg.6-pg.7)

4.2-4.4 (pg.17-pg.19)

4.6-4.7 (pg.21-pg.22)

4.10 (pg.24)

4.12-4.13 (pg.25-pg.26)

4.15 (pg.27-pg.29)

4.17-4.28 (pg.31-pg.36)

5.10 (pg.44-pg.45)

6. 'Development Plan' section. (pg.45-pg.50)

7.1 (pg.50)

7.2-7.5 (pg.50-pg.54)

8. Environmental Statement (pg.54-pg.62)

9.9-9.16 (pg.64-pg.65)

9.21-9.30 (pg.66-pg.67)

9.31-9.32 (pg.67)

9.33-9.40 (pg.67-pg.69)

9.44 (pg.70)

9.109-9.112 (pg.85-pg.86)

9.123-9.140 (pg.89-pg.92)

9.142-9.151 (pg.92-pg.95)

9.153-9.156 (pg.95-pg.96)

9.173-9.178 (pg.100-pg.102)

9.181-9.184 (pg.103)

9.186-9.199 as per draft (pg.103-pg.105)

9.207-9.212 as per draft (pg.107-pg.108)

From report to Pre-Determination Hearing on 13th Sept 2017 (PDH1)

<https://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=348&MId=5831&Ver=4>

Please use the link above and then select 'Agenda Reports Pack' or copy and paste the link below into your browser.

<https://committees.aberdeencity.gov.uk/documents/g5831/Public%20reports%20pack%2013th-Sep-2017%2009.30%20Planning%20Development%20Management%20Committee.pdf?T=10>

The report starts on page 3 of the agenda. Below are the sections which are in the draft report and published as part of the Pre-Determination Hearing report:

'Application Description' section (pages 5-9 of PDH1 report)

ACC Roads Development Management consultation summary (pages 9-12 of PDH1 report)

ACC Economic Development consultation summary (pages 14-15 of PDH1 report)

Aberdeen City/Shire Developer Obligations Team consultation summary (p15 of PDH1 report)

SDPA consultation summary (p15-16 of PDH1 report)

Aberdeenshire Council consultation summary (p16-17 of PDH1 report)

Kingswells CC (p17-18 of PDH1 report)

Westhill and Elrick CC (p20-21 of PDH1 report)

'Representations' section, including totals and list of matters raised (p25-30 of PDH 1 report)