

**PROPOSED RESORT AND GOLF DEVELOPMENY AT MENIE ESTATE,
ABERDEENSHIRE**

PUBLIC LOCAL INQUIRY

**Precognition of Dave Morris
on behalf of**

Ramblers' Association Scotland

Witness statement

1. I am the Director of Ramblers' Association Scotland and have been responsible for the operation of the Ramblers in Scotland since 1989. We are a charitable organisation that operates throughout Britain with the primary aims of promoting walking, securing and facilitating public access to land and helping to protect the outdoor environment.
2. I previously worked for the Nature Conservancy Council (forerunner of Scottish Natural Heritage) first in Aviemore as an Assistant Regional Officer covering an extensive tract of north east Scotland, with primarily scientific duties, and then as the Rural Resources Adviser for England, with policy development duties.
3. My experience also includes work with the World Conservation Union (IUCN – International Union for the Conservation of Nature), as an elected member of their UK Committee, and also with the International Mountaineering and Climbing Federation (UIAA – Union Internationale des Association d'Alpinisme). I am currently the President of the UIAA Mountain Protection Commission and also a member of the IUCN World Commission on Protected Areas – both are voluntary positions.
4. My experience encompasses a wide range of environmental issues, including the protected and management of conservation areas, along with the promotion of public access and enjoyment of the outdoor environment.

Overview

5. Ramblers' Association Scotland is acting as a "Relevant Person", at the request of the Inquiry Reporter, in presenting evidence on outdoor recreation and access and helping to coordinate the evidence on this topic of two other main parties to the Inquiry, Scotways (Scottish Rights of Way and Access Society) and the Local Access Forum of Aberdeenshire. Evidence for these parties is being given separately. This evidence is a statement of views on behalf of the Ramblers.
6. We will explain the value of the proposed development area for outdoor recreation and what these values are dependent upon. We will indicate how

the proposed development will impact on the enjoyment of the area, while also acknowledging some positive benefits. We will also outline the implications of the statutory access provisions contained within the Land Reform (Scotland) Act 2003 for this proposed development. We will summarise where we see this proposed development is in conflict with various planning requirements laid down at European, national and local levels. Finally we will indicate what alternative ways forward might be considered to facilitate the establishment of a golf course, leisure and housing development in the Menie area.

Value of the area for informal outdoor recreation

7. Scotland is a nation that is recognised world wide for the value of its scenery and wildlife and the opportunities these offer for outdoor recreation of the highest quality. These values are associated with the sense that there are many areas of Scotland which are “unspoilt” or “pristine” or convey the characteristics of “wildness” or even of “wilderness”. Such areas are generally less modified by human activities than elsewhere and are noted for the extent to which natural forces and processes predominate. These include coastal areas, such as cliffs, beaches and sand dune systems. The coastal section of Menie is amongst the best in Scotland for providing such opportunities and, with its proximity to a major city, Aberdeen, provides the additional benefit of access to wild coastal land for all sectors of the population, within easy travel distance.
8. There are no specific land use policy designations which are designed to protect such wild land, despite the very large proportion of the population that values wild land and supports action to protect wild places. Instead wild land values are often, but not exclusively, safeguarded through designations that have been introduced to protect other environmental values, especially those associated with wildlife and landscape, along with policy instruments operating at international, national and local levels. In this respect decisions taken on specific planning applications are of crucial importance – they are the foundation by which wild land values, from the international to the local, are respected and safeguarded in Scotland.

Impact of the development proposals on outdoor recreation values

9. We consider that the proposed development is incompatible with the safeguarding of outdoor recreational value at Menie due primarily to its impact on the dune system that extends along the whole of the coastal fringe of the Menie estate. In addition we consider that the scale and setting of the proposed larger buildings, as seen from the seaward side, is incompatible with the enjoyment of a coastal area renowned for its unspoilt area.
10. We accept that golf courses can have high environmental values and extend the range of opportunities for informal outdoor recreation. But these are essentially managed outdoor environments which are quite different to the

existing sand dune and beach areas at Menie where nature, in all its expressions, from landform to wildlife habitat to the interplay of wind, rain and sun, are the dominant elements.

11. We do not accept that the careful construction of greens, fairways and tees, along with stabilisation of some dunes as well as the associated path structure to enable golfers to travel between the holes is an acceptable compromise within the dune system. Such changes introduce a high degree of artificiality within what should remain as a predominately natural landscape. The dune landscape should remain as an extensive tract of land in which natural landforms and natural habitats are the dominant feature, with the mobility of the dunes as an integral feature.
12. Some impacts are evident today from the existing recreation use, along with some artificial features (eg fencing), but these are of a minor scale when compared to the changes that would occur with conversion to a golf course. Furthermore, it needs to be recognised that some additional impacts may occur in the future, especially if a substantial housing/leisure development goes ahead at Menie, and alongside this would probably be the need to establish enhanced pathways through the dunes for those wishing to gain access to the beach area through the golf course.

Rights and responsibilities as regards access

13. John Mackay of Scotways is giving evidence about the significance of the Land Reform (Scotland) Act 2003 so my evidence will not cover the detailed requirements of that legislation in terms of statutory access rights. I agree with his evidence, but wish to make some additional points.
14. I welcome the assurances that the developer has given with regard to compliance with the Act. Nevertheless I want to ensure that the Inquiry has a complete understanding of what is expected of the developer to ensure compliance. Indeed we would not want to see a situation arise where approval was given to this development which then resulted in constraints being applied to public access which were excessive and beyond the intentions and expectations of the Scottish Parliament when it passed the Act. There have already been some problems elsewhere in relation to golf course development and operation and we do not want to see a repetition at Menie.
15. There is also an issue as regards the expectations of visitors. In other countries golf courses can be regarded as rather exclusive areas where the public are not expected and firmly discouraged. In such situations golfers do not share their golfing experience with others who might be enjoying other types of informal recreation in the same area. Furthermore some of the leisure developments elsewhere, notably holiday chalets or houses adjacent to or close by the course are expected to have associated privacy attributes that would be well beyond what is expected in Scotland. This problem needs careful consideration at detailed planning stage.

16. More fundamentally, however, is the issue of the public exercising statutory access rights within the dune system if those dunes were also to contain the infrastructure of the golf course (tees, fairways, greens etc) within the dune structure. A member of the public, when exercising statutory access rights in a responsible way, is not expected to interfere with those playing golf. This is not an easy balance to strike where significant levels of public access take place over an area which is also heavily used for golf, with one playing group immediately followed by another group. This is an especially difficult problem when the alignment of the fairways runs parallel to the direction in which people wish to take access. Not only are access takers faced with frequent delays while a succession of players pass along the course there are enhanced risks of stray balls hitting access takers. These problems are likely to be even greater where there is undulating ground with poor sight lines so that, even if the access taker is avoiding the actual fairways and primarily using adjacent ground, there are potential constraints and danger associated with the access.
17. The Inquiry may also wish to note that statutory access rights run in parallel to any other rights, traditions or customs on which access to land and water has been taken and continues into the future. The landmanager is required to take these into account, along with the statutory access rights. The Scottish Outdoor Access Code explains how management action should reflect this requirement. At Menie this means, for example, that if a golf course was built, the recreational activity of sledging on snow in winter, which is outwith statutory access rights, because statutory access can only be taken across golf courses for passage and not recreation, would still have to be facilitated on the basis that this was a customary activity in Scotland. In practice this would mean that the golf course managers would not be expected to inhibit such activity and perhaps manage it in ways which prevented or minimised any resulting damage (eg by fencing off the greens during times of snow). Similar considerations apply to the summer activity of picnicking. Landmanagers would not be expected to prevent families from picnicking in the sand dunes and would have no powers to remove people engaged in such activity. The possibility of some conflict, however, with nearby golfers playing the fairways is obvious as stray balls intrude upon the picnic.
18. Overall we would contend that these management issues of integrating a golf course within the dunes, where other activities are taking place and where people would not expect to be confined to paths when taking access, by right or custom, is difficult. It would be far better if there was a clear separation between the area developed for golf and the sand dune system.

Conflict of the development proposals with environmental protection requirements

19. We are aware that evidence will be given at the Inquiry by various parties, including the developers, which demonstrate the significant environmental impacts that are likely to result from this development. All of these have considerable relevance to the quality of the informal recreational experience that can be enjoyed today at Menie, along its coastal section. These are

summarised as four areas of “conflict”. In our view any one of these four areas of conflict provides sufficient grounds for rejecting this planning application or imposing planning conditions which substantially alter the allocation of land within the site to different uses.

Conflict with local and national planning policies

20. We agree with the views expressed by other parties on the incompatibility of the proposed development with the planning policies contained within the existing Aberdeenshire Structure and Local Plans and planning policy guidance issued by the Scottish Government or its predecessors.
21. We are aware that the developer and others may argue that a development like the Menie proposal could not have been anticipated at the time that these policies were put in place or that the potential economic benefits outweigh the loss of environmental and recreational values that should be safeguarded under these planning policies. We reject such arguments. We believe they would only be valid if Menie was a location in Scotland where a development of national importance could be accommodated and there were no reasonable alternative locations. This cannot be the case with a golf course, leisure and housing development, even where the developer claims that the golf course would be of world class. Not only is it a reasonable expectation that alternative locations for such a development could be found, there are also clear possibilities of adjusting the proposed development at Menie so that the existing environmental and recreational values are not compromised.

Conflict with European Habitats Directive

22. We agree with the views expressed by other parties that priority habitats that are present at Menie and should be safeguarded as part of the UK and Scottish Government obligations under the European Habitats Directive would be damaged by the proposed development. These habitats are present on land within the full stretch of coastal habitats extending along the seaward side at Menie. They are an important component of the qualities of naturalness which characterise the recreational value of the whole coastal section of Menie.

Conflict with the European Landscape Convention

23. The UK Government agreed to implement the provisions of this Council of Europe Convention in 2006 and, as far as we are aware, that supportive position is also held by the present Scottish Government. We agree with views of other parties that significant damage would be caused to the geomorphological features which are an integral part of the landscape of the coastal section of Menie. This would be in direct conflict with the intentions of the Convention. Similar concerns apply to the scale, height and location of the large buildings proposed at Menie, notably the hotel and apartment blocks. Such large buildings in such an open prominent position fit uncomfortably with the Convention’s aims.

Conflict with European Environmental Assessment Regulations

24. We do not consider that the developer has given adequate attention to the need under this European Directive to evaluate alternative development options which would be less damaging to the environment but still provide for a viable development.

Standards of coastal protection and provision for outdoor recreation in Europe

25. We are aware that in many other European countries there are measures in place which are designed to protect the coastal zone against adverse developments and to encourage appropriate provisions for public access. We regret that similar arrangements are not in place in Scotland, at a national level, and have pressed successive governments for some time to improve the situation. We therefore attach even greater priority to ensuring that individual development proposals, such as the proposals for Menie are given thorough examination, as in this Public Inquiry. Where approvals are given we feel that they should be fully compliant with the need to protect wildlife and landscape resources and their opportunity for enjoyment through outdoor recreation and study.

Principle of development at Menie

26. We are not opposed in principle to the development of golf courses and the associated leisure/housing development. Indeed there could be positive gains for outdoor recreation where golf course development increases biodiversity through new habitat provision and wide open spaces, unencumbered by farm fences, water filled ditches etc. are created by landform modification. New paths across the golf courses could also be better than existing arrangements. Where associated leisure and housing developments provided new or improved public access points, including car and bicycle parking provision, perhaps also with enhanced public transport facilities, along with improved path networks, there are positive gains.
27. Notwithstanding such opportunities that might arise through the proposed developments at Menie it should also be noted that substantial improvements in public access could be achieved with the land remaining in agricultural use but with the application of the access provisions contained within the Scottish Rural Development Programme to provide for footpaths, grass margins etc.
28. Positive gains for access are, however, heavily outweighed in our view by the damage that would be done to the quality of the recreational experience, largely due to the inappropriate location of the championship golf course, but also because of the size and scale of the adjacent leisure and housing development. Far too much of the golf course is located within the sand dune area and needs to be moved further inland, so that most of it does not intrude into the essentially unspoilt area of mobile and fixed dunes which stretch along the whole of the coastal margin at Menie. We believe this can be achieved while still retaining the essential characteristics of a Scottish links

course. We also believe that the Inquiry should examine very carefully how the view inland from the coastal margin will be affected by the adjacent leisure and housing development. We have particular concern about the height of the new hotel and nearby apartment blocks. Visual images provided in the ES suggest a remarkably large and dominant effect will result from these particular aspects of the development, when viewed from the seaward side. This might be considered inappropriate in the context that most of those who are taking informal recreation through the dunes or along the beach are doing so in order to enjoy primarily unspoilt views in which the hand of nature is predominant over the activities of humankind.

29. While the developers refer to the prospective hotel as an “iconic” building, we would be more inclined to support those who argue that “eccentric” is a more likely outcome for such a large building in a situation where it is extremely difficult to accommodate such structures within a very open landscape.
29. We also have concerns about the extent of the proposed housing and holiday chalets developments although it is difficult to predict exactly what these impacts will be, given the relatively sparse amount of information in the ES on the visual impacts of these developments from the seaward side and the extent to which people living in or visiting the developments will want to use adjacent land, including the golf courses, sand dunes and beach areas for informal access. Another factor is the difficulty of predicting the extent to which the demands for such informal access will increase in the coming years as major efforts are made by public bodies and others, including the Ramblers’ Association, to massively increase the levels of physical activity undertaken by the population as a whole. We are ourselves particularly focussed on how increased levels of walking and other types of informal recreation can be achieved, across Scotland as a whole, as part of the legacy of the 2014 Commonwealth Games to be held in Glasgow, along with similar benefits that might derive from the 2012 Olympic Games to be held in London. The 2014 Ryder Cup, to be held at Gleneagles, also has some relevance in supporting the views of the Scottish Government and many others that the actions taken between now and 2014 represent a once in a lifetime opportunity for Scotland to become far more physically active.
30. This means that, if what the developers claim will be a “world class” golfing facility is to be built at Menie, along with a massive leisure and housing development, the planning approval needs to anticipate that there may well be a requirement to provide for opportunities for informal recreation, especially walking, on land adjacent or near to the leisure and housing development on a scale that might not be readily recognised today when looking at similar types of leisure and housing developments. This has particular significance for the taking of informal access across the golf course land as a whole at Menie, the paths that need to be provided across that land along with extent of anticipated use of the dune and beach areas for informal recreation.
31. Our overall conclusion is that the proposed development cannot be accommodated within the Menie estate without substantial modification to the allocation of land to the different proposed purposes, if any planning approval

is to have due regard for the values of this area for its environmental and recreational qualities. Essentially this means that we recommend that the developers either abandon their intentions to create a second golf course at Menie and move a substantial part of the proposed championship course onto the area currently allocated for the second course. Alternatively we believe consideration should be given to substantially reducing the area of land currently allocated to the leisure and housing development so that part of that area can be used for the proposed second course.

32. It should also be noted that there are no obvious constraints, apart from land being in different ownership, to the use of land adjacent to Menie, to facilitate golf, leisure or housing development.
 33. We believe all of the above options should be examined if the developer is to fulfil his obligations to examine alternative development options under the European Environmental Assessment regulations and to take proper account of the European Habitats Directive and the intentions of the European Landscape Convention. All of these options should start from a presumption that planning approval is unlikely to be given for any development at Menie which involves a significant intrusion into the coastal sand dune system along the whole of its length along the seaward side of the Menie estate.
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