



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**

**PRECOGNITION**

**of  
JONATHAN HUGHES**

**FOR  
Scottish Wildlife Trust**

1. My name is Mr Jonathan Hughes. I hold a BA Honours degree in Biology and Geography from Keele University and a Master of Science degree in Ecology from the University of Wales.
2. I have been employed as Head of Policy at the Scottish Wildlife Trust since April 2006 but previously worked for the organisation for five years between 1993 and 1998. During this period I was SWT's wildlife reserve manager for a coastal sand dune complex and estuarine basin, Loch Fleet in Sutherland. I also held the post of North East Regional Co-ordinator for a little over a year (1997-1998), living and working out of Banchory. This involved managing all the Trust's activities in the local authority areas of Angus, Aberdeen City and Aberdeenshire.
3. In the intervening years when I wasn't working for the Trust I spent one year as an Environmental Initiatives Officer with Westminster City Council (1998-1999), five years with the Woodland Trust as a Woodland and Policy Officer (1999-2003) and two years on secondment to the Forestry Commission England as a Policy Adviser on ancient woodland specifically with a remit to develop and implement a new England forestry policy on native and ancient woodland.
4. I am a former Trustee of the London Wildlife Trust (1998-1999) and Conservation Committee member of SWT (2003-2006). I am currently a Trustee of Scottish Environment LINK (since 2006) and was recently elected to the steering group of the Scottish Sustainable Development Forum.
5. I have also worked as an independent ecological consultant, carrying out detailed vegetation surveys to National Vegetation Classification specifications in a range of different habitats for clients including Scottish Natural Heritage and local authorities. During my time at Loch Fleet wildlife reserve I developed a sound understanding of sand dune ecology and management through regular field surveying and interpreting survey information to inform management recommendations. I also have specific expertise in the conservation ecology of Scottish ants and have authored a number of scientific papers and technical reports on this, and other, ecological subjects.
6. As Head of Policy for SWT my present work involves researching, analysing, developing and advocating evidence based policy positions on a range of issues. The main outputs from my work are policy position statements, Parliamentary briefings, consultation responses, and papers on technical issues. Over the last year I have been involved in

topics such as energy use and energy generation, the EU environmental liability directive, the transposition process for EU Directives in Scotland, ecosystem approaches to land use planning, climate change adaptation issues and numerous aspects of biodiversity conservation.

## **7. Purpose and Scope of the Precognition**

8. The purpose of this precognition is to set out the RSPB / SWT / BSBI position in respect of matters on which I understand the Reporters have indicated that oral evidence would, or may, be necessary, or matters where the RSPB / SWT /BSBI consider that oral evidence, tested by cross examination, would be more helpful to the Reporters than written submissions. The RSPB / SWT / BSBI, working jointly, is making written submissions in respect of
  - a. Geomorphology,
  - b. Ecology, Habitats and Species
  - c. The Application of the Habitats Regulations
  - d. Birds excluding effects on the SPA
  - e. Planning Policy and Guidance
  - f. Conditions and S75 Agreement
9. This precognition should be read in conjunction with those written statements and the representations made by the RSPB / SWT / BSBI during consideration of the application by the Council.
10. My evidence also meshes with that of Dr Auld of the RSPB because we have sought to avoid duplication wherever possible. Although this is my evidence, it can be taken to be the position or view of the RSPB, the SWT and the BSBI, because drafts of my precognition were seen and noted by all three organisations, and the draft evidence was considered to accurately reflect the views of the three organisations.
11. The SWT policy statement setting out our role and involvement with the planning system is provided as document RSB 46.
12. I will cover the following matters in this precognition:
  - a. Summary of the Objection
  - b. Sustainable Development and Biodiversity Conservation

- c. The importance of geomorphology and ecology at Menie Links
- d. Planning conditions and legal agreement

13. I have prepared this precognition on the assumption that the applicants will continue to present their case in line with the findings of the Environmental Impact Statement and subsequent submissions (in particular - Core documents G2, G3, G4, G5, G6, G7 and applicant documents: T1, T2, T4, T8, T9, T16 and T50) Our written submissions broadly indicate the areas of agreement and disagreement in respect of these documents and I will not therefore repeat them here.

14. I have produced a separate summary of this precognition.

#### **15. SWT / RSPB / BSBI**

16. The purpose, history and activity of the RSPB / SWT / BSBI, relevant to this application, and a summary of our responses submitted to the Council, were set out in the joint Statement of Case, submitted on 5th May 2008, so I will not repeat them here.

#### **17. Summary of the objection**

18. In summary, and as expressed in our joint Statement of Case, the SWT, RSPB and BSBI considers that the likely adverse environmental impacts of this development are unacceptable, irreversible and not outweighed by any over-riding strategic need or national interest. The damage to the integrity of the Foveran Links SSSI and to biodiversity, over the whole site, is so severe that we believe strongly the application should not be permitted. The main purpose of the SSSI network - to defend nationally important sites against damaging developments and operations - would be severely compromised if these proposals were to be consented. A grant of planning permission for the development as proposed would send negative signals about the ability of the planning system to protect the best of Scotland's natural heritage and the efficacy of national and local planning policy to safeguard nationally designated sites from damaging developments. In addition, the development would be contrary to biodiversity conservation targets both locally and nationally, and conflict with numerous statutory planning policies.

19. It is apparent that the development is not in accordance with the development plan, in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 (as

amended), and is not included in, or an indispensable part of, any strategic public policy framework or published economic strategy. Nevertheless, it is not the principle of the development of a golf resort or golf courses to which we object. It is a matter for the Scottish Ministers to decide, whether such a development, of the kind proposed, should be granted on an application without being promoted through the development plan system. The reason we object to it is the damage that would be caused to the SSSI and to the natural heritage in this location. We do not believe that leisure development of this kind should, or needs to, be at the expense of environmental assets of the highest value. That cannot be consistent with the principles of sustainable development to which we and, of course, the Government are committed.

## **20. Sustainable Development and Biodiversity Conservation**

21. Our objection to the proposed development contains a number of detailed points on irreversible damage to the geomorphology and ecology of the dune system. I will consider these in more detail later but before I do so it is important to set this proposal in the wider context of the pressing need for sustainable development and the conservation of biodiversity.
  
22. Unsustainable development is an increasing global problem for both the natural environment and for the health and well being of the human population who depend on this environment for their survival. As Scotland's Sustainable Development Strategy (RSB 60: Choosing our future: Scotland's sustainable development strategy (2005). Scottish Executive) states "unsustainable development across the world is changing habitats and climates, overexploiting resources and creating pollution. If current patterns continue, damage to the natural world will accelerate, not diminish."
  
23. There are also stark warnings from the Millennium Ecosystem Assessment which concluded that the sheer scale and pace of development in the past 50 years is having profound consequences for the earth's biodiversity. If we carry on as we are, then the projected future extinction rate will be ten times higher than the current level – which itself is over a 1000 times the background rate. The picture in Scotland mirrors that of the rest of the world, here only a third of UK Biodiversity Action Plan (Core document (F)5: Biodiversity: the UK Action Plan Cm 2428. HMSO. London) habitats are in an improving or in a stable condition - this, despite conservation and monitoring effort being focussed towards such habitats.

24. The UK Biodiversity Action Plan and the associated local Biodiversity Action Plan for North-East Scotland (Core document (F)8: North-East Biodiversity Partnership: Local Biodiversity Action Plans) are Scotland's response to the Convention on Biological Diversity to which the UK became a signatory in 1992. In 2004 these plans were given legal underpinning by Section 1 (2) (b) of the Nature Conservation (Scotland) Act (RSB 19).
25. Within the Coastal Sand Dunes Habitat Action Plan (RSB 47: UK Biodiversity Group (1999) Tranche 2 Action Plans – Volume V: Maritime Species and Habitats, p. 105. HMSO.) there are commitments to protect the existing UK sand dune resource of around 54,000 hectares from “further losses to anthropogenic factors”. Allowing this development to proceed as proposed would not only undermine SSSI legislation, but also undermine the whole biodiversity policy process, including efforts of this and previous administrations to “halt the loss of biodiversity”. This is a target that Scotland and the UK have committed to achieving by 2010 (RSB 65: Presidency Conclusions: Goteborg European Council 15 and 16 June 2001).
26. We also should not forget that it is taxpayers' money which pays for the management and administration of the SSSI network. Loss of part of a SSSI can therefore represent a significant loss of public investment, and in this case of course, partial loss of a valuable local recreational asset.
27. This Government's central purpose is clearly stated in its Economic Strategy (RSB 36: Government Economic Strategy (2007). The Scottish Government.) as increasing “sustainable economic growth”. I suggest that of these three words, the word ‘sustainable’ is equally, if not more important, than the word ‘growth’. This development as proposed demonstrates very tangibly the tensions that can, but we believe do not need to, arise between sustainability on the one hand and the need for economic growth on the other.
28. SWT and RSPB / BSBI contend that the development as proposed is unsustainable so, by definition, it is not consistent with and cannot contribute to this Government's central purpose of sustainable economic growth. Nevertheless, we contend that with a re-design, such as that commissioned from Mr Wood by the RSPB (RSB 17), which moves the championship course off the SSSI and the ‘sand dome’ to the south, coupled with the right planning conditions and Section 75 agreement, this development could go a long way to becoming sustainable. In that case it could well make a contribution to the

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Government's central purpose. As the Economic Strategy itself contends "the quality of Scotland's environment and natural heritage is a key asset and a source of comparative advantage. Protecting and enhancing Scotland's biodiversity and landscape for future generations is central to both our current and future competitiveness."

29. It was of course the high quality natural environment which attracted the developer to this site in the first place. It is ironic and we believe, very regrettable that the development as proposed would destroy the special natural heritage features which so caught the eye of the developer in the first instance. The Government's Economic Strategy recognises the value of Scotland's high quality environments in attracting inward investment, stating "the environment can be an important source of growth". SWT and RSPB / BSBI contend that allowing the development as proposed would be tantamount to killing the goose that laid the golden egg.
30. There is of course a necessary focus in public inquires of this nature to relevant national and local planning policies and wildlife legislation. Approving the destruction of Menie Links contravenes almost every planning policy, environmental policy and Government strategy in the national canon; including the sustainability objectives in the National Planning Framework (Core document (B)1)), SPP1 (Core document (C)1)NPPG 14 (Core document (C)11)) the approved North East Scotland Together Structure Plan (Core document (A)1)) and the adopted Aberdeenshire Local Plan (Core document (A)2)).
31. But quite apart from these contraventions, the loss of these dunes would send a dangerous message that Scotland wantonly disregards its most precious environmental assets, and will happily set aside democratically agreed policy and legislation, so long as the development comes with a big enough economic carrot. Sending this message would, we contend, not only be bad for Scotland's global reputation and credibility regarding its commitment to sustainability, it could be potentially disastrous for the future of Scotland's natural environment and ultimately its economy, which so heavily depends on a healthy and well cared for environment.

### **32. The importance of geomorphology and ecology at Menie Links**

33. In respect of the importance of the geomorphology and ecology of the dune systems of Menie Links, much of the detailed representation we wish to make the Reporters aware

of is contained within our written statements and earlier representations at consultation stage. However, I would like expand on a few points.

34. The first point is on the spectacular and almost unique nature of certain parts of the sand dune system at Menie Links. The technical language used in our objection and written submissions cannot really convey the sheer scale and impressiveness of the sand dune features which would be affected by the development as proposed. The north Menie sand sheet, 'dome' as it is also known, measures around 300 metres by 400 metres which makes it the most extensive example of this type of dynamic dune in the UK. According to our own coastal geomorphology expert, Professor John McManus, Emeritus Professor at the School of Geography and Geosciences, University of St Andrews, the Menie dunes contain "exceptionally interesting characteristics" which in the Foveran Links SSSI area are very dynamic in nature (RSB WS/1 Geomorphology). The sand dome itself is up to 25 metres high in places and changes shape and form depending on the strength and direction of prevailing winds. The active sands around the sand dome receive material blown from the beach along access corridors in the south. Professor McManus has advised that receipt of this material is vital to the integrity of the living dune system and that any interference with these sand passages could lead to destruction of the integrity, and hence the scientific value, of the current dynamic sand dome area. Similarly, any attempt to stabilise the dune surfaces with artificial coatings or introduced vegetation would likewise lead to the loss of the dynamic processes which make the dunes so unique and important.
35. Loss of this area to a golf course would certainly be a loss to science. Professor McManus has advised us that through an analysis of material from the soil horizons and the dune sands "it would be possible to apply both Carbon 14 and luminescence dating techniques to clarify the historic detail in an area for which there is tantalisingly little evidence available on the evolution of the east coast of Scotland in the last 10,000 - 12,000 years." This is an important point. It is not just the destruction of the current geomorphological, and linked ecological, interest which is at stake here, but the value of the area as a window on the past – as a place where we can learn more about the development of Scotland's coastal processes and ecology over the past 12,000 years.
36. A recent geomorphological report commissioned by Scottish Natural Heritage (SNH 6: Hansom J. D. (2007)). Assessment of the geomorphological interests at Foveran Links SSSI.) also concluded that this area is of international significance for its scientific value and "relatively unique in a Northwest European context".

37. The second point is on the interdependency of the dynamic nature of the dunes and the nature conservation value of the site. The sand 'domes' are not just important for their spectacular expanses of mobile sand, but also the series of features around the edges of these domes, including deflation surfaces and dunes slacks, which are in effect parts of the same dynamic system. It is these associated land forms which contain some of the most interesting biodiversity. The point we would like to stress here is that it is the highly dynamic, shifting nature of the system which has created the geomorphological interest upon which the habitats and species present are entirely dependant. The landforms and ecology of the site are inexorably linked. Any disruption of this dynamism, through for example the proposed stabilisation measures, will, as the Environmental Statement acknowledges "terminate the natural succession of the plant communities and prevent the future natural succession of habitats which rely on the dynamics of dune formation and sand mobility" (Core document (G)3: Trump International Golf Links Environmental Statement Section 7.4.1. March, 2007).
38. SWT and RSPB / BSBI have therefore concluded that stabilisation of the mobile dune areas would lead to irreversible loss and damage to the integrity of one of the largest, and most superlative examples of this type of dune system in North Western Europe.
39. It should be noted that by integrity we mean the standard definition of "site integrity" endorsed by Lord Nimmo-Smith in the Cairngorms Funicular Judicial Review (RSB 53) and repeated in Scottish Executive Circular on the Habitats and Birds Directive: June 2000, Annex E, Appendix A, second paragraph, penultimate sentence, (RSB 57) which reads: "The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified."
40. In his precognition, my colleague from the RSPB, Dr Auld, will complement these comments on the linkages between the ecology and geomorphology by explaining some of the specific habitats and species that will be impacted if the development as proposed proceeds. These individual components - the species and habitats – which taken together make up the whole of the functioning ecological system are of course important in their own right. We would quite rightly be concerned over the local loss of any one particular species. However, it is the loss of site integrity which is our primary concern. Switching off the natural functioning of the system will eventually lead to profound and probably irreversible changes to the ecology of the site, including the loss of individual

habitats and species components. It is not therefore possible to mitigate against environmental damage by for example, re-routing a fairway to avoid a rare plant, when the integrity of the whole system has already been compromised. No amount of species micromanagement for mitigation will offset the effective functional breakdown of the living system.

#### **41. Planning Conditions and legal agreement**

42. Should the Scottish Ministers be minded to grant outline planning permission for the development, the planning conditions and Section 75 agreement recommended by Aberdeenshire Council, as spelt out in the their Statement of Case (06/05/08), will not, as they currently stand, resolve the concerns of SWT and RSPB / BSBI. SWT and RSPB / BSBI have given considerable thought to the planning conditions and have made a Written Submission setting out our proposed additional conditions, and comments on the conditions so far proposed by the Council. We will willingly take part in discussions in respect of the conditions and legal agreement. However, I stress that we would not consider withdrawing our objections to the development, even if it was removed from the SSSI and the southern sand dome, unless a number of specific planning conditions that relate to the protection of the environmentally sensitive areas are included.
43. The bond for restoration on the face of it looks a useful provision but it is not, in any way a mitigation or compensation measure. The harm would have been done, almost certainly irreversible (see RSB 45(d): SWT letter 27/11 p2) and would have cosmetic rather than any genuine ecological benefits.
44. Aberdeenshire Council has indicated its intention to complete negotiations for the Section 75 Agreement for the proposed Menie Environmental Management Advisory Group (the MEMAG). At the time of writing, a matter of weeks until the inquiry commences, no draft agreement has been submitted to SWT / RSPB / BSBI. A draft of the Agreement must be provided prior to the beginning of the inquiry and at the latest discussed during the course of the Inquiry.
45. As regards MEMAG, even if successfully established, such a body will effectively only be a monitoring body. It would be toothless in that it would be incapable of preventing avoidable harm if the applicants decided not to take its advice (see RSB 45(d) SWT letter 27/11 p2). In any event, the establishment and operation of the MEMAG should not be limited to a condition, but should be fully prescribed in a Section 75 Agreement. It

is extraordinary that after all this time, and within a few weeks of the opening of the Inquiry, there is still no draft agreement available to the objectors to comment upon, despite the fact that the agreement is likely to include provisions affecting us and seeking to allay our fears and meet the grounds of our objections.

46. SWT and RSPB / BSBI have recommended a minimum set of requirements for the MEMAG Agreement, in our Written Submission to the Inquiry on Conditions and S75 Agreement (RSB WS/6 Conditions and S.75 Agreement) to which I refer the Reporters for further detail.
47. One final point on conditions, like the Reporters, I do not understand what the Council mean by bullet e) of their list of matters at point 10, in their Statement of Case that the S75 agreement should deal with "securing satisfactory arrangements to the SSSI and Forevan (sic) and Balmedie Links". Although asked by the Reporters to clarify this, at the time of my finalising this precognition, I have not seen that clarification.