

Precognition by Cllr Debra Storr

as part of the case by Cllrs Ford, Johnston, Ross, and Storr

in support of Aberdeenshire Council's decision to refuse the application by Trump International Golf Links Scotland for housing, hotel, holiday apartments, golf courses etc. at Menie, near Balmedie, Aberdeenshire

1 Introduction

- 1.1 My name is Cllr Debra Storr. Until May 2007 I was the councillor for Belhelvie Ward which covers the southerly portion of the application site. Since May 2007 I have been the councillor for Ellon & District in which lies the majority of the application site. I am the only local councillor to have been in place throughout the history of the application.
- 1.2 I am a member of both the Formartine Area Committee (FAC) and the Infrastructure Services Committee (ISC) and have been member of both since I was elected to Aberdeenshire Council in May 1999. Accordingly I was involved in the development of both the “North East Together” (NEST), The Aberdeen City and Shire Structure Plan (1999 - 2015) and the Aberdeenshire Local Plan (ALP) 2000-2005. I have also been a member of the Aberdeen City and Shire Strategic Planning Committee since May 2007.
- 1.3 I moved the refusal of the application at the FAC meeting of 20th November and seconded the refusal at the ISC meeting of 29th November, after attending both the site visit and departure hearing held on 20th September and spending a significant amount of time reading papers associated with the application over a period of months.
- 1.4 I wish to share with the Reporter the history of the application so far as I know it and present the planning refusal reason presented at the FAC and ISC meetings. The exact refusal reason is given in the minutes of the ISC meeting of 29th November without the Planning Policy references is
 - (1) there was no policy which allowed the use of profit from housing to enable other business to be set up and doing so for this development could create an unfavourable precedent,
 - (2) the scale of the proposal was excessive on the undeveloped coast on an

area of landscape significance. No demonstration that it could sit within the site without damaging the natural and historic interest of the site had been made - rather the applicants assessment of impact was severely adverse,

(3) the development of the SSSI was not justified. and

(4) the economic benefit case did not qualify as significant on either a national or local basis.

- 1.5 I will focus on the relationship between the proposals and the planning policies which I believe to be material considerations which include Policies from NEST, ALP, various Scottish Planning Policies and National Planning Policy Guidelines, some Planning Advice Notes and a few other references. I will draw significantly on the Statement by the Aberdeenshire's Head of Planning Policy & Environment (Production ISC17)
- 1.6 Others, better qualified than I to comment, will discuss the details of the environmental impacts of the proposals, the landscape impacts and the financial case so far as this has been made public by the applicants. I will tend to take at face value the applicant's own environmental assessments but draw the Inquiry's attention to the critique of these by Aberdeenshire planners in Production ISC17 and by other consultees.

2 History of the Application

- 1.7 In December 2005, I was invited by representatives of the applicant to a meeting at Menie House. Having checked that the Chief Executive of Aberdeenshire and the Director of Planning and Environmental Services, had been in discussion with the applicant, I agreed to attend in exactly the same manner I as I would deal with other pre-application enquiry. I listen and offer any advice that I felt appropriate but stop short of indicating any view on the proposal itself.
- 1.8 The proposal outlined to me at that meeting was of a championship golf course, clubhouse, hotel, some holiday accommodation and perhaps a residential element. Production ISC21 confirms the nature of the development then being mooted as being modest. Proposed even by January 2006 a golf course and associated infrastructure, a 200 bed hotel, 150 holiday homes, 100 open market houses, just a small fraction of the development now before us.
- 1.9 The proposals were described to me at that point as being environmentally sensitive, probably low-lying, modern architecture, using local materials of stone and wood set carefully into the landscape.
- 1.10 The applicant explained that the location has been selected due to the ready access

to an airport capable of taking transatlantic traffic, the availability of other championship standard golf courses such as Cruden Bay, Royal Aberdeen and Murcar nearby and an attractive location.

- 1.11 I recognised the potential benefits to the area of a prestigious development but advised that the coastal location was very sensitive in landscape and environmental terms, and that residential housing would be very difficult to support.
- 1.12 The applicant told me that they expected to submit plans by March 2006 and that they wanted planning permission by September 2006 so they could start work in January 2007. I advised them that this timetable was unrealistic.
- 1.13 In March 2006, the applicant announced a £300 million development at Menie to include golf courses, hotels, and holiday accommodation, and stated that an application would be submitted in May. Local reaction was largely favourable at this point.
- 1.14 Later in 2006 the development was now being touted as a £1 billion pound development and in November 2006 the application was finally submitted, albeit without full supporting statements such as Transport and Environmental Impact statements or other information such as details of access.

3 Consideration of the Application

- 1.15 It is convenient to consider the application as four elements
 - a) the resort - golf courses and associated infrastructure (clubhouse, maintenance facilities etc.) and the hotel, holiday apartments and golf villas intended which are the tourist and hence economic development aspect of the proposals
 - b) accommodation for 400 staff to be sited within the residential elements
 - c) 500 residential houses of open market housing.These elements will be considered in turn.

4 The Golf Resort

- 1.16 This is a large diverse site consisting of agricultural land, a Listed Building set in a designed landscape, and part of an extensive dune system running south for many miles and running north to the Forvie National Nature Reserve. The dunes are part Site of Special Scientific Interest, (SSSI) a national designation and part Site of Interest to Natural Science, (SINS), a local designation.
- 1.17 The indicative plans would according to the applicants own Environmental Statement have adverse impacts, including - and I quote - “the total loss” of the SSSI, impacts

on the setting of Menie House, severely adverse impacts on the landscape as a whole.

1.18 In line with planning policies and in order to ensure full public involvement in the decision making process, the major departures from significant local, regional and national planning policy and the scale of the proposed development should be dealt with via the Development Plan System. A new Structure Plan is being drawn up and a new Local Plan will follow shortly. PAN43 *Golf Courses and Associated Developments* Para 75 and 30 support this plan led approach.

1.19 SPP1 *The Planning System* sets the objectives of the Planning system as

- “to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.”

Conservation and indeed enhancement are not mutually exclusive but this particular proposal fails to meet significant tests.

1.20 The impacts of the development are summarised in Production ISC17 as

Landscape – largely adverse in an area of medium to high sensitivity on the Undeveloped coast and high sensitivity on the Area of Landscape Significance. All in all, the significance of landscape are both assessed as moderately adverse.

Menie House – medium to high sensitivity with a moderate adverse impact

Menie House designated landscape – medium to high sensitivity with a moderate adverse impact due to the boulevard

Residential development – medium sensitivity and moderate adverse impacts on this open undulating farmland.

This is largely driven by the scale and massing of the hotel and holiday apartments but also from the impact of the substantial housing development on an open rolling site in the Formartine Lowlands.

1.21 Generally adverse impacts should be mitigated against but the masterplan proposals

clearly indicate an erosion of the special qualities of this landscape. Nor does the Urban Design Framework provided by the applicant give much comfort beyond the accepted design principles for all development which is a sad contrast to the applicant's PR statements and very disappointing in this highly sensitive site.

1.22 The adverse effect on Aberdeenshire coast, seen from a large number of receptors on the coast is claimed to be mitigated by the “iconic hotel”. But from drawing provided by the applicant in the Feasibility Study (Production ISC21 Appendix E) and the Urban Design Framework (applicant's consultation response 18/7/07, Appendix 2 Figure 14) this building bears no relationship with the landscape and is not complementary to the local vernacular.

1.23 This is too important to be left to detailed applications over such a large site so I call for a proper Masterplan and Design Code to be developed using one of the many reputable methods available (nearby Ellon recently had a very successful Enquiry by Design engagement), and agreed with bodies such as Architecture and Design Scotland and Aberdeenshire Council to cover the whole application site.

1.24 The first 18 hole golf course is on a highly sensitive area and has major adverse impact - including the “total loss” of the reason for the SSSI designation. It is simply not possible to stabilise a mobile dune system listed for its geomorphological interest (it moves north at 5m to 15m a year) and retain the interest. Ian Francis of the Royal Society for the Protection of Birds in Vanity Fair (Production ISC19) calls the geomorphology

“unique. It's one of the more important mobile-dune systems in the British Isles”..

1.25 In contrast Neil Hobday speaking in the same article on behalf of the applicant dismisses the feature as

“a giant sea slug. Or a land based oil slick that devours farmland, and habitat, gobbles it up. It's not the result of natural process; it's an aberration”.

1.26 However formed, and whenever, and I understand that the system may be thousands of years old, this is a very precious area of wild land of undoubted national significance.

1.27 NPPG 14 *Natural Heritage* Para 24 highlights that

“It is Government policy to safeguard designated sites of national importance and ensure that their important natural heritage features are conserved and, where appropriate, enhanced”

1.28 NPPG 14 Para 25 states

“Development which would affect a designated area of national importance should only be permitted where:

- the objectives of designation and the overall integrity of the area will not be compromised; 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.”

1.29 And this is expressed in stronger terms in ALP Env/2 as development in a SSSI will be refused unless the developer proves

a) that any significant adverse effects the quality for which the site has been designated are clearly outweighed by social and economic benefits of national importance

b) the objectives of the designation and overall integrity of the area will not be compromised; **AND**

c) there is no alternative site for the development”

1.30 According to the applicant’s own Environmental Assessment, the development of 9 holes of the course results in the “total loss” of this SSSI and the impacts on the SINS area is “severely adverse”.

1.31 The difference between the SINS and the SSSI is largely that the SSSI has geomorphology interest. The diverse ecology extends south through the SINS which the applicant’s Environmental Statement recognises as of similar quality including a mix of nationally rare, scarce and locally rare species in an important range of habitats.

1.32 The SINS site is designated for Botany, Entomology and Ornithology and the Production ISC17 (para 4.2.11) notes that the importance of these may have been under-estimated in the Applicants Environmental Statement.

1.33 The SSSI was designated primarily for the geomorphology of the large sand sheet that is the site of the “back 9” holes of the “championship” course. Stabilisation of the SSSI mobile sand sheet as proposed by the applicant clearly compromises “the objectives of designation and the overall integrity of the area” (ALP Policy Env/2 b), quoted in 4.11 above).

1.34 Mitigation is proposed in the EA but this effectively amounts to attempting to artificially reproduce the environment in a different location. The Statement by Aberdeenshire’s Head of Planning Policy & Environment (Production ISC17) clearly indicated that the proposed mitigation is unlikely to be successful.

- 1.35 Just nine holes, out of the total of 27 are on the SSSI. Nine golf holes can never be of national importance and therefore as the impact results in the loss of the SSSI designation, this portion of the development must be refused.
- 1.36 The SSSI area would be lost to the development as proposed. There is no question but that the stabilisation of the dunes destroys the very feature that was responsible for the designation. Therefore test b) of ALP Env/2 fails. And there must be alternatives for just nine holes of golf so test c) fails. And the tests in Env/2 are logical and's. If just one test fails, then the policy is not satisfied and refusal of consent follows..
- 1.37 Development of a SINS should be refused unless (ALP Env/3)

“a) its public benefits at a local level clearly outweigh the nature conservation value of the site, AND

b) there is no alternative site for development.”

- 1.38 In addition the necessary infrastructure will provide moderate to substantial adverse impacts across the whole of the golf course area including on the SINS.
- 1.39 Twenty-seven holes are on the SINS. While the test for refusal on for SINS is lower, the significance of this area is widely recognised as being of similar quality to the SSSI and it forms part of the long dune system running from Bridge of Don to the Ythan in an Area of Landscape Significance. The impacts are strongly adverse and therefore this development should also be refused or radically modified to reduced the impact.
- 1.40 The National Planning Framework encourages tourist development and such developments clearly have economic benefits but warns in Para 93 and 94 that

“93. Realising the vision set out in this framework will require a strong commitment to protecting and enhancing the natural, built and cultural environments, which are essential components of the quality of life of people living in Scotland and unique economic assets. Economic development must be closely integrated with the promotion of environmental quality. Areas of change must be seen as opportunities to create high quality environments.

94. In their rich diversity, Scotland’s landscapes are a national treasure. They provide the context for our daily lives and are a major attraction for our tourist visitors. As settings for outdoor recreation they are a source of refreshment and inspiration for many. They bear witness to the activities of our forebears and are a critical element in defining Scotland’s identity. However, landscapes evolve continuously in response to climatic, economic, social and technological change. The effect on landscape character will be an important consideration in decision-making on renewable energy

developments. Major urban regeneration projects, the changes taking place in the rural economy and the restructuring of our forests offer strategic opportunities to improve landscape quality and repair past damage. The aim should be to build environmental capital and pass well-managed, high quality landscapes on to future generations.”

1.41 ALP Emp/9 sets four tests for the approval of Tourist accommodation

“a) they respect the character, amenity and scale of development in the surrounding area

c) they are well related to existing settlements and avoid dispersed patterns of development unless the developer has demonstrated a locational requirement based on the specific tourist interest to be exploited and that the facility will not damage those interests, **AND...**”

1.42 SPP2 *The Planning System* Para 2 asks that we

“integrate competing demands between economic, social and environmental considerations, in particular ensuring that social justice and sustainable development concerns are addressed;”

and Para 11 tells us that planning can contribute to economic development by

“securing new development in sustainable locations - to improve integration between transport and locations for development and to encourage more sustainable forms of development;”

and in Para 47 we are reminded that

“47. The environment is an important resource. High environmental quality can be used to promote an area for business development. It can also provide a range of economic opportunities. Concern for design quality and the environment therefore makes sound economic sense. Improvements to the environment can play a role in retaining and attracting skilled people and businesses and improving the quality of life in the area.”

1.43 Nor does SPP15 *Planning for Rural Development* lend much comfort to the applicant.

In Paras 4 and 15, with the quality of the proposal being crucial While acknowledging that rural diversification is desirable for many parts of Scotland, it re-affirms the primacy of other policies in Para 4

“SSPs and NPPGs apply across the whole country and set the scene for shaping a great deal of new development in rural Scotland . This SPP complements these policies but does not repeat their content. Nor does it restate the underlying core principles of sustainable development, economic competitiveness, social justice, environmental quality and design which are set out in SPP1: *The Planning System*.”

and therefore the support for economic development and housing in rural areas is again set in the wider context.

1.44 ALP Emp/3 requires development in the Countryside to demonstrate

“a) economic need and that benefits to the community outweigh any adverse impacts of the development and

b) that the development respects the natural and built environment and protects the character and amenity of the surrounding area, ensuring that there is no significant adverse impact on nature conservation, landscape character or amenity value of the countryside “

1.45 Together, these policies require economic development and particularly tourist development to be sensitive to the environment and specifically to protect and enhance any environmental assets being exploited. Here it is clear that the asset being exploited is the dune and the location of holiday accommodation and rest of the development is justified on the locational requirement of the links golf courses.. As the applicant’s own Environmental Assessment says “total loss”, again the case for refusal due to the destruction of the SSSI should be unquestionable.

1.46 Cllr Ross will discuss the economic case later.

1.47 ALP Gen/1 requires development to be sustainable and that is judged by demonstrating whether the proposal

“ d) protects or enhances any valuable natural resources, including landscape and wildlife habitats or species”

f) does not impact negatively on the character, including landscape character, environment or amenity of the surrounding area

“h) ... nor create a precedent for in appropriate future development patterns.”

1.48 ALP Gen/2 requires development to

“a) fit successfully into the site and respect the character and amenity of the surrounding areas”

“c) respect existing natural and built features on or abut the site that are worthy of retention

f) respects important public views”

1.49 ALP Env/6 says that development will be refused on the Undeveloped Coast unless

“b) it requires a coastal location and

d) the social and economic benefits clearly outweigh any adverse environmental impacts

e) there is no suitable alternative site for the developments and

f) it respects the character, environment and amenity of the area.”

Helpfully it provides a Justification for this in that, except for Peterhead Power Station and St Fergus Gas, which are both of national importance to energy supply, and are therefore treated as developed

"The Aberdeenshire Coast is a very valuable environmental, social and economic asset. It is important for sustaining the quality of life of those who live and work in Aberdeenshire. It provides for countryside recreation, contributes to the economic growth of Aberdeenshire and encompasses important natural habitats. It is therefore important that it is protected and developed only when necessary and in a sensitive way"

1.50 And ALP Env/5B sets a high test in an Area of Landscape Significance where development will be refused unless

"its scale, location or design will not detract from the quality or character of the landscape either in part or whole. In all cases, the highest standards of design in terms of location, scale, aesthetics and landscaping will be required"

1.51 Many of the arguments presented above when discussing the golf courses are also still relevant for the rest of the development with the exception of discussion of direct development on the SSSI and SINS.

1.52 Published indicative plans show that the scale of what is being proposed is enormous, with each of the individual condominium blocks being larger than any existing building in Aberdeenshire and the hotel the highest building by a significant margin between the chimney of Peterhead Power Station and the Seaton high rise flats in Aberdeen. The hotel is described by the Aberdeenshire Council's Landscape Planner in Production ISC17 as

"twice the length of the main hall at the Aberdeen Exhibition and Conference Centre. "

1.53 The applicants Landscape and Visual Impact Assessment indicate that these building

"will be visible to 15km and beyond and extensively along the coastal strip."

1.54 This is against NEST Objective 5 which requires us to protect, enhance and promote the natural heritage of the North East

1.55 PAN 43 *Golf Courses and Related Developments* (Production ISC9) sets the context for new golf-related developments. This is sceptical about new developments breaking into the established championship circuit (Production ISC9 Para 21) and highlights good ground transport links as an important consideration. With estimates of 250,000 visitors to golf Open Championships this is highly significant but is not included in the Transport Assessment..

1.56 PAN43 Para 29 highlights that golf/housing developments should not over-ride environmental considerations and Para 30 sets all such housing development in the context of Structure and Local Plan policies and this will be discussed more below.

1.57 Para 31 requires that development be linked to Development Plan policies for Tourism and Para 44 counsels against permitting open market housing as enabling development, with the single exception (which is not applicable in this case) where an at risk listed building may thereby be secured.

31. Where time-share accommodation and holiday chalet villages feature in golf related development proposals, they do not normally exhibit the characteristics of a new settlement so the accommodation cannot be counted against housing land supply in development plans. Their impact in terms of local economic and social benefit should be considered in relation to policies for tourism. Structure plans should however determine the overall strategy for leisure facilities leaving detailed considerations to local plans.

44. Where a golf course proposal forms part of a mixed development with another use such as an hotel, a conference centre, a country club, villas or chalets, or with a combination of these, the developer may suggest that only the complete package will be viable. For example, where the restoration of a country house is involved, developers may claim that the other developments are required to raise the capital for the repairs of the house. In these circumstances there is a risk that the site will become overdeveloped to the detriment of the very qualities which attracted the proposal in the first place. Developers and planning authorities should consider the other mechanisms available to secure the objectives of the repair of great houses, through the use of repairs notices, grant-aid, tax concessions available to the owners of outstanding buildings and land, or by conversion to form a number of dwellings, with owners sharing the use and upkeep of the policies.

1.58 PAN 43 Paras 45 and 60 to 63 argue for the highest degree of environmental sensitivity in forming golf courses both in order to protect the environment and to minimise the costs of development of the courses and avoid the need for so-called enabled development.

45. The costs of providing access, drainage and other infrastructure which are borne by developers rise steeply the more complex the development becomes. Some initial costs can be avoided by retaining natural landforms and indigenous planting which are the foundations for a good golfing environment. High initial capital costs may in turn appear to be balanced by revenue generated by sales from associated housing development, **the scale of which may outweigh the central function of the golf course.** The importance of the golf course amongst the other elements of the proposal will therefore be of material interest to the planning authority. The use of a suspensive condition or a Section 50 agreement may in some circumstances be the most practical means of satisfying both parties on matters such as development phasing, course management and achieving continuing public accessibility to golf by ensuring the provision of pay-as-you-play courses rather than those with restricted membership.

Natural Heritage

60. An essential quality of the early Scottish courses was that they took

advantage of the natural features of the landscape. Links, parkland and moorland courses all feature natural hazards such as dunes, drumlins, moraines, tree clumps and rough ground cover. Proposals for any new golf courses in such areas should **demonstrate that the landscape will not be adversely affected to an unacceptable degree.**

61. **Course design should show an understanding of the local landscape character, cultural heritage, nature and geological conservation** and the opportunities for habitat creation and informal recreational use. There is considerable scope for choice in the placing and design of club houses and maintenance buildings within the 50 or more hectares a new course may occupy. On driving ranges the scope may not be so wide and the selection of the whole site may be just as important as the location of any associated buildings. Certain aspects of PAN 36: Siting and Design of New Housing in the Countryside and PAN 39: Farm and Forestry Buildings may be appropriate to the siting and design of some of those new buildings. Since the buildings may form the focus for holes 1, 9, 10 and 18 they can be the key to overall course design.

62. Layout design should be based on a thorough survey and analysis of the selected site, including its ecology, archaeology and landscape history. A survey (which may contribute to an environmental statement) can indicate where tees may be constructed without the need for terraces; where they can be placed to minimise impact and how fairways might be kept within existing internal boundaries such as hedgerows and dykes. Artificial water hazards can be constructed in the less prominent parts of a site.

63. Lower investment in earthworking and planting can reduce the level of maintenance including the application of pesticides and fertilizers and help to minimise visual impact. Areas of existing native woodland, shrubbery, gorse and heather can form the basis for “roughs” augmented by indigenous planting where required. A management plan for the golf course should address long term objectives for the conservation of the natural heritage as well as daily maintenance issues. Advice on integrated management planning for landscape, nature conservation and heritage issues on golf courses is provided in “Golf’s Natural Heritage”, published in 1993 by SNH.

1.59 Here the package of timeshare and holiday accommodation proposed in relation to two golf courses is very large - much larger than those proposed for other developments cited in the Feasibility Report (Production ISC22). This scale of development may not work or may not work in this location and pressure may exist for these to become open market housing. Cllr Johnston will discuss suitable conditions relating to ensuing that all holiday accommodation and does not drift into open market housing.

1.60 Has the scale of development here simply got out of hand? This development is so much larger and very much more costly than the developments quoted in the Feasibility Study. Have estimated costs simply got out of control?

1.61 Accepting for the moment that the golf courses and resort can be viewed as economic development, SSP2 (Production ISC2) in Para 11 reminds us that a key theme for economic development is

“safeguarding and enhancing the environment – to make sure that new development contributes to a high standard of quality and design and that the natural and built heritage is protected”.

1.62 SPP2 *Economic Development* Para 31 for development in rural areas says

“31. In responding to the need for innovative rural development planning authorities should:

- include positive policies in development plans in favour of rural development and diversification which satisfy economic and employment needs, including tourism, **whilst safeguarding and enhancing the natural and built heritage**; and
- **provide for new housing within villages**, and more widely in remoter rural areas, where it has a part to play in economic regeneration and sustaining local communities;

1.63 SPP2 continues in Para 47 and 51 to remind us that

“SAFEGUARDING AND ENHANCING THE ENVIRONMENT

47. The environment is an important resource. High environmental quality can be used to promote an area for business development. It can also provide a range of economic opportunities. Concern for design quality and the environment therefore makes sound economic sense. Improvements to the environment can play a role in retaining and attracting skilled people and businesses and improving the quality of life in the area.

“NATURAL AND BUILT HERITAGE

51. In making provision for economic development and considering proposals, planning authorities should seek to minimise adverse effects on the natural and built heritage, consistent with national planning policies in SPPs/NPPGs. Particular care should be taken to safeguard places and areas of national and international importance. New industrial and business development should not be located in such areas unless there is a particular economic or locational requirement where an exception is necessary to maintain Scotland’s competitiveness. NPPGs 5, 14 and 18 provide detailed guidance on assessing the effects of development proposals on archaeological sites, scheduled monuments, natural heritage interests and the historic environment.

1.64 PAN 43 Para 75 sets four essential factors for golf courses with associated development as

- “a foundation of local need or tourist demand for the golf course;
- the suitability of the site for the associated development in

geographical, **geological**, topographical, **nature conservation**, cultural heritage and **landscape policy** terms;

- the **retention of access** to existing public open space or the creation of opportunities for new access;
- respect for and use of existing elements of natural and cultural heritage value and the scope for enhancement “

1.65 The siting for the proposed courses is driven by the applicants desire to develop *links* golf courses in the hope to enter into the Open circuit (Production ISC22), the proximity of other high quality courses and an international airport. However the Idea of attracting major events is so speculative that the applicant has not included this in the Environmental or Transport Assessment. Cllr Ross will argue that this should therefore also be ignored in the Economic Case.

1.66 However the site is also in an Area of Landscape Significance, the Undeveloped Coast and the golf courses are proposed for areas designated as SSSI and SINS.

1.67 NPPG 14 *Natural Heritage* (Production ISC6) outlines the objectives for sustainable development as

“to conserve, safeguard and, where possible, enhance:

- the overall populations and natural ranges of native species and the quality and range of wildlife habitats and ecosystems;
- geological and physiographical features;
- the natural beauty and amenity of the countryside and the natural heritage interest of urban areas;
- opportunities for enjoying and learning about the natural environment.”

1.68 NPPG14 Para 9 and 10 again link the environmental protection and enhancement to economic development and make it clear that far from this being a balancing act.

“A key role of the planning system is to ensure that society's land requirements in terms of housing, economic activity, transport infrastructure and recreation are met in ways which do not erode environmental capital. The protection of natural heritage may sometimes impose constraints on development.”

“The Government is also concerned to maximise the environmental benefits of economic and social investments.”

“New development can offer valuable opportunities to restore and enhance our natural heritage through land rehabilitation, landscaping and the creation of new or improved habitats. **However, such improvements can never offer adequate compensation for the loss of habitats which have developed by natural processes over many hundreds of years.”**

1.69 The coast is an area that is sensitive in landscape terms and the dune system is one of the largest areas of wild land close to Aberdeen.

1.70 NEST in its section on Tourism recognises that in para 2.27 that

“The mountains, lochs, coastline, wildlife, scenery and architecture are major **quality attractions for tourists to the North East and future tourism development requires to maintain and safeguard these resources** in order to continue to make the area attractive to visitors.”

And this leads to NEST Policy 6, Tourism

“Tourism and related developments shall be encouraged **where they are compatible with policies to safeguard and enhance** the built and natural environment.”

1.71 NPPG 14 *Natural Heritage* (Production ISC6) Para 14, 15, and 16 discuss the character and importance of Scottish landscape and highlight that sensitive coastal landscapes can be

“very sensitive to any form of development or intrusive human activity and planning authorities should **take great care to safeguard their wild land character.**”

and that

“ This care should extend to the assessment of proposals for development outwith these areas which might adversely affect their wild land character.”

1.72 NPPG 14 Para 46 recognises that

“The accessible and familiar natural heritage of our urban open spaces makes a valuable contribution to local identity and the quality of life. **Environmental quality is increasingly a key consideration in industrial and business investment decisions** and natural heritage plays an important part in the economic life of many rural communities.”

1.73 Para 47 tells us that

“**Planning authorities should seek to safeguard and enhance the wider natural heritage beyond the confines of nationally designated areas.** The effect of a development proposal on the natural heritage can be a material consideration whether or not a designated area is likely to be affected, though the level of protection afforded to natural heritage interests outwith designated areas will not normally be as high as that afforded to sites of national or international importance.”

1.74 Para 48 reminds us of the importance of continuity of sensitive areas and we note that the proposed site lies between Balmedie Country Park and the SSSI to the north, continuing to the Forvie National Nature Reserve.

1.75 Para 80 says

“80. While much can be done to mitigate the environmental effects of development through the use of conditions or agreements, there may be instances where the scientific evidence is inconclusive but the potential damage could be significant. In view of the importance of safeguarding biodiversity, the Government is committed to the application of the precautionary principle where there are good scientific grounds for judging that a development could cause significant irreversible damage to our natural heritage. The precautionary approach recognises that our understanding of the effects of human activities on complex living systems remains incomplete and that preventative action may therefore be justified even where the scientific evidence is less than conclusive, particularly where the natural heritage interest has been designated as being of national or international importance..”

1.76 PAN51 *Planning, Environmental Protection and Regulation* sets the protection of our environment in a its wider policy context including *This Common Inheritance*, the Scottish Sustainable Development Strategy, *Choosing our Future*, December 2005, and new and emerging strategies on climate change, (*Changing our Ways, Scotland’s Climate Change Programme*, March 2006) and the Sixth Environment Action Programme of the European Community, *Environment 2010: Our Future, Our Choice*. The UK Shared Framework provides a convenient summary

“Living within environmental limits;

Ensuring a strong, healthy and just society;

Achieving a sustainable economy including ensuring environmental and social costs fall on those who impose them, (The Polluter Pays);

Promoting good governance; and

Using sound science responsibly, including consideration of the

Precautionary Principle.”

1.77 Para 26 gives public authorities and Ministers a duty to protect Habitats

“In particular, it draws attention to the Habitats Regulations which places a duty on both Ministers and all relevant public authorities to exercise their functions to secure the requirements of the Habitats Directive in relation to terrestrial sites and the marine environment. Further guidance has been issued in National Planning Policy Guideline 14 - Natural Heritage and PAN 60 - Planning for Natural Heritage on best planning practice. In addition the Nature Conservation (Scotland) Act 2004 places a duty on every public body to further the conservation of biodiversity.

1.78 PAN 60 para 5 discusses biodiversity and Paras 8 and 9 again set environmental protection and enhancement as opportunities for sustainable development

6. The UK is a signatory to the UN Biodiversity Convention which provides an international framework for the conservation and sustainable use of the Earth’s biological diversity and the equitable distribution of its benefits. The

Convention requires that the components of the Earth's biological diversity should be used in ways which do not lead to their decline. Practical measures designed to safeguard biodiversity are set out in the UK Biodiversity Action Plan.¹ In Scotland, the Scottish Biodiversity Group is identifying national priorities and targets for species and habitats in conjunction with local authorities, non-governmental organisations and local communities.

8. The Executive considers that new development can play an important role in improving the environment and wishes to ensure that the conservation and enjoyment of the natural heritage bring benefits to local communities and provide opportunities for sustainable social and economic progress. The National Planning Policy Guideline on Rural Development (NPPG 15) emphasises the Government's commitment to encouraging active community involvement in economic and environmental renewal. The Local Agenda 21 process provides the framework within which local authorities and communities develop and implement policies for sustainable development at a local level.

9. The Executive also wishes to ensure that architecture and the built environment are properly integrated into national strategies for sustainable development and the planning system is a key mechanism for achieving this. At the strategic level, planning has an important role to play in maintaining landscape character and the ecological integrity of natural systems such as river catchments. At the level of individual developments, it can help to secure well-designed, sustainable buildings which respect and complement the natural environment and promote design solutions which work with the grain of natural processes.

12. The planning system has a vital role to play in safeguarding the natural heritage and building environmental capital. It can help to create high quality sustainable environments which offer social and economic opportunities and weave the experience of nature into the fabric of everyday life. Within this context:

- maintaining and enhancing landscape character;
- maintaining and enhancing landscape character;
- providing for a diversity of wildlife;
- making provision for a wide range of out-door recreational activities; and
- fostering opportunities for learning about the environment;
- are all important planning objectives.”

1.79 All these duties to protect and enhance our environment must be taken seriously. This is not a balancing act between competing interests - sustainability requires social, economic and environmental interests to be considered together, not set against each other.

1.80 The Menie dune system is fundamentally wild land, a rare environment in lowland

Aberdeenshire and PAN 50 Para draws particular attention to the preservation of such areas

“23. Safeguarding and enhancing landscape character is an important planning objective. Planning authorities can contribute to the protection and enhancement of landscape by:

- safeguarding the scenic quality and character of National Parks, National Scenic Areas, designed landscapes and wild land;
- setting clear policy objectives in relation to landscapes distinctive to the development plan area; and
- promoting high standards of siting and design and the use of appropriate materials.”

- 1.81 NEST Policy 19 and ALP Env/1 also echo these principles and of relevance here are the Sands of Forvie Special Area of Conservation and The Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area that also forms part of a Ramsar site under the Ramsar Convention on Wetlands of International Importance. It is very much for the applicants to demonstrate that the development will not adversely impact these areas and as that impact can not be mitigated should be refused. On the Precautionary Principle, any doubt should be lead to a refusal.
- 1.82 Golf courses by their nature will change wild land to maintained land over at least the areas of the tees, fairways and greens. In addition, providing for the intensification of use will require additional infrastructure in the form of routes between tees and routes across and around the golf courses for non-players.
- 1.83 In the unlikely event that the applicant’s aspiration of holding major events be realised the impacts on this fragile environment will be even greater. Balmedie Country Park attracts around 250,000 visitors a year and the boardwalks there mitigate the impact of this human activity. An Open Championship, however unlikely that is to happen, could attract that volume of visitors to a similarly vulnerable environment in a few days with all the consequent impacts that entails.
- 1.84 This proposal is unprecedented in scale in the North East and as it is of some distance to the nearest settlement and on a very open coastal location. The hotel would be one of the largest in Scotland and, accompanied by a thousand holiday apartments and houses, is of such a scale that the proper route for consideration would be via the development plan system. This would allow consideration in the round of the costs and benefits of the proposed development in the context of alternatives and the future pattern of growth in Aberdeen and Aberdeenshire.
- 1.85 The addition of 500 open market houses and 400 units of staff accommodation

further emphasise the need for that plan led approach.

- 1.86 Frankly, given that I witnessed the use of a large tracked digger on the SINS leaving scars in the dunes that are visible even now, the applicant's commitment to high environmental standards is questionable.
- 1.87 Cllr Ross will argue that this development is not of national social or economic importance. I merely note that Ministers had every opportunity to call in the application on the grounds of national importance any time from November 2006 and did not so do. To quote the Scottish Government website "Ministers say they recognise that the application raises issues of importance that require consideration at a national level." That is not recognition by Ministers that the development is of national importance.
- 1.88 The applicants have provided scant justification for the development at this particular site, replying almost entirely on this site being favourable to their specification of a links site, near to international airport (Production ISC22). Justification for development on the SSSI in particular is even less with a representative of the applicant being quoted as "it would make a huge back nine".
- 1.89 Production ISC17 also describes the landscape and visual impact of the golf courses as Moderate to substantial adverse due to the intensification of human activity, the implementation of the light infrastructure requires and changes to the ground required for golf tees and fairways.
- 1.90 Reference should also be made here to the applicant's Access Strategy. This proposes access from existing public accesses at Balmedie Country Park at the south, by the Coastguard Cottages to the north and via Mill of Menie towards the south. No access through the Resort development itself is proposed and indeed reference to buses requiring transponders to access the residential elements of the Resort clearly indicate that access would be restricted - what is being proposed is in effect a gated development. Now PAN43 *Golf Courses and Associated Developments* para 75 clearly mandates

"retention of access to existing public open space or the creation of opportunities for new access;"

but this proposal seems not only to ignore than requirement but also seek to restrict access.

- 1.91 ALP Env/22 asks, where development may adversely impact access, that new accesses that are at least as attractive be made available. The applicant has singularly failed to so do rather the applicant has sought to discourage access to the

Menie Estate and the references to transponders and Gatehouses reinforces that impression. The Access Strategy proposed is flimsy and as Production ISC17 (para 6.2.1) notes the applicants information on access issues is flawed We would also draw attention to the comments in Production ISC17 Section 6.2, 6.3 and 6.4

- 1.92 The overall scale of the proposal raises serious issues as to whether this landscape can accommodate this scale of development within this sensitive location without adversely impacting on the very quality that attracted the applicant to the site.

5 500 residential houses of open market housing

- 1.93 The applicant proposes, in addition to all the above, to develop 500 units of open market housing on this Undeveloped Coast, visible from an Area of Landscape Significance. These houses are planned as being at the upper end of the market and no affordable element is included within the site.
- 1.94 There is simply no local, regional or national policy that supports the development of land purely to fund other commercial development.
- 1.95 The applicant tells us in his Financial Summary that these houses will enable the capital costs of the development to be recouped in 5 years leaving the applicants with an operating profit of £20m per annum thereafter. Permitting such cross-funding would create a very unfavourable precedent, whereby housing development is permitted in exchange for the promise of jobs. Worse than that, the promised development here results in the loss of a SSSI and severe impacts on a SINS and in a landscape where there is a significant presumption against development. The only circumstance where ALP permits enabling development is to secure the long term future of a Listed Building. That does not apply in this case.
- 1.96 It is also not the case that the development can not proceed without these houses, merely that the application is less profitable without them. Different applicants take different views on the required rate of return on investments: I would suggest that few organisations would expect the entire capital costs of a major investment to be recouped in such a short period. Of course, the higher the development costs are, the higher the claimed for so-called enabling development.
- 1.97 SPP3 *Planning for Housing* directs housing to more accessible areas in settlements and accessible rural areas.

“SUSTAINABLE SETTLEMENT STRATEGIES

28. Planning authorities should draw up long-term sustainable settlement strategies, to provide certainty and variety for housing providers and local communities.

Key considerations should be:

- efficient use of land and existing buildings, energy and infrastructure;
- co-ordination of housing land provision with improvements in infrastructure, including transport and educational investment, and with other major proposals such as business or industrial development;
- the need to ensure that all sections of the community have good access to jobs and services; and
- the protection and enhancement of the environment."

1.98 NEST Policy 11, General Housing Considerations, says

"Local plans shall ensure that housing developments respect all relevant planning policies and:

- make a positive contribution to sustaining the community in which they are located through sensitive siting, good quality design and the use of appropriate densities;
- offer a choice of residential environments and house types;
- take account of the availability of infrastructure, services and facilities; and
- direct housing preferentially to brownfield sites within settlements."

1.99 NEST Policy 12, House Building in the Countryside Beyond the Green Belt is very discouraging to housing development

"In countryside not designated as Green Belt there shall be a presumption against house building except:

a) rehabilitation or extension of an existing house; or

b) replacement on the same site of a largely intact house; or

c) a new house which is essential to the efficient operation of an enterprise which is itself appropriate to the countryside; and in the interest of local needs, local economic development and services:

d) conversion of an existing non-residential vernacular building to a single house or to a single house combined with a business: or up to three residential units with associated business space which is conveniently accessible to local services by public transport, foot or bicycle. Any such conversion must be within the building's original structure and must retain the building's original character. All such proposals should be the subject of an application for full planning permission.

e) Within the Rural Housing Market Area, erection of a single new house within an existing

cohesive group of at least five houses where the development provides a

material improvement to local public infrastructure and which is accessible to local services by public transport, foot or bicycle. Local Plans will use criteria such as landscape character and the existing pattern of development to define the exact nature of the cohesive group.

All such development must be of the highest quality particularly in terms of siting, scale, design and materials.”

1.100 ALP Hou/4 echoes this.

1.101 My colleagues and I regularly agree with officer recommendation to refuse single houses in the Countryside on the basis of the above Structure and Local Plan Policies alone.

1.102 This proposal is not connected to any existing settlement and is therefore a new settlement. Despite the promise of a convenience store on site, the vast majority of services for the open market housing (and the staff accommodation) must be elsewhere. Without the holiday accommodation, even the proposed shop will not be sustainable: other facilities - education, library, medical, etc will not be delivered on site. Nor is the proposed new settlement within the accepted 5 minutes “walkable neighbourhood” of such services. All this accommodation, will inevitably be heavily car dependent.

1.103 SPP3 Planning for Housing para 24 says

“MIXED COMMUNITIES

24. Scottish Executive policy encourages more diverse, attractive, mixed residential communities, both in terms of tenure and land use. To create mixed communities, a range of housing types is needed, providing for the needs of all in the community, and all segments of the market, from affordable housing and starter homes to executive housing, and including homes for families, older people, and people with special housing needs.

1.104 All the housing proposed at Menie is to be of a broadly similar type, towards the top end of the North East market, with the affordable housing off site. This is against the SSP3 principle, which is usually supported by Aberdeenshire Council, of creating and supporting diverse mixed and sustainable communities. Availability of a variety of affordable homes is a major issue in the North East

1.105 PAN43 *Golf Courses and Related Developments* Para 75, Para 30 supports the concept that developments that include large amounts of housing, without a justification in terms of preservation of an at risk listed building, should follow the Development Plan process.

1.106 This part of the coast is designated as Undeveloped Coast where the ALP policy Env/ 6 is applies very restrictive development policies

“Development on the Undeveloped Coast will be refused unless

d) the social and economic benefits clearly outweigh the any adverse environmental impact

e) there is not suitable alternative for development and

f) it respects the character, environment and amenity of the surrounding area.

1.107 Moreover part of the site is designated as an Area of Landscape significance.

“Development within or adjacent to an Area of Landscape Significance will not be permitted where its scale, location or design will detract from the character of the landscape, **either in part or in whole.**”

It is inconceivable that the housing element alone would be granted on this site and indeed an application for a single house within the curtilage of an existing house was refused just before this application came to FAC for decision.

1.108 SPP3 says

“SUMMARY

A key aim of planning is to provide well-located, high quality new housing. In meeting the requirements of housing markets across Scotland, planning authorities and housing providers should work closely together to:

create quality residential environments - New housing should make a positive contribution to the built and rural environment, and should be designed and laid out to provide lasting benefits. The planning system has an important role in promoting good design, specifying the requirements for landscaping and open space, and indicating where higher densities will be suitable.

guide new housing developments to the right places - New housing areas should be easily accessible by public transport and well integrated into walking and cycling networks. As part of a long-term settlement strategy, previously developed land and buildings will have a key role and should be reused where a viable and environmentally satisfactory development can be achieved. Extensions to cities, towns and villages or new settlements should be developed in a sustainable way.

In rural areas where possible new housing requirements should be met in towns and villages. To help sustain rural communities, planning authorities are encouraged to take account of local circumstances and needs and to indicate where new housing outwith existing settlements may be appropriate.”

and goes on to with

“GENERAL PRINCIPLES

4. A key aim of planning policy is to bring forward sufficient land to meet the requirement for new dwellings, but this is not simply a matter of arithmetic. The planning system should encourage the creation of attractive, sustainable residential environments. New residential development must make efficient

use of resources, reusing previously developed land wherever possible, supporting the aim of reducing energy consumption, and being accessible by forms of transport other than the private car.

5. The planning system should therefore seek to:-

- Create quality residential environments;
- Guide development to the right places; and
- Deliver an adequate supply of housing land."

1.109 Moreover what is being proposed here is not merely a new settlement but one of a particular character - very high end market houses in direct contrast to Para 24

"24. Scottish Executive policy encourages more diverse, attractive, mixed residential communities, both in terms of tenure and land use. To create mixed communities, a range of housing types is needed, providing for the needs of all in the community, and all segments of the market, from affordable housing and starter homes to executive housing, and including homes for families, older people, and people with special housing needs. In the past, much of the family accommodation in cities was in flats. There is now increasing demand for lower density housing with gardens, although there is also evidence of households without children seeking flatted accommodation."

1.110 The nature of this development means that it is unlikely that the residents will be employed on-site - and indeed all affordable housing proposed is off-site. This is very much against the spirit of Para 36 and there is no indication that this settlement will be higher density - in fact entirely the contrary.

"36. Access to jobs and facilities should be carefully considered by both planning authorities and developers. In planning the expansion of existing settlements or the development of new ones, preference should be given to locations which can be well integrated with existing and proposed public transport, walking and cycling networks. Such locations should be developed at higher densities (see also paragraphs 21-22). At central locations, integrating housing with commercial, community and leisure uses in mixed developments can give good access to jobs and a wide range of services."

1.111 And as the applicant's stated purpose for this housing is to provide funding for the development of the remainder of the resort, the development of this housing is against Para 38.

"38. Plans and proposals for residential development, should seek to minimise adverse effects on natural heritage, including landscape character and biodiversity. Care should be taken to safeguard national and international natural heritage designations. Development proposals need to be assessed for their effects on the resources which the designation is intended to protect. Specific notification requirements apply to proposals in National Scenic Areas (NSAs) and planning authorities should take care to safeguard the outstanding natural and cultural resources of existing and prospective National Parks."

1.112 Again, this proposed is on the Undeveloped Coast in contravention to NPPG13 *Coastal Planning*.

“22. Over 3400km of Scotland's mainland coastline, which is 88% of the total length, can be regarded as undeveloped in the context of this NPPG. Along its length can, however, be found smaller towns and villages, including dispersed settlements which are characteristic of many parts of the Highlands and Islands. It is important that the development requirements of these communities, including for example the provision of affordable housing, community facilities and workshop space locally, are fully addressed. In addition, development opportunities, for example related to tourism, leisure and recreation, can make an important contribution to the economy of rural areas. Many of these developments which can assist in sustaining the long-term viability of coastal communities are likely to be on a modest scale. **Ill considered development, however, can have a detrimental effect on ecology and scenery as well as on cultural heritage interests; a key objective for the planning system is to provide a framework for investment in development while protecting the undeveloped coast from unjustified and inappropriate development.**”

1.113 Each the above policies argue for the refusal of the open market housing, particularly in this location. Taken together the arguments against this housing are overwhelming.

6 Accommodation for 400 staff to be sited within the residential elements

1.114 Aberdeenshire Council recognises that some residential accommodation can be justified to support the operation of an existing business in the countryside provided that the business is itself appropriate to the countryside (ALP Hou/4 and NEST Policy 12). This is most frequently used for farming operations involving the management of breeding livestock but other exceptions have occurred.

1.115 The proposal is for an accommodation block for 400 staff out of a full complement of 1180 FTE. This is a very high proportion especially as the development is within reach of Aberdeen City, Ellon and Peterhead.

1.116 I could see a need for a small number of houses for specific key workers. For example it may be helpful to have golf maintenance staff living on site who would need to clear the greens at the end of the day and ensure than everything was in order for the earliest players. Some catering staff may work late and start early. In addition perhaps some consideration could have been made of a small hostel/staff hotel to accommodate staff working anti-social shifts. But even for these, it is not essential to live on-site and indeed the staff accommodation is allied to the open market housing, not the hotel and golf facilities.

- 1.117 However it is not for me to make the detailed cases on behalf of the applicant.
- 1.118 The Transport Assessment refers to these staff using the staff units not having any transport requirement so it seems that this accommodation is for single staff brought in from outside the area and requiring accommodation.
- 1.119 The only policy that this housing can be judged against at ALP Hou/4 but these workers are not essential to the operation of an existing business.
- 1.120 Overall, in the absence of a specific justification for accommodation for staff, this element should be refused.

7 Summary

- 1.121 The golf courses destroy a part of SSSI and severely impact a SINS. The SSSI should be protected in its entirety and the impact on the SINS should be minimised. This can be done. The applicant has thus far refused to consider moving 9 holes completely off the SSSI. No responsible public authority, charged with protecting and enhancing our natural environment and particularly those areas with national designations, can grant permission for these courses.
- 1.122 The proposed hotel and holiday homes are massive, out of scale with anything in this sensitive coastal location. The scale of these needs to be reduced substantially and these need to be designed so they complement and enhance rather than dominate this open rolling landscape. A proper Masterplanning exercise and imagination are needed to make this possible. Given severe doubts as to whether this scale of the development proposed can be fitted into the landscape, the options are to either to refuse this element or give outline permission for a smaller development and make that subject to a Masterplan and Design Codes for the whole development, agreed with Architecture and Design Scotland and Aberdeenshire Council
- 1.123 The open market housing and staff accommodation should be refused as such development has no policy support in this location. Moreover the concept of enabling development for the open market housing can not apply and would set a very undesirable precedent. It certainly does not justify the departures from planning policy.
- 1.124 There is a development that is possible at Menie. That development is closer to the proposals that were being prompted to all levels of government in late 2005/early 2006 than the application that was submitted in November 2006 and that we are now considering. A smaller development would protect our scarce and internationally-valued natural resources for the benefits of future visitors to Menie, to Balmedie and

to Aberdeenshire. A smaller development could yield the world profile that the applicant trumpets. A smaller development could deliver much of the on-going economic benefit to the north east of Scotland.

1.125 There is a solution that is a win-win. All it needs, all it has ever needed, is some willingness from the applicant to modify the proposals to address the serious concerns raised.