



RSB WS/5 Planning Policy and Guidance

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Notification of Applications) (Scotland) Direction 2007

**Outline Planning Permission for Golf Course and Resort Development on land at
Menie House, Balmedie, Aberdeen**

PUBLIC LOCAL INQUIRY: Ref CIN/ABS/001

WRITTEN SUBMISSION

of the

RSPB Scotland

Scottish Wildlife Trust

Botanical Society of the British Isles

PLANNING POLICY AND GUIDANCE

Introduction

1. The purpose of this submission is to inform the Inquiry of the current position of the RSPB / SWT / BSBI in respect of the application of planning policy and guidance relevant to the application.
2. The RSPB / SWT / BSBI have not been invited to draw up an agreed statement, with the Council or the applicants, in respect of policy. In order to assist the Inquiry and because the Reporters wish to deal with national policy and guidance by way of written submissions, we have considered how best to submit our views in respect of the whole planning policy framework. We have chosen to include in a written statement national planning policy (as suggested by the Reporters at the pre-inquiry meeting) and our position on structure and local plan policy. Wider policy issues on sustainable development and biodiversity planning are addressed in the precognition of Mr. Hughes.

Statement by Aberdeenshire Council's Head of Planning Policy and Environment

3. We refer to the consultation response from the Council's Planning Policy and Environment Service (RSB 68). There is a Statement by the Head of Planning Policy and Environment that indicates, in the introduction, the basis of the team's advice. It is to assist the Development Management Section and the Director of Planning and Environmental Services to produce a recommendation. There is no attempt in the consultation response to weigh the advantages and disadvantages of the proposal, but to set out an assessment of the proposal against the planning policy framework. Whilst different weight may be attached to the different considerations, by different parties, the analysis, by the Head of Planning Policy, of the compliance of the proposals with the various parts of the framework is a helpful approach in the context of the Inquiry.
4. The report's Appendix 1 appears to be comprehensive of all relevant structure plan and local plan policy, although the Council now argues that policies 7, 8, 9 and 10 of NEST and HOU1 and HOU2 of ALP, are relevant in terms of housing marketing. The Appendix also refers to the main relevant SPP and NPPG. It deals with economic development and tourism, open market housing, transportation and infrastructure, natural, built and cultural heritage and public access. The document does not appear to be dated but presumably predates the first report to Committee, and is deposited

on the Council's web site under the date of 10th September 2007. Since then, a revised golf course layout has been submitted but, in our opinion, this does not significantly reduce the harm to the natural environment and reassessment of the proposal against the policy framework would be the same.

The position of the RSPB / SWT / BSBI with regard to that statement

5. The RSPB / SWT / BSBI have considered the policy analysis in Appendix 1 of the Council's document and, subject to two caveats, generally concur with it.
6. Our first caveat relates to the section dealing with the SSSI (second paragraph under the sub-heading of 'Natural Heritage'). We feel that this paragraph does not fully draw out and explore the tests in NPPG 14, policy 19 of NEST and policy Env/2 of the Aberdeenshire Local Plan. The Structure Plan and the Local Plan both reiterate the policy tests in NPPG 14, that is: Development which would affect a designated area of national importance should only be permitted where:
 - a. the objectives of designation and the overall integrity of the area will not be compromised; or
 - b. any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.
7. Notably, the Aberdeenshire Local Plan was adopted after the publication of NPPG 14 (1999) and the approval of the Structure Plan (2002). The Local Plan adds further tests of considerable importance in the context of this application. It says that even if either of the first two tests would be met, a further test must also be applied "AND there is no alternative site for the development". Plainly this test is not met by the development in this case.
8. Furthermore, the Local Plan goes on to require that even where development is allowed that could affect a SSSI, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest. Again, it is plain that the development as proposed does not meet this requirement.

9. More generally, it is worth bearing in mind that the natural heritage policies in NEST and the ALP are a significant contribution to the Council meeting its biodiversity conservation duty under Part 1 of the Nature Conservation (Scotland) Act 2004.
10. The second caveat relates to the second sentence of the conclusions, which appear to be at odds with the body of the policy analysis in the following respect. The conclusions say that the development “*may have a significant effect on natural heritage ...*” whereas the basis of the policy analysis, in section 5 on page 12, for example, on the SSSI, is plainly that, despite mitigation measures being sought, “*there will still be a significant adverse impact from this development*”. The use of the word ‘may’ in the conclusions should therefore be substituted with the word “will”, there is no doubt about the effects.
11. We also note that the recommendation of the Head of Planning Policy and Environment, (on page 3 of the statement) was for “Further negotiations with the applicant” to reduce the “excessive damage” to the natural and historic interest of the site.
12. In light of the above, we do not see any merit in submitting a separate, detailed policy analysis that would, for the most part, reiterate that of the Council’s Head of Planning Policy, which we assume would form the basis of a proposed agreed statement with the Council if we were invited to discuss one.
13. The Council’s statement of case refers at paragraph 9 on the third page, to “*the position of the Council is that set out in the Minute of the meeting of the Formantine Area Committee of 20th November 2007*”. Paragraph 3 on the 5th page of the Statement of Case asserts that “*Notwithstanding this the view was reached that the social and economic benefits were of national importance and that those were such as to override the adverse environmental impact*”. However, this is not what is set out in the Minute of the FAC on that date. The origin of the Council’s assertion that the social and economic benefits are of national importance is unclear - it is not set out in the Statement of Case.
14. Rather the Committee Minute which is said to be the Council’s current position, says “*The reason for departing from the Development Plan with regard to the environmental and housing policies being the overriding economic circumstances*”

including diversifying the local economy, supporting the development of tourism, and increasing the national and international profile and attractiveness of Aberdeenshire and Scotland as a whole in terms of inward investment opportunities”.

15. It is unclear how the Council concludes that the development is of national importance. Even if the development were to increase the national and international profile and attractiveness of Scotland, in terms of inward investment opportunities, we do not understand how this would make the development of national importance *per se*.

16. Referring to the test in NPPG 14, NEST 19 and ALP Env/2, the development as proposed would obviously fail the first test: *that the objectives of designation and the overall integrity of the area will not be compromised*. Turning to the second test: *or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance*. Here we argue that, even if the social and economic benefits would be of national importance, they cannot be said to “clearly” outweigh the significant adverse effects. This is, firstly, because of the very high degree of severity of those effects on the designated interests and integrity of the designation and, secondly, because those effects are unnecessary and avoidable in order to achieve the asserted benefits.

Wider policy issues

17. Mr. Hughes of the SWT includes an analysis of wider policy issues in his precognition. These relate particularly to the Scottish Sustainable Development Strategy, the Government’s Economic Strategy and the process of biodiversity planning. His evidence is not repeated in this written submission but this should be read together with the precognitions of Dr Auld and Mr. Hughes in order to gain the complete picture of the RSPB / SWT / BSBI analysis of the policy framework in which the application should be determined.