

Public Local Inquiry

PROPOSED RESORT AND GOLF DEVELOPMENT AT MENIE ESTATE

Summary of the Precognition by John W Mackay on behalf of the

Scottish Rights of Way and Access Society

Introduction

1. My name is John Mackay: I am a Board Director of the Scottish Rights of Way and Access Society (known as ScotWays) on whose behalf I give this evidence. I have over 30 years public sector experience with the former Countryside Commission for Scotland, and its successor body Scottish Natural Heritage, much of it concerned with open-air recreation, including the development of the new access legislation set out in the Land Reform (Scotland) Act 2003). I am now retired. Our evidence is set out in four main sections, as summarised below.

Menie – Recreational Use, Context and Value

2. First, I describe background to the use of the area for open-air recreation, and the patterns of public access to the coast, in particular from the Country Park, but also from the other entry points off the A90 trunk road. I also refer to the use of the back dunes by the public. I assess the value of the area for open-air recreation and rank it highly, especially for its strong natural qualities.

The Implications of the development on public access

3. I then set out what appear to be the implications of the development on access and enjoyment of open-air recreation in the area. These will include the physical loss of land to the golf course, but also, loss of access opportunity, and adverse effects on enjoyment of the area, on account of the landscape impacts and losses to the natural qualities of the area. There will also be as losses to the intangible qualities that underpin the public's enjoyment of the area.

4. Next, I acknowledge the developers' recognition that access rights will apply, but set down ScotWays' concerns about:

- the need for effort by the developer to offer mitigation, initial proposals being insufficient;
- whether accessibility across the site be sustained to enable the exercise of access rights to be unimpeded;
- the role of gatehouses and security gates shown on the plan; and
- the requirement in the draft condition to identify privacy and exclusion zones.

5. In addition to these access concerns, we think that:

- there has been insufficient discussion about the recreational use of the area by customers of the proposed development, such that we cannot see the whole picture of what the developer intends;
- that planning for open-air recreation should be an integrated process across all groups likely to use the area; and
- that future impacts on the country park might be significant.

6. We also have concerns about the prospect of any future commercial activity affecting enjoyment of the beach.

The new access context

7. In this section, I describe the principles that underpin how the new access legislation was constructed, and go on to outline how ScotWays think that the legislation should apply on the development site. It is our view that the legislation should not be any threat to the development, but that it is an unavoidable fact of operating in Scotland. We think that also that the provisions in the Act for excluded land, and application of responsible exercise of access rights, as guided by the Scottish Outdoor Access Code, should be sufficient to meet the needs of the development. There is no case in our view for any statutory exemptions at Menie from access rights.

Outcome

8. Finally, we set down what we think should be the basis for resolution of the details of access provision, and offer a revised Condition 33 to any consent on this application along with a proposed condition to safeguard the enjoyment of quiet recreation on the shore.

John W Mackay
17 May 2008