

Report to the Scottish Ministers



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Report by James McCulloch, Karen Heywood and Michael Cunliffe, reporters appointed by the Scottish Ministers

- Case reference: CIN/ABS/001
- Site Address: land at Menie House, Balmedie, Aberdeenshire
- Application APP/2006/4605 for outline planning permission dated 27 November 2006 called-in from Aberdeenshire Council by notice dated 4 December 2007.
- The development proposed: Golf course and resort development
- Date of inquiry: 10 June – 4 July 2008

Date of this report and recommendation: 10 October 2008



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Summary of Report of Inquiry into Called-in Application for Outline
Planning Permission



**Proposed golf course and resort development on land at Menie House, Balmedie,
Aberdeenshire**

- | | |
|------------------------------------|--|
| • Case reference | CIN/ABS/001 |
| • Case type | Called-in application for outline planning permission |
| • Reporters | James McCulloch, Karen Heywood and Michael Cunliffe |
| • Planning application reference | APP/2006/4605 |
| • Applicant | Trump International Golf Links Scotland Ltd |
| • Planning authority | Aberdeenshire Council |
| • Other parties | Supporters: Aberdeen and Grampian Chamber of Commerce, Councillor J Gifford, Mr Charles P Skene, Aberdeen City Council, Mr Nigel Dyer and 2,700 letters or e-mails |
| | Objectors: Scottish Natural Heritage, Royal Society for the Protection of Birds, Scottish Wildlife Trust, Botanical Society of the British Isles, Ramblers' Association Scotland, Aberdeenshire Local Outdoor Access Forum, Scottish Rights of Way and Access Society, Councillors Martin Ford, Paul Johnston, Alastair Ross and Debra Storr, Mr & Mrs Donald Banks, Mr David Milne, Mr Michael Foote, Mr Raymond Davidson, the Scottish Green Party, Dyce and Stoneywood Community Council, Mr Ellis Thorpe, 2,084 letters or e-mails and 4 petitions |
| • Date of application | 27 November 2006 |
| • Date of call-in | 4 December 2007 |
| • Method of consideration and date | Public local inquiry (10 June – 4 July 2008) |
| • Date of report | 10 October 2008 |
| • Reporters' recommendation | Grant conditional outline planning permission, subject to section 75 agreement |

Ministers' reasons for determining the application

1. The outline planning application was called-in under section 46 of the Town and Country Planning (Scotland) Act 1997 for determination by Scottish Ministers.



The site

2. The application site comprises the Menie Estate, an area of 452 ha of estate policies, agricultural land, heath and dune located between the A90 and the sea to the north of Balmedie and about 14 km north of Aberdeen city centre. The northern part of the site lies within the Foveran Links SSSI, designated for both geomorphology and biology, and comprises about one third of the total SSSI area. Menie House is listed category 'B'. A number of residential properties in separate ownership lie within the site boundary.

Description of the development

3. The proposal is for a golf resort comprising two 18-hole courses, a clubhouse and ancillary facilities, a 450-room hotel with conference centre and spa, 950 holiday apartments in 4 blocks, 36 'golf villas', 500 houses for sale, accommodation for 400 staff, road access and parking.

The case for Trump International Golf Links Scotland

4. The applicant aims to create a world-class golf course capable of hosting major championships. This requires part of the course to be sited within the SSSI, where the dune topography is at its most dramatic. A course which avoided the SSSI would not achieve the applicant's ambitions, and the development would not proceed on that basis. Stabilisation of major areas of mobile sand dune would be unavoidable. The consequent loss of considerable geomorphological interest is acknowledged. There would also be some loss of habitats and the Menie (Links) Environmental Management Advisory Group would be set up to provide expert advice on implementation.

5. The rest of the resort development, including a five-star hotel with conference facilities, is necessary to support the championship course; but the resort would not, on its own, provide a sufficient return to justify the required investment. The applicant proposes to build 500 houses for sale, allowing the overall target return to be achieved. Construction cost of the whole development could exceed £1 billion. The applicant estimates that it would bring major benefits for the local and Scottish economy, with an estimated 4,694 net full-time equivalent construction jobs (on a one-year basis) and 1,237 net full-time equivalent jobs from ongoing operations, both at the Scotland level.

The case for the development

6. Aberdeenshire Council supports the proposed development because the economic and social benefits through growing and diversifying the economy are sufficient to outweigh the conflict with national and development plan policies relating to the environment, protected landscapes and new house building. The council's independent economic study broadly confirms the benefits cited by the applicant. Once completed, the development would generate 1,400 net additional jobs locally with £64 million spent each year in Aberdeenshire. While the proposed housing is clearly contrary to development plan policies, the council considers that this can be defended given the sheer scale and unique circumstances of the proposal. The council is also content that allowing the housing element would have no impact on the current housing allocations within the structure plan.

7. Other supporters refer to the need to diversify the regional economy, to build global recognition and help the region achieve full potential in the tourism market which is supported in national policy. In addition the shortage of high-quality hotel accommodation would be addressed with significant benefits for the business and conference market. The business community believes that the economic prize is large enough to compensate for the environmental impact.

The case against the development

8. The part of the site within the SSSI contains an unrivalled suite of geomorphological features of national scientific interest. By stabilising the sand sheet to build the back 9 holes of the championship course much of the dynamism on which the geomorphological interest depends would be lost. This would also have consequences for habitats because within the dunes the development would fragment and disrupt the integrity of ecological processes with resulting effects on biodiversity. Objectors argue that the prospects for successful mitigation are not good. With the processes disrupted by stabilisation, overall biological interest would be seriously compromised, to the extent that denotification of this part of the SSSI would have to be considered.

9. The severe and unacceptable environmental impacts would be irreversible and not outweighed by any over-riding strategic need or national interest contrary to the requirements of the development plan and national policy. There has been insufficient exploration of alternatives, such as a course located entirely outwith the SSSI, to avoid this environmental damage. There would, in addition, be implications for public access and enjoyment of open-air recreation in the area whilst the scale of the development would impose on the rural setting and its recreational enjoyment. Whilst the development including the open-market housing would, contrary to the council's planning policies, not deliver economic benefit as an integral part of sustainable development. Local residents would find themselves part of a sprawling corridor of urban expansion where the scale of the buildings would have an adverse effect on landscape character and privacy and with increased traffic on the road system.

Our conclusions

10. This is a large and complex proposal but only the principle of the development is before Scottish Ministers and the environmental information that has been submitted is sufficient to enable the outline planning application to be determined. Further submissions made to the planning authority will have to be subject to additional environmental assessment as part of a multi-stage planning process.

11. The issues to be determined are whether the proposal is consistent with the relevant provisions of the development plan, in this case North East Scotland Together – The Aberdeen and Aberdeenshire Structure Plan 2001-2016 and the Aberdeenshire Local Plan 2001; and, if not, an exception to these provisions is justified by other material considerations, which includes the conservation of the environment, of protected land and of biodiversity; the economic and social effect of the development; the need for the residential development; and national policy, in particular the Government's Economic Strategy, the national Planning Framework and NPPG 14 – Natural Heritage; and, if so, whether the proposed development would preserve the setting of the Category B Listed Menie House.

12. Full compliance with the development plan was never likely with a complex and unforeseen proposal on this scale. Some development plan policies support it, notably those concerned with the delivery of economic development, whilst others do not. The proposal amounts to a significant departure in respect of environmental impact, landscape impact and as the consequence of the proposed residential development. That assessment has been the consistent view of the council throughout. The issue of whether or not outline planning permission is to be granted thus falls to be made by an assessment of material considerations where the test set by NPPG 14 is of overarching importance, being the national policy applying to the country's natural heritage.

13. The development would have a significant adverse impact on the southern third of the Foveran Links SSSI. Here the dynamism that underpins the designation of the SSSI would, for the majority of the holes in the back 9 of the championship course, be halted. Much, though not all, of the geomorphological interest in that affected part of the SSSI would be compromised alongside a major adverse effect on the coherence of the ecological structure and function of the impacted areas compromising the objectives of both designation and overall integrity.

14. The issue of whether outline planning permission is to be granted therefore falls to be considered against the second element of the national policy contained in NPPG 14. Based on the assessment made independently for the council we are in no doubt that the economic impact of the development would be nationally significant. It could thus make a significant contribution to achieving the Government's overarching purpose set by the Economic Strategy. Additionally the development would also contribute to delivery against the strategy contained in the National Planning Framework and other national, regional and local policies directed at diversification of the economy to achieve wider social benefits as well as the encouragement of tourism, including golf tourism. The development has the potential to deliver major benefits against economic and social objectives at national, regional and local level.

15. In economic, or business, terms, the residential development is required to cross-fund the development. It is not consistent with current development plan policy, but emerging strategic planning policy proposes development within this corridor. It is a material consideration that a housing development is needed on this scale to realise the economic and social benefits of the overall project; that also appears to have been the assessment of the council.

16. A significant visual impact within a wide zone of influence is likely and is understandably the cause of considerable concern to some, but not all, who live in the vicinity. However, the design of the golf resort will be decided by Aberdeenshire Council whose objective is to achieve better integration between a design philosophy that is genuinely iconic and the landscape, so as to achieve a reduction in landscape and visual impacts and a better relationship with existing land uses. The proposals have no direct effect on the listed Menie House and the potential effect on its setting is not such as to justify the refusal of outline planning permission.

17. Because of the relationship with the Ythan Estuary, Sands of Forvie and Meikle Loch SPA Scottish Ministers will have to make an appropriate assessment of the implications in view of that site's conservation objectives. Information concerning the likely impact has enabled SNH to conclude that the proposed development would not have a significant impact on the SPA, providing certain conditions are attached to an outline planning permission.

18. Our findings contain our conclusions on a number of other important considerations that are material. None affects our overall conclusion that the economic and social advantages of this prospective development at national, regional and local level are such as to justify, uniquely, the adverse environmental consequences caused by a development on this scale and in this location. In reaching that assessment we recognise, given the effect on environmental attributes protected for their national importance, that the national interest is invoked. That properly is a matter for Ministers; our conclusions and recommendation in favour of the outline planning application are offered to assist with that assessment.

Preamble

1. This application for outline planning permission was made to Aberdeenshire Council on 27 November 2006. It was not possible for detailed consideration to start until a significant amount of additional information (an Environmental Impact Assessment; Transport Impact Assessment; Drainage Impact Assessment; Sustainable Urban Drainage proposal; and Economic Impact Assessment) had been provided by the applicant. These documents were submitted on 30 March 2007.

Consideration by Aberdeenshire Council

2. The Director of Planning and Environmental Services prepared a comprehensive report for consideration by the Formartine Area Committee (Core-G9A). That report provided a reasoned justification for the recommendation that conditional outline planning permission should be granted subject to an agreement under section 75 of the Act. The Formartine Area Committee considered the matter on 18 September (Core-G9B) and deferred further consideration to a site visit and departure hearing, both took place on 27 September (Core-G9D). A supplementary officers' report was prepared and considered by the Formartine Area Committee on 20 November (Core-G9D) when that committee resolved to grant outline planning permission (Core-G9E). That recommendation was forwarded to the council's Infrastructure Services Committee, subject to a further report (Core-G9F). That committee agreed, on the casting vote of the Chairman, to refuse outline planning permission (Core-G9G). The planning application was called-in by Scottish Ministers for their decision on 4 December 2007 on the grounds that it raised issues of importance requiring scrutiny at a national level. Aberdeenshire Council met on 12 December (Core-G9H) and then agreed that the council supported the grant of outline planning permission subject to the delegated matters, conditions and agreements proposed by the Formartine Area Committee. That decision was confirmed following a further meeting on 24 April 2008. This public local inquiry into the called-in outline planning application was announced on 28 February 2008 by the Cabinet Secretary for Finance and Sustainable Growth.

The public local inquiry

3. The inquiry was held within the Aberdeen Exhibition and Conference Centre. It commenced on 10 June 2008 and concluded, as programmed, on Friday 4 July. We had offered evening sessions of the inquiry to those within the community unable to attend during the day, but there was no such demand. In opening the inquiry we emphasised that it was normal practice for a reporter to play devil's advocate and to ask "what if" questions as well as seeking information about the planning conditions that could be imposed. Neither should be taken to mean that we had already decided on the outcome and we gave an assurance that we came to the inquiry as independent arbiters with neither pre-conceived ideas nor any hidden agenda.

4. A pre-inquiry meeting had been held within the same venue on 26 March at which the arrangements for the inquiry and for pre-inquiry disclosure were discussed, as indicated in the note of the meeting which forms Appendix 3 of this report. Agreement was then reached that, of the several thousand individuals and organisations who had made representations for and against the development, 6 parties would be given the status, within the terms of the Inquiries Procedure Rules, of “*relevant persons*” thus acknowledging the extent of the contribution that they would make to the inquiry’s deliberations and requiring them to engage fully with disclosure of their entire case in advance. Obviously, the applicant and the planning authority also made significant contributions. The opportunity was taken to encourage those with a similar point of view to coordinate their involvement. These parties were:

5. In support of the development:

- The applicant: Trump International Golf Links Scotland (TIGLS)
- Aberdeenshire Council
- Aberdeen and Grampian Chamber of Commerce

6. Against the development either in its entirety, or in its present form:

- Scottish Natural Heritage
- The Royal Society for the Protection of Birds, the Scottish Wildlife Trust and the Botanical Society of the British Isles
- The Ramblers’ Association Scotland, Aberdeenshire Local Outdoor Access Forum and the Scottish Rights of Way Society
- Councillors Ford, Johnston, Ross and Storr
- Donald Banks and other objectors

Evidence at the inquiry was heard sequentially from these parties; others also took part as listed in the appearances.

Environmental information

7. The pre-inquiry meeting explained the decision-making context; identified the main issues requiring consideration by the inquiry and, additionally, those that would require further oral evidence or be determined on the basis of written material; and the arrangements for ensuring that parties’ cases were disclosed in advance and in a timely and structured way. There was then a huge range of environmental information concerning the development and its effects in the public domain and we emphasised the need to ensure that the inquiry was concentrated on the matters in dispute by taking, wherever possible, factual material as read.

8. When the pre-inquiry meeting took place at least 2 other applications for detailed planning permissions relevant to this development remained undetermined before Aberdeenshire Council. The most significant involved the Championship Golf Course and was then referred to as the “*Fazio*” layout after its designer. We asked at the pre-inquiry meeting for confirmation of whether that development represented the applicant’s preferred method of mitigating the

environmental effects of the proposal within the Site of Special Scientific Interest and the wider area. A response was reserved pending discussion and instruction. Unexpectedly that application for detailed planning permission was withdrawn and replaced on 17 April 2008 by a new Golf Master Plan (Document T2) for the Championship Course. This was referred to as the “*Hawtree*” layout after its designer. As it appeared to us that the new layout differed materially from the previous version, and that this had implications for the environmental effects assessed in the Environmental Statement and supporting documents, we requested an analysis showing how the effects differed. A revised hole by hole analysis of the impacts of the new design (T4) was then produced by the applicant, along with a report detailing key vegetation types and rare species at Menie and covering further mitigation etc (T50). DPEA published Notice under Article 6 of the Environmental Impact Assessment Directive inviting representations concerning this additional environmental information. Inevitably the applicant’s decision to replace the design shortly before parties had to lodge their statements of case was the cause of significant difficulty, principally because of its altered effect within the SSSI. Even so, all addressed the new design in their evidence.

9. All of the drawings supporting the application for outline planning permission are indicative. However, during the course of the inquiry we pointed out to the applicant that there was no longer any single drawing that indicated Mr Trump’s overall intentions for the development since the *Hawtree* layout had to be read alongside other drawings showing the *Fazio* layout and an interpolation made between the two. As a result, T2A was produced which shows, in indicative form and not as a part of the application for outline planning permission that was before Aberdeenshire Council, the overall development incorporating the *Hawtree* layout. A variant, T2B was subsequently produced, also at our request, superimposing the diagrammatic alignment of the boundary and extent of the SSSI within the development site.

10. At the pre-inquiry meeting we requested that parties should be considerate in their use of paper and refer us only to documents that would be essential to forming an understanding of the basis of their case. We encouraged also the use of complete and relevant extracts to avoid the circulation of many irrelevant pages. With a few notable exceptions scant regard was paid to this request and a very large number of documents was submitted, as listed in Appendix 4. Most were never referred to by parties, but their existence as part of the case to be considered has inevitably delayed our production of this report.

11. The following is a summary of all of the environmental and other information submitted by TIGLS in support of the application and which has been taken into account in this report:

- The planning application forms, location plan and planning supporting statement, including figures and tables (Core-G2).
- The environmental statement (two volumes) (Core-G3).
- Appropriate assessment report by ECOS, incorporating winter and passage birds surveys 2006-2007, October 2007 (Core-G4)
- Survey of terrestrial invertebrates by Alba Ecology, September 2007 (Core-G5).

- Breeding bird survey by ECOS, October 2007 (Core-G6).
- Drainage impact assessment, August 2007 (Core-G7)
- Transport assessment, November 2007 (Core-G8).
- Response to Aberdeenshire Council and statutory consultations, July 2007 (Core-G10).
- Cross sections showing relationship with Menie House produced by Wimberley Allison Tong and Goo and received by the council on 28 August 2007
- Golf course layout (Hawtree) (T2).
- The overall development incorporating the Hawtree layout for the championship course (T2A).
- A variant of T2A, superimposing the diagrammatic alignment of the boundary and extent of the SSSI within the development site (T2B).
- T2C Spot heights for the Hawtree championship course
- A revised hole-by-hole analysis of the Hawtree layout addressing geomorphological and habitat impacts (T4).
- Economic impact of the Menie Estate Development, Fraser of Allander Institute May 2008 (T6).
- Financial report and analysis, Johnston Carmichael, May 2008
- Information to inform an appropriate assessment, Ironside Farrar, May 2008 (T16).
- Status, extent, development impacts and mitigation for key vegetation types and rare species at Menie, Boreas Ecology, May 2008 (T50).
- Survey for bats and bat roosts at Menie Park Steading, Dr SM Swift June 2007 (T57).
- Fungal survey of Blairton Links, EM Holden, November 2007
- Consolidated transport assessment, Fairhurst, April 2008 (T58).
- Stage 1 development appraisal and access strategy, Fairhurst, August 2007 (T59).
- Updated development appraisal, Fairhurst, October 2007 (T60).
- New access to re-aligned A90: initial appraisal, Fairhurst, May 2008 (T62).
- Updated drainage impact assessment, Fairhurst, April 2008 (T63).
- Interpretative report (site investigation), Fairhurst, January 2008 (T64).
- Public access plan, May 2007 (T65).

Planning conditions and heads of agreement

12. Parties' statements of case were exchanged on 5 May and we wrote to all parties itemising issues of concern. In particular, we addressed the implication in several of the statements that the planning conditions considered to be appropriate had taken on the status of a work in progress to be finalised potentially "*at the inquiry*". We pointed out that this was inappropriate since it would not provide clarity for those wishing to prepare with certainty and was also inconsistent with the Scottish Ministers' policy contained in SODD Circular 17/1998 on which our comments at the pre-inquiry meeting had been based. The final opportunity for parties to adjust their views concerning planning conditions and the suggested heads of any agreements to be struck under section 75 of the Act was suggested by us to be when rebuttal statements were circulated, on 2 June, because we wished to question witnesses during the course of the inquiry concerning those suggestions.

Apart from an award of expenses on grounds of unreasonable behaviour no sanction is available to ensure compliance and parties did not comply. Their finalised suggestions, as coordinated on behalf of Aberdeenshire Council, were only presented to the inquiry on 25 June denying the possibility of questioning witnesses on specific proposals as they gave evidence. We therefore gave notice that the planning conditions or heads of any agreement that we would recommend to Scottish Ministers in the event of a recommendation in favour of the grant of outline planning permission would be those that we considered were supported by evidence and complied with the policies contained in Circulars 4/1998 and 12/1996, respectively.

13. The submissions made to us at the inquiry concerning planning conditions and agreements are recorded in the relevant sections of this report, at:

- Paragraphs 2.1.127; 2.1.128; 2.1.134; 2.1.140; 2.1.141; 2.1.148-2.1.151 for TIGLS
- Paragraphs 2.2.30; 2.2.46; 2.2.48; and 2.2.50 for Aberdeenshire Council
- Paragraphs 2.4.3; 2.4.5; and 2.4.7 for Councillor Gifford
- Paragraphs 3.1.47; 3.1.48; 3.1.50; 3.1.52; and 3.1.54 for SNH
- Paragraphs 3.2.12; 3.2.23; and 3.2.32 for RSPB/SWT/BSBI
- Paragraphs 3.3.22; 3.3.23; 3.3.28; 3.3.32; 3.3.34; and 3.3.35 for the Ramblers' Association Scotland, and others
- Paragraphs 3.4.37; and 3.4.39-3.4.43 for Councillors Ford, Johnston, Ross and Storr
- Paragraph 3.7.2 for the Dyce and Stoneywood Community Council

14. There are, in addition, written submissions concerning conditions from SNH and RSPB/SWT/BSBI and Ministers should be aware that further written submissions were lodged after the inquiry had closed as post-inquiry correspondence by Councillors Ford, Johnston, Ross and Storr. These submissions touch also on the heads of the agreement that it is suggested be struck under section 75 of the Act.

15. Appendix 1A of this report comprises the finalised suggestions, as coordinated on behalf of Aberdeenshire Council, and presented to the inquiry on 25 June. Appendix 1B contains the conditions that we recommend in the event that Scottish Ministers decide to grant outline planning permission. Our suggestions apply the national policy to the evidence and submissions that we heard. Appendix 2 contains the suggested heads of a planning agreement between the applicant and Aberdeenshire Council as agreed between those 2 parties.

The inquiry web site

16. Aberdeenshire Council readily agreed to host the inquiry web site and this can be found at <http://www.aberdeenshire.gov.uk/planning/inquiry/index.asp>. It was, and remains, a valuable resource. We were grateful throughout the inquiry for the assistance that Sonya Galloway provided in ensuring that material was posted immediately and also for the programming arrangements that she made for the accompanied site inspection.

Closing submissions

17. Besides summarising the issues raised in closing submissions alongside parties' evidence and the responses of witnesses to questions we undertook to place their closing submissions, in the form delivered to the inquiry, before Scottish Ministers as inquiry documents. These are included, for each party, in the list contained in Appendix 4.

18. We asked each party to the inquiry to indicate in those closing submissions the relative priority to be attached to the hierarchy of environmental and other policy designations that apply to this land. We have taken these submissions concerning the hierarchy into account in reaching findings concerning the evidence led. The summary of the points made can be found at:

- Paragraph 2.1.77 for TIGLS
- Paragraph 3.1.32 for SNH
- Paragraphs 3.2.33-3.2.34 for RSPB/SWT/BSBI
- Paragraphs 3.4.17 for Councillors Ford, Johnston, Ross and Storr

Consultations and further written submissions from statutory consultees

19. The council carried out consultations before reporting the application to the Formartine Area Committee on 18 September 2007 and again before reporting to the Infrastructure Services Committee on 20 November 2007. The summaries contained in Chapter 1 amalgamate the responses and are the consultees' final position on the proposed development, except where additional submissions were made to the inquiry either in writing or orally.

Representations from the public and others

20. This proposal has generated a large number of representations during its consideration by Aberdeenshire Council, whilst under scrutiny at the public local inquiry, and since the inquiry closed.

21. Before the inquiry closed some 2,700 letters or e-mails were received supporting the proposal and a further 4 petitions and 2,084 letters or e-mails were referred to us as objections. We received correspondence from 35 MSPs and 4 MPs, some of that correspondence raised more than one issue. A total of 28 MSPs and 4 MPs forwarded concerns on behalf of their constituents; 6 of the letters from MSPs commented on the process of consideration by Scottish Ministers; and 2 MSPs objected or expressed concern about the effects of the development.

22. We were passed some letters of objection from the public that contain offensive remarks about the applicant and his business; inappropriate comments directed at others; defamatory and personal comments about councillors involved in decision making in Aberdeenshire; and political statements favouring one party over another. None of these matters has any bearing on the planning merits of the case and such comments have been discounted from our consideration which is concentrated on those issues that are relevant to deciding an outline planning application. The representations made in support of the development are

summarised in Chapter 2 of this report; and those objecting to the proposal in Chapter 3.

Post-inquiry correspondence

23. As made clear at the pre-inquiry meeting, and again on 4 July when the inquiry was closed, material submitted after that point is not dealt with in this report but is before Scottish Ministers as post-inquiry correspondence. This is the approach provided for by the Inquiries Procedure Rules. This applies to the large number of representations that was submitted during August in response to the newspaper advertising campaign and also, for example, to any submissions made in connection with the publication by Scottish Ministers of the finalised version of SPP 3.

Structure of this report

24. This report contains a summary of relevant policy; the consultations and representations made by interested parties; the evidence given by parties in sequence; followed by our findings of fact and related conclusions arranged topic by topic. This is followed by our recommendation which should be read with the commentary on conditions and heads of agreement which is included as Appendices 1 and 2.

25. Our summary of the evidence encompasses the material referred to above with the addition of parties' precognitions; their statements of case; cross-examination; written submissions; and closing submissions. The last are also appended to this report to allow Scottish Ministers sight of the case as observed by each of the relevant persons, rather than as summarised and synthesised by us.

Appearances - in support of the case for the development

For Trump International Golf Links Scotland

The Right Honourable Lord Boyd of Duncansby QC

Witnesses:

Mr Donald J Trump
Dr Martin Hawtree
Mr Iain Webster
Mr Stewart Dunlop
Professor William Ritchie
Dr Tom Dargie
Mr David Bell

For Aberdeenshire Council

Mr Murray Shaw, Solicitor

Witnesses:

Councillor Anne Robertson
Ms Mhairi Donaghy
Dr Christine Gore

For Aberdeen and Grampian Chamber of Commerce

Mr Geoff Runcie

Councillor Jim Gifford

Mr Charles P Skene

Appearances - in support of the case against the development

For Scottish Natural Heritage

Mr David Cockburn, Solicitor
Ms Louise Cockburn, Solicitor

Witnesses:

Dr Jim Hansom
Mr Stewart Angus
Mr Paul Rooney

For the Royal Society for the Protection of Birds, the Scottish Wildlife Trust and the Botanical Society of the British Isles

*Mr David Tyldesley, Planning and Landscape Consultant
Also Ms Louise Cockburn, Solicitor*

Witnesses:

Mr Jonathan Hughes
Dr Martin Auld

For the Ramblers' Association Scotland, Aberdeenshire Local Outdoor Access Forum and the Scottish Rights of Way and Access Society

*Ms Helen Todd
Mr David Morris, Director of the Ramblers' Association in Scotland
Mr Kenneth Thomson, Chair of the Aberdeenshire Local Outdoor Access Forum
Mr John W Mackay, Board Director of the Scottish Rights of Way and Access Society*

Witnesses:

Mr David Morris
Mr Kenneth Thomson
Mr John Mackay

For Councillors Ford, Johnston, Ross and Storr

*Councillor Martin Ford
Councillor Paul Johnston
Councillor Alastair Ross
Councillor Debra Storr*

Witnesses:

Councillor Martin Ford
Councillor Paul Johnston
Councillor Alastair Ross
Councillor Debra Storr

For Mr & Mrs Donald Banks, Mr David Milne, Mr Michael Foote and Mr Raymond Davidson

Mr John Agnew, Planning and Development Consultant

Witnesses:

Mr Donald Banks
Mr William Walton

For the Scottish Green Party

Ms Shiona Baird

For Dyce and Stoneywood Community Council

Dr Bill Harrison

Abbreviations used in this report

| | |
|----------------|--|
| ACSEF | Aberdeen City and Shire Economic Forum |
| ALP | Aberdeenshire Local Plan 2006 |
| AOD | above Ordnance Datum |
| AWPR | Aberdeen Western Peripheral Road |
| BSBI | Botanical Society of the British Isles |
| CAR | Water Environment (Controlled Activities) (Scotland) Regulations 2005 |
| CEMP | [Golf] Course Environmental Management Plan |
| CORINE | Co-ordination of Information on the Environment (EC Programme) |
| DPEA | The Scottish Government's Directorate for Planning and Environmental Appeals |
| EC | European Commission |
| <i>e.g.</i> | <i>exempli grata</i> (Latin), for example |
| EIA | Environmental Impact Assessment |
| ES | Environmental Statement |
| FCS | Favourable Conservation Status |
| FTE | full time equivalent |
| GCR | Geological Conservation Review |
| GDP | gross domestic product |
| GIS | geographic information system |
| GVA | gross value added |
| <i>i.e.</i> | <i>id est</i> (Latin), that is |
| IUCN | International Union for Conservation of Nature |
| ha | hectares |
| JNCC | Joint Nature Conservation Committee |
| km | kilometre/s |
| m | metre/s |
| m ² | square metres |
| MEMAG | Menie (Links) Environmental Management Advisory Group |

Preamble

| | |
|-------|--|
| NEST | North East Scotland Together – The Aberdeen and Aberdeenshire Structure Plan 2001-2016 |
| NNR | National Nature Reserve |
| NPV | net present value |
| NVC | national vegetation classification |
| RPI | retail price index |
| RSA | Regional Selective Assistance Scheme |
| RSPB | Royal Society for the Protection of Birds |
| SAC | Special Area for Conservation |
| SEPA | Scottish Environment Protection Agency |
| SINS | Site of Interest to Natural Science |
| SNH | Scottish Natural Heritage |
| SPA | Special Protection Area |
| SSSI | Site of Special Scientific Interest |
| SUDS | sustainable urban drainage system |
| SWT | Scottish Wildlife Trust |
| TIGLS | Trump International Golf Links Scotland Ltd |
| TRNMD | Transport Scotland – Trunk Road Network Management Directorate |

CHAPTER 1

The application site; the development; the policy that applies; and consultations

The application site

1.1 The site comprises the Menie Estate an area of 452 hectares (ha) of estate policies, agricultural land, heath and dune. It is located between the A90 trunk road (A90T) and the sea about 14 km north of Aberdeen city centre, and 8 km from the northern limit of the city at the conference centre. The eastern boundary with the foreshore at the high water mark is approximately 4.2 km long, while the site narrows to the west so that the boundary with the trunk road is no more than 1.1 km. At its widest the site is about 2 km from east to west. Balmedie Country Park lies immediately to the south on the coast, while further to the west and south farmland separates the site from the village of Balmedie. To the north, the site boundary runs along the Sandend Burn beyond which sand dunes continue along the coast to the Ythan estuary at Newburgh, 2.5 km north of the site. Farmland lies to the north of the western part of the site. Menie Links is a part of more than 20 km of beach and dune systems within Aberdeen Bay.

1.2 The elevation of the site ranges from around 40 metres above Ordnance Datum (AOD) in the northwestern part to lower than 10 metres AOD along the dune boundary with the beach, which itself varies in height. There are 3 dominant landscape features: the policies of Menie House defined by a continuous and dense belt of mainly broadleaf woodland; an escarpment, particularly within the northern half of the site, on which stands a group of cottages and a former coastguard lookout station; and the continuous belt of dunes running parallel with the shore. The dune system is itself dominated by 2 large, and largely bare, sand sheets. The first occupies the northern and north eastern part of the site extending northwards from an extensive and widely visible sand dome to an area close to the Sandend Burn. It is this northern part of the dune system that lies within the Foveran Links Site of Special Scientific Interest (SSSI). The second area of bare sand is within the southern part of the dune system and is known as the Blairton sheet. The dunes around the southern sheet are well vegetated, with marram and other grasses in contrast to the northern part of the system where vegetation cover on elevated sections, with the exception of striking sand buttes, is less well defined. This differentiation is the consequence of the relative level of wind-driven sand mobility, generally in a south to north direction. Throughout, the dunes are punctuated by lower-lying areas, largely following the north-south grain and flowing roughly parallel to the coast. The dunes attain heights of up to 18 metres AOD. The system consists of mobile dune, dune slack (moist areas left exposed where sand has blown away), fixed dune grassland (known as grey dune), dune heath, swamp, standing water, running water and wet grasslands and flushes.

1.3 In the southern part of the site, and to the west of the dune ridges, is a lower-lying area of rough heath and poor grassland interspersed with wet areas. The boundary between dune and agricultural land is throughout diffuse, caused apparently by agricultural run-off and manure enrichment, with grazing land progressively encroaching on dune. This is particularly noticeable in the northern part of the site and within the SSSI. The southern part of the site is crossed by the Blairton Burn, and the central area by the Menie Burn and its tributaries. Together with the Sandend Burn on the northern boundary these streams run roughly west to east and cut through the dunes to discharge across the beach into the sea. Further inland, the land rises towards the A90T and is predominantly agricultural in character, with mixed arable and stock rearing uses. North west of the centre of the site lies the prominent escarpment running south west to north east and rising to about 30 metres at the former Coastguard lookout.

1.4 Menie House – a very attractive stone mansion - is situated to the south west of this ridge in landscaped grounds. The house originally dates from the 14th century, but most of the present building was designed in 1835 in Jacobean style and incorporated an earlier (1782-83) two-storey L-plan house. It is a category 'B' listed building, and is set in a designed landscape including shelterbelts, other groups of trees, and a walled garden. A number of ponds have been created around the house, mostly in recent years. To the north east of Menie House stands Menie Park Lodge, an early 19th century symmetrical H-plan steading. Other ancillary buildings are located in the grounds. The Menie Estate was most recently used for a combination of commercial shooting and some agriculture but now forms the operating base for the applicant company; Menie House is undergoing restoration as a residence. Since taking ownership Mr Trump has stopped both shooting and hunting on the land.

1.5 The land bounded by the outline planning application excludes a number of residential properties which are in separate ownership, but which lie within the site. These include:

- Leyton Farm
- 4 and 5 Leyton Cottages
- 1a, 2, 3, 4 and 5 Coastguard Cottages; and
- Hermit Point - all within the centre to northern part of the site
- Mill of Menie and Menie Fishing Station in the middle of the site (occupying an area of approximately 8.8 ha); and
- Summerlea to the north of the access road to Menie House on the western boundary of the site near the A90T.

1.6 There are also a number of properties which abut the site, in particular, Mill of Blairton Farmhouse on the southern boundary, and Pettens Croft, Petten Farm and Seaview on the southwestern edge adjacent to the A90T. West Lodge on the south side of the access to Menie House is also directly on the site boundary. A number of other properties are located very close to the site but are marginally separated from it by the trunk road, or by fields, or are located on the Hatterseat road to the north. The present main access into the site from the A90T is by the Menie House drive, with other accesses from the Hatterseat road and from Pettens to the

south west. There is a network of minor tracks within the site, with evidence of extensive use by walkers, horse riders and some vehicles, including quad bikes.

1.7 The SSSI designation which covers a part of the application site (T2B) is based on the land's scientific interest for geomorphology (principally the mobile sand dune system) and its ecology (SNH1). There is also a Site of Interest to Natural Science (SINS – a non-statutory designation used in the development plan) covering a larger area, but including the dunes in the southern part of the site, which display many of the characteristics present in the northern area. European designated sites for nature conservation are located north of the application site at the Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area, while the Sands of Forvie is also a Special Area of Conservation. There are two relevant landscape designations affecting the site. It lies within an area of Undeveloped Coast inland to the trunk road, with the dunes and raised beach identified in the development plan as an Area of Landscape Significance. In terms of Scottish Natural Heritage's landscape character assessment (1998), most of the site is located within the Coastal Strip landscape character type within a landscape character area defined as the Formartine Links set between Aberdeen and the Ythan Estuary. The inland part of the site lies within the Agricultural Heartlands landscape character type within the Formartine Lowlands. On a local level there are also smaller areas of distinct landscape types defined by their land use.

The proposed development

1.8 Outline planning permission is sought for a mixed development with the following main elements:

- two 18-hole golf courses (a championship links course and a second course);
- a golf clubhouse, golf academy and ancillary buildings;
- a driving range and short game practice area;
- a resort hotel (450 rooms) with conference centre and spa;
- 950 holiday apartments in four blocks;
- 36 'golf villas';
- 500 houses for sale;
- accommodation for 400 staff; and
- new access to the A90 trunk road, a gatehouse, roads within the site and parking areas.

1.9 The disposition of these elements is shown as an indicative layout on the Proposed Site Plan (Figure 2 in the Planning Supporting Statement which accompanied the application). This was updated at our request during the inquiry to show the overall indicative layout, with the Hawtree Championship Course superimposed, together with a diagrammatic indication of the boundary within the application site of the SSSI. This is document T2B.

1.10 The championship golf course would occupy the central and northern parts of the coastal dunes and the links lying immediately west of these. The clubhouse is proposed in the middle of the course among the dunes, facing the sea at a ground elevation of around 7.5 metres AOD. The outward 9 holes would lie to the south and the back 9 to the north. Holes 11 to 17 would be wholly located within

the SSSI and holes 10 and 18 would be partly sited within it; in the case of 10 the tees and part of the fairway would not fall within the designated area; and for the 18th the tees and about half of the fairway would, but not the balance of the fairway and the green. Thus, a proportion of the northern half of the course would be sited within a part of the SSSI. The low-lying area west of the dunes would also contain the driving range and golf academy (just north of Menie Fishing Station), the short game practice area, golf maintenance building and caddy shack. A second golf course is proposed to be constructed at a later date to the south and west of the championship course. It would cover agricultural land and the southern dunes running up to the Balmedie Country Park boundary.

1.11 The resort hotel is proposed on the escarpment immediately north of Mill of Menie and south of Coastguard Cottages. The ground elevation would be around 30 metres AOD and the indicative drawings suggest a development on 8 levels, with the roof structure and a central tower projecting above these. The hotel would face east to the sea overlooking the championship golf course. Four apartment blocks, also each suggested to be of 8 floors, are proposed to the northeast of the hotel, also on the escarpment, but at a level of around 23 metres AOD. The indicative layout shows that a part of the footprint of the third apartment block would impinge on the SSSI. The 36 detached golf villas are proposed in a landscaped area to the west of the hotel. Each of these developments is sited on land presently in agricultural use.

1.12 A residential development of 500 market houses is proposed in two locations; the larger would occupy the south western part of the site, bordering the trunk road to the south of Menie House and its grounds. This area would also include accommodation for 400 staff. A smaller component of the residential development is proposed in the north western part of the site, west of the holiday apartment blocks. Again, each of these developments is proposed on land presently in agricultural use.

1.13 The existing A90 trunk road by-passes Balmedie as a dual carriageway and then runs past the site on its historic alignment as a two lane road. The indicative drawings show road access taken from the existing A90T by way of an upgraded junction close to the present Menie House access. This is proposed to lead via a gatehouse to a boulevard running through the north western part of the site accessing the hotel, apartments, golf villas, golf courses and the north western residential area. The indicative drawings currently show a second access from the A90T formed further to the south and serving the staff accommodation and the main residential area, together with Mill of Menie and Menie Fishing Station. Evidence to the inquiry indicates the applicant's preference, and intention, to take access at a grade separated junction within the programmed improvement of the A90T. Surface water drainage is proposed through a series of sustainable urban drainage (SUDS) facilities, while foul sewage is intended to be pumped south along a new main sewer to the Balmedie treatment works.

1.14 The planning application is in outline and the detail of all proposals shown in supporting drawings has only indicative status. A separate application for full planning permission for the championship golf course (the "Fazio" layout) and driving range was submitted to Aberdeenshire Council in April 2007, but was

withdrawn on 21 April 2008 before a decision was taken. That proposal was replaced with a revised indicative layout for the championship course known as the “Hawtree” layout after its designer, this is shown on document T2. As indicated, the drawing was updated to show the diagrammatic extent of the SSSI superimposed alongside the other elements of the proposals described in the outline planning application.

Policy and its application to this outline planning application

1.15 The Town and Country Planning (Scotland) Act 1997 provides that where regard is to be had to the development plan the determination shall be made in accordance with the plan unless material considerations indicate otherwise. In this case the development plan comprises the approved Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST) (Core-A1) and the adopted Aberdeenshire Local Plan (ALP) (Core-A2). Material considerations include national and local policies, together with other policies and matters that are relevant to both planning and to the development under consideration.

1.16 Parties do not dispute the fact that some development plan policies support the outline planning application, whilst others do not. All were asked following the pre-inquiry meeting to agree on the development plan policy that applies based on the council’s consideration as reported to the Formartine Area Committee (Core-G9A). Some progress was made, but agreement was not reached by all relevant persons.

Development plan policies contained in NEST

1.17 NEST was approved by Scottish Ministers in December 2001 and aims to promote sustainable development embracing the social and cultural identity of the North East in a way that improves economic competitiveness and delivers prosperity and a high quality of life within a secure and well-managed environment. The plan is based on 3 principles: responsible management of natural, built and community resources; fairness in allocation of these between competing demands; and the need to benefit existing and future generations. The following approved structure plan policies are relevant:

- Policy 3: Other Employment Opportunities
- Policy 6: Tourism
- Policy 11: General Housing Considerations
- Policy 12: House Building in the Countryside Beyond the Green Belt
- Policy 13: Developer Contributions
- Policy 14: Affordable and Special Needs Housing
- Policy 16: Sport and Recreation Facilities
- Policy 17: Countryside and Open Space Access
- Policy 19: Wildlife, Landscape and Land Resources
- Policy 20: Built Heritage and Archaeology
- Policy 21: Design
- Policy 22: Water Management
- Policy 29: Coastal Planning
- Policy 31: Connecting Communities within the North East

Policy 33: Sharing Responsibility for Transport

1.18 Policy 3 - proposed employment uses on unallocated sites shall be considered acceptable providing they respect relevant structure and local plan policies and reasonable account is taken of the following criteria:

- a) the proposal is well integrated with the existing pattern of land use and will not adversely affect the amenity of neighbouring land uses;
- b) the proposal takes account of the availability or the need for access and infrastructure and has regard to the proximity of existing and potential transport corridors;
- c) the proposal is located close to existing population in order to provide opportunities for people to work near to their home and help promote social inclusion;
- d) the proposal makes use of derelict, despoiled, unused and underused land and buildings where appropriate;
- e) the proposal can demonstrate a proven economic need and takes advantage of opportunities provided by major inward investment or other economic initiatives; and
- f) the proposal minimises the impact of any pollution generated.

1.19 Policy 6 - tourism and related developments shall be encouraged where they are compatible with policies to safeguard and enhance the built and natural environment.

1.20 Policy 11 - Local Plans shall ensure that housing developments respect all 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.

1.21 Policy 12 - in countryside not designated as Green Belt there shall be a presumption against house building except:

- a) rehabilitation or extension of an existing house;
- b) replacement on the same site of a largely intact house;
- c) a new house which is essential to the efficient operation of an enterprise which is in itself appropriate to the countryside and in the interest of local needs, local economic development and services;
- d) conversion of existing non-residential vernacular buildings; or
- e) within the rural housing market area, a single house within an existing cohesive group....

1.22 Policy 13 - developers will be required to address the impact brought about by development including any exceptional servicing costs likely to be incurred in the lifetime of the development. Local plans will identify criteria and circumstances

where contributions will be required towards the cost of infrastructure, community facilities and any other elements.... Contributions will be related to the scale and kind of the development.

1.23 Policy 14 – the councils in conjunction with private developers and housing agencies, shall seek to secure appropriate levels of affordable and special needs housing. The means and general level of provision will be outlined in local plans and determined by area housing needs, and the location, marketing considerations and suitability of sites.

1.24 Policy 16 - local plans shall set out a framework for levels and scales of open space, playing fields and sport and recreation provision. Local plans shall set out policies to protect open space and playing fields and to encourage the provision of new sports and recreation facilities and will set out criteria to guide their location so as to:

- be close to where people live;
- reduce the need to travel;
- be accessible by a range of modes of transport; and
- should not increase reliance on the use of the car.

1.25 Policy 17 - local plans should encourage and protect responsible access to the open space, countryside, coast and inland water by promoting and protecting a network of routes and facilities throughout the North East. Care must be taken, however, to minimise detrimental impact on the environment.

1.26 Policy 19 covers the various levels of designations and how development proposals should be judged against these.

- International designations: development which would have an adverse effect on a Natura 2000 or Ramsar site will only be permitted where there is no alternative solution and there are imperative reasons of over-riding public interest, including those of a social, environmental or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, prior consultation with the European Commission (through Scottish Natural Heritage) is required, unless the development is necessary for overriding public health or safety reasons.
- National designations: development which would have an adverse effect on a Site of Special Scientific Interest, National Nature Reserve, National Scenic Area, Prime Quality Agricultural Land or habitat or species identified as priorities in the UK Biodiversity Action Plan will only be permitted where the objectives of the 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 and economic benefits of national importance.
- Regional/local designations: development which would have an adverse effect on local or non-statutory Nature Reserves, District Wildlife Sites, Ancient Woodlands, wildlife corridors, species and habitats identified as priorities in

the Local Biodiversity Action Plans, Sites of Interest to Natural Science, Areas of Landscape Significance, or other sites identified in local plans will only be permitted where it can be demonstrated that any damaging impact is considered acceptable overall or there is a public interest which outweighs the conservation interest.

Where development is allowed which could affect any of the above designated sites, including beyond their boundaries, appropriate measures shall be taken to conserve and enhance the site's ecological, geological or geomorphological interest.

- Everywhere else, development will be sited and designed to avoid adverse impacts on the biodiversity of the site, including the environmental quality, ecological status and viability. All new development should take into consideration the character of the landscape in terms of scale, siting, form and design. Developers are encouraged to seek sites which would not entail the permanent loss of productive agricultural land.

1.27 Policy 20 - the built heritage of the North East will be conserved and promoted as a valuable non-renewable resource. Enhancement, active use, conservation and access to our built heritage should be encouraged wherever possible. Local plans should include policies which:

- protect the integrity and setting of listed buildings and Scheduled Ancient Monuments;
- protect other archaeological sites and archaeologically sensitive areas. Where this is not feasible, proper recording and analysis shall take place; and
- protect and enhance conservation areas, historic gardens, designed landscapes, town centre and other historic features of value.

1.28 Policy 21 - an improvement in the general standard of design shall be encouraged through the production of general design guidelines and the preparation of design briefs for specific sites. In addition, local authorities shall promote:

- environmentally friendly layouts;
- energy efficient designs;
- thermally efficient buildings;
- habitat enhancement;
- mixed use development where appropriate;
- the use of sustainable materials; and
- the adoption of 'lifetime standards' by the developer.

1.29 Policy 22 - local authorities in the North East will work with the Scottish Environment Protection Agency, North of Scotland Water Authority and other appropriate agencies in identifying:

- areas of flood risk and will consider amending the Structure Plan if the areas identified affects strategic development allocations;
- management regimes aimed at reducing or managing flooding in existing developments;

- proposals for new flood protection schemes if necessary; and
- proposals for sustainable water management to enhance water quality, biodiversity and access.

Development shall be directed away from areas at significant risk from flooding according to the sensitivity of the development and the risk of flooding the site. Functional flood plains should be allowed to flood naturally where appropriate. Local plans shall identify areas at risk wherever possible and set appropriate criteria. Development shall also be sited and designed to protect the natural heritage value and water quality of lochs, ponds, watercourses, aquifers and wetlands within the context of watercourse management.

Developers shall deal with surface water treatment in a sustainable manner and in ways that avoid flooding and pollution. They shall also be required to provide Flood Risk Assessments for their proposals in appropriate cases.

1.30 Policy 29 - the structure plan classifies the coastline around the North East as 'undeveloped coast' except for areas around larger settlements classified as 'developed coast'. These zones will be shown in detail in local plan proposals maps.

In general, development that requires a coastal location or that contributes to the social and economic wellbeing of settlements should be restricted to the developed coast. Proposals on the undeveloped coast should only be considered where social and economic benefits outweigh any detrimental environmental impact and where there are no other alternatives on previously developed land or in existing settlements.

Development shall be prohibited on any parts of the coast that are identified as at risk from flooding or erosion.

1.31 Policy 31 – new developments and measures to manage transport infrastructure will help reduce the need to travel, particularly by car. Local Plans and Local Transport Strategies will help realise this aim.

Development proposals:

- a) will be well related to existing settlements and avoid dispersed patterns of development;
- b) will be close to existing public transport services or deliver major improvements to public transport services; and
- c) together with the management of transport infrastructure, will maintain or enhance the vitality and viability of the economy, in particular Aberdeenshire town centres and Aberdeen city centre.

Priority will be given to proposals that increase the proportion of journeys by public transport, rail and sea freight, walking and cycling and help reduce demand for private car travel.

1.32 Policy 33 - developer contributions secured by planning or legal agreement will be required to mitigate any adverse effects on the existing transport

infrastructure or services, or the wider community, and should address any shortfalls in the choice of transport available to the development.

There will be a presumption against development whose travel demands (identified in a transport assessment) will not be satisfied by the following measures: proposed car parking up to the maximum number for the development or possible new public transport, cycling, walking and other non-car measures.

Development plan policies contained in ALP

1.33 ALP was adopted in June 2006 and adopts the objectives of NEST for implementation at local level. The following adopted local plan policies are relevant:

Policy Env\1: International Nature Conservation Sites;
Policy Env\2: National Nature Conservation Sites;
Policy Env\3: Other Recognised Nature Conservation Sites;
Policy Env\4: Biodiversity;
Policy Env\5B: Areas of Landscape Significance;
Policy Env\6: Coastal Development;
Policy Env\8: Trees and Woodlands;
Policy Env\11: Agricultural Land;
Policy Env\15: Aquatic Engineering Works;
Policy Env\18: Listed Buildings;
Policy Env\19: Archaeological Sites and Ancient Monuments;
Policy Env\20: Historic Gardens and Designed Landscapes;
Policy Env\22: Public Access;
Policy Hou\4 (Part 1): New Housing in the Countryside;
Policy Hou\8: Affordable Housing;
Policy Hou\13: Public Open Space for Housing;
Policy Emp\3: Employment Development in the Countryside;
Policy Emp\9: Tourist Facilities and Accommodation;
Policy Emp\10: Sport, Leisure and Recreation;
Policy Inf\1: Roads and Accesses;
Policy Inf\2: Parking, Servicing and Accessibility;
Policy Inf\4A: Foul Drainage Standards;
Policy Inf\4B: Surface Water Drainage Standards: Sustainable Urban Drainage Systems;
Policy Inf\5: Water Supply;
Policy Inf\6B: Waste Management Requirements for New Developments;
Policy Gen\1: Sustainability Principles;
Policy Gen\2: The Layout, Siting and Design of New Development;
Policy Gen\3: Developer Contributions; and
Policy Gen\5: Landscaping Standards.

1.34 Policy Env\1 - development likely to have a significant impact on a site designated or proposed under the habitats or birds directives (Special Area of Conservation and Special Protection Area) or on a Ramsar Site and not directly connected with or necessary to the conservation management of the site, must be the subject of an appropriate assessment for the implications for the site's

conservation objectives. It will then only be permitted where the appropriate assessment indicates that:

- a) it will not adversely affect the integrity of the site; OR
- b) there are no alternative solutions, AND
- c) there are imperative reasons of over-riding public interest, including those of a social or economic nature.

Where development is allowed which could affect any of these designated sites, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest.

1.35 Policy Env\2 - development that would have an adverse effect on a Site of Special Scientific Interest or a National Nature Reserve will be refused unless the developer proves:

- a) any significant adverse effects on the quality for which the area 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.

Where development is allowed which could affect any of these designated sites, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest.

1.36 Policy Env\3 - development that would have an adverse effect on a Site of Interest to Natural Science, a Local Nature Reserve, an Ancient Long Established Woodland, a raised peat bog, wetland or non-statutory Nature Reserve will be refused unless the developer proves:

- a) its public benefits at a local level clearly outweigh the nature conservation value of the site, AND
- b) there is no suitable alternative site for the development.

Where development is allowed which could affect any of the above designated sites, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the site's ecological, geological and geomorphological interest....

1.37 Policy Env\4 - development that would have an adverse effect on habitats or species protected under British or European Law, or identified as a priority in UK or Local Biodiversity Action Plans or on other valuable habitats and species, will be refused unless the developer demonstrates:

- a) that the public benefits at a local level clearly outweigh the value of the habitat for biodiversity conservation;

- b) that the development will be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability; AND
- c) that there will be no fragmentation or isolation of habitats as a result of the development.

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer may be required at his own expense to undertake a survey of the site's natural environment. Where possible, developers should incorporate existing habitats and identify suitable opportunities for creating and restoring habitats, wildlife corridors and enhancement schemes using best practice....

1.38 Policy Env\5B - development within or adjacent to an Area of Landscape Significance will not be permitted where its scale, location or design will detract from the quality or character of the landscape, either in part or as a whole. Where acceptable, in principle, development must conform to Appendix 1 and Appendix 5. In all cases the highest standards of design, in terms of location, scale, siting, aesthetics and landscaping, will be required within Areas of Landscape Significance....

1.39 Policy Env\6 -development on undeveloped coast will be refused unless:

- d) the social and economic benefits clearly outweigh any adverse environmental impact;
- e) there is no suitable alternative site for the development; AND
- f) it respects the character, environment and amenity of the surrounding area.

In all cases:

- g) development shall be prohibited on any parts of the coast that are identified as at risk from flooding or erosion;
- h) where applicable the development must conform to policy Gen\4...or the Countryside policy;
- i) satisfactory account must be taken by the developer of locating the proposal in an existing settlement, on brownfield land or in disused buildings;...and
- k) an assessment will be required to evaluate the impact of development, individually or cumulatively, on natural and cultural heritage interests, and on open space and access.

1.40 Policy Env\8 - development that would cause the loss of, or serious damage to trees or woodlands, which are EITHER covered by an existing or proposed Tree Preservation OR of significant ecological, recreational, historical, shelter or landscape value, will be refused unless:

- a) its public benefits at the local level clearly outweigh the value of the habitat;
- b) the development will be sited and designed to minimise adverse impacts on the biodiversity of the site, including its environmental quality, ecological status and viability;

- c) there will be no further fragmentation or isolation of habitats as a result of the development; AND
- d) the development incorporates satisfactory measures to replace and/or enhance existing trees and woodlands.

1.41 Policy Env\11 - development that would cause the permanent loss of productive agricultural land will be refused unless it has been allocated for development in the Plan or the developer demonstrates:

- a) its social or economic benefit clearly outweighs the agricultural value of the site, AND
- b) there is no suitable alternative site for the development.

1.42 Policy Env\15 - engineering works that would result in the deterioration of the ecological status or potential of a river, wetland, standing, tidal or coastal water or prejudice the ability to restore such water bodies to good ecological status, through impacts on water quality, quantity or flow rate, riparian habitat or protected species, will be refused.

1.43 Policy Env\18 - all Listed Buildings shall be protected against any works which would have a detrimental effect on their listed character, integrity or setting by the refusal of listed building consent and/or planning permission....

1.44 Policy Env\19 - development which would have an adverse effect on an Ancient Monument or archaeological site of national or local importance or on their settings will be refused unless:

- a) there are imperative reasons of overriding public interest, including those of a social, environmental or economic nature, AND
- b) there is no alternative site for the development.

When development is approved satisfactory steps must be taken to mitigate adverse development impacts at the developer's expense....

1.45 Policy Env\20 - development that would have an adverse effect on the character or setting of an Historic Garden or Designed Landscape will be refused unless:

- a) the objectives of the designation and the overall integrity and character of the designated area will not be compromised; OR
- b) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic and strategic benefits of national importance; AND IN EITHER CASE
- c) mitigation and appropriate measures are taken to conserve and enhance the essential characteristics, aesthetics, archaeological, historical value and setting of the garden.

1.46 Policy Env\22 - development that would have an adverse effect on any existing or potential public access for walking, cycling or horse riding will be refused unless:

- a) it retains existing or potential public access while maintaining or enhancing its amenity value; OR
- b) it makes alternative access provision that must be no less attractive and is safe and convenient for public use.

Encouragement will also be given to new access routes which promote 'green transport' while not adversely affecting the land concerned.

1.47 Policy Hou\4 (Part 1) - the erection of new housing in the countryside will be approved, in principle, IF:

- a) it is for a full time worker in an enterprise which itself is appropriate to the countryside;
- b) the presence of that worker on site is essential to the efficient operation of the enterprise;
- c) there is no suitable alternative residential accommodation available;
- d) the proposed house is within the immediate vicinity of the worker's place of employment; AND
- e) it conforms with Appendix 1.

1.48 Policy Hou\8 - all development and in particular housing development can support a strategy to provide more affordable housing. Housing development will be approved in principle if a contribution is made towards the provision of affordable housing where appropriate and satisfies all other relevant policies of the plan....

1.49 Policy Hou\13 - new housing will be approved in principle, if the provision and arrangements for maintenance of public open space conform to Appendix 6.

1.50 Policy Emp\3 - new employment development in the countryside will be approved, in principle, if:

- a) the developer demonstrates that there is an economic need and that the benefits to the community outweigh any adverse environmental impacts;
- b) the development respects the natural and built environment and protects the character and amenity of the surrounding area ensuring there is no significant adverse impact upon the nature conservation, landscape character or amenity value of the countryside;
- c) the proposal is located as close as possible to the existing population in order to provide employment opportunities for people close to their homes and help promote social inclusion;
- d) the proposal takes account of the need for access and infrastructure;
- e) the proposal has regard to the proximity of existing and potential public transport corridors;
- f) reasonable account has been taken by the developer of the possibility of using disused buildings or of locating a new building either on brownfield or allocated employment land;

- g) new development is designed in accordance with the provisions of Appendix 1.

1.51 Policy Emp\9 - new or improved tourist facilities and accommodation will be approved, in principle, if:

- a) they respect the character, amenity and scale of the development in the surrounding area;
- b) they are reasonably accessible by public transport where available, cycling and on foot, or would deliver major improvements to public transport services in scale with the development;
- c) they are well related to existing settlements and avoid dispersed patterns of development, unless the developer has demonstrated a locational requirement to be near to the specific tourist interest being exploited, and that the facility will not damage those interests....

1.52 Policy Emp\10 - new or improved sport and recreation facilities will be approved, in principle, if:

- a) it can be demonstrated that the sequential approach set out in Emp/6 has been followed in regard to professional spectator sports;
- b) they respect the character and amenity of the surrounding area;
- c) they are readily accessible by public transport where available, cycling and on foot or would deliver major improvements to public transport services in scale with the development in order to reduce reliance on the public car;
- d) they are located close to where people live and reduce the need to travel....

1.53 Policy Inf\1 - a new road or other access will be approved, in principle, if:

- a) it is designed to be safe, convenient for pedestrians, cyclists and public transport, resource efficient and cause minimal impact on the character of the site and the surrounding area;
- b) no new private access is taken directly from a road carrying more than 2000 vehicles per day;
- c) satisfactory arrangements are made for its subsequent maintenance; AND
- d) where required, a Transport Assessment shows that the development and any mitigation measures proposed will not have significant transport impacts on existing transport infrastructure or services.

1.54 Policy Inf\2 - development will be approved, in principle, if:

- a) it is well related to existing settlements, avoids dispersed patterns of development and complies with the Council's maximum parking standards;
- b) it can be accessed conveniently by walkers and cyclists and is close to existing public transport services where available, or delivers major improvements to public transport services in scale with development;
- c) it is designed to be safe, convenient, resource efficient and cause minimal impact on the character of the site and surrounding area;

- d) developer contributions are provided where required to mitigate development impact; AND
- e) it can be safely and conveniently accessed by service, delivery and other goods vehicles as appropriate to the development.

1.55 Policy Inf4A - development will be approved, in principle, if proposals for foul drainage are to:

- a) connect to new or existing public drainage infrastructure,..... and
- c) where requested, a Drainage Impact Assessment is provided at the applicant's expense to the satisfaction of the Planning Authority in consultation with the relevant agencies....

1.56 Policy Inf4B - development will be approved, in principle, if surface water is dealt with in ways that avoid flooding and pollution. Flood risk assessments will be required in those cases where flooding can be expected. The best available Sustainable Urban Drainage Systems (SUDS) will be required as a means of achieving sustainable disposal and/or reuse/recycling of surface water. In all cases the developer will be required to demonstrate how the effectiveness of the measures taken will be maintained in perpetuity.

1.57 Policy Inf5 - development will be approved, in principle, if it can be satisfactorily served by mains water supply....

1.58 Policy Inf6B - new development will be approved, in principle, if:

- a) adequate space for facilities to collect and store source segregated waste is provided in the layout and design;
- b) adequate space is made available for kerbside collection of source segregated waste; AND
- c) sufficient space for home composting is provided where appropriate.

New developments will also be required, where adequate space is not already available, to provide space for communal waste recycling and collection facilities. This particularly applies to residential developments of more than 50 houses.

1.59 Policy Gen1 - development will be assessed against sustainability indicators that relate to the local environment, community and economy, demonstrated by whether the proposal:

- a) is concerned with the long term sustainable use and management of land;
- b) is well related to existing settlements and avoids dispersed patterns of development;
- c) reduces the need to travel using private cars by being close to existing public transport or allowing safe, easy access by walking and cycling;
- d) protects or enhances any valuable natural resources, including landscapes and wildlife habitats and species;
- e) does not damage built or cultural heritage resources;
- f) does not impact negatively on the character, including landscape character, environment or amenity of the surrounding area;

- g) makes full use of design and technology to maximise energy and resources and minimise light pollution;
- h) does not prejudice future development opportunities nor create a precedent for inappropriate future development patterns;
- i) reduces the production of waste and manages it as a resource in accordance with the waste hierarchy i.e. Reduce, Reuse, Recover, Dispose;
- j) does not give rise to hazards, pollutants, flooding or nuisances in the surrounding area;
- k) does not compromise public health or safety;
- l) provides new, or helps support existing, local employment;
- m) helps support existing community services and facilities;
- n) provides affordable access to land for housing to people in need and promotes security of tenure.

Where the assessment concludes that there is significant uncertainty as to whether the proposed development would cause substantial harm, the precautionary principle will be applied.

1.60 Policy Gen\2 - new development will be approved, in principle, if:

- a) it can be laid out to fit successfully into the site itself and respect the character and amenity of the surrounding area;
- b) its scale, massing, height and density are appropriate whilst displaying a high standard of design, material, textures and colours that are sensitive to the surrounding area;
- c) it respects existing natural and built features on or about the site which are worthy of retention;
- d) it respects the characteristics of the landscape in which it will be situated;
- e) it has an environmentally friendly layout particularly taking account of energy efficiency;
- f) it respects important public views;
- g) it is a bona fide mixed use development where appropriate;
- h) 'lifetime standards' are adopted by the developer; AND
- i) it conforms to Appendix 1....

1.61 Policy Gen\3 - development will be approved, in principle, if:

- a) the developer makes a fair and reasonable contribution in cash or kind towards the cost of public services, facilities and infrastructure and the mitigation of adverse environmental impacts that would not have been necessary but for the development, AND
- b) in proposed housing developments such contributions are consistent with the scale and nature of the development and are based on the anticipated necessary requirements set out in Appendix 8, subject to adjustment in light of circumstances at the time the planning application is made.

1.62 Policy Gen\5 - development will be approved, in principle, if the provision of landscaping and proposals for its subsequent maintenance conform to Appendix 5.

Aberdeen City and Aberdeenshire Structure Plan 2007-2030, provisional draft

1.63 The provisional draft structure plan has limited relevance as a material consideration. Strategic growth, estimated to amount to a demand for 72,000 homes, is proposed to be accommodated largely within 3 growth areas of which the A90T corridor includes the location of the Menie Estate. This corridor is also the focus for the Energetica concept - a focus for economic development - promoted by the Aberdeen City and Shire Economic Forum

National policy and guidance

1.64 The core inquiry documents detail more than 40 documents containing policy, advice and guidance that might be relevant to this development. Parties referred, particularly, to the content of these documents as material considerations in their evidence:

The Government Economic Strategy
The National Planning Framework
Scotland's Sustainable Development Strategy
SPP 1 – The Planning System;
SPP 2 - Economic Development;
SPP 3 - Planning for Housing;
SPP 6 - Renewable Energy;
SPP 7 - Planning and Flooding;
SPP 11 - Sport, Physical Recreation and Open Space;
SPP 15 - Rural Development;
SPP 17 - Planning for Transport;
NPPG 5 – Archaeology and Planning;
NPPG 13 - Coastal Planning;
NPPG 14 - Natural Heritage;
NPPG 18 - Planning and the Historic Environment;
PAN 43 - Golf Courses and Associated Developments;

1.65 The Government Economic Strategy sets an overarching purpose of focussing the Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. Sustainable economic growth is defined as building a dynamic and growing economy that will provide prosperity and opportunities for all, while ensuring that future generations can enjoy a better quality of life too. The benefits from delivering this purpose will be shared by all of Scotland's people, helping to:

- generate greater and more widely shared employment;
- create more highly skilled and better paid jobs;
- provide better quality goods and services and additional choices and opportunities for Scotland's people;
- stimulate higher government revenues, supporting better quality public services;
- foster a self-sustaining and ambitious climate of entrepreneurial advance;

- encourage economic activity and investment across Scotland, thereby sharing the benefits of growth;
- bring a culture of confidence and personal empowerment to Scotland; and
- secure a high quality environment today and a sustainable legacy for future generations.

1.66 The first National Planning Framework (NPF1) describes Scotland in 2004, identifies key issues and drivers of change, sets out a vision of 2025, and identifies priorities and opportunities for different parts of the country in a series of spatial perspectives. It sets out to increase economic growth and competitiveness; promote social and environmental justice; and promote sustainable development, whilst protecting and enhancing the quality of natural and built environments. Aberdeen and its hinterland are recognised as an economic development zone. NPF1 recognises the likely significant decline in employment in oil production, perhaps amounting to a reduction of 9,000 oil-related jobs in north east Scotland by 2016. Aberdeen requires to build on its strengths as an energy centre and Scotland's northern gateway and to diversify to broaden its business base. The Aberdeen City Vision focuses on improving the quality of the environment in the city centre and developing cultural and recreational facilities to create a more vibrant social scene. There is held to be scope for attracting more tourists to the city and expanding the service sector with a need to improve public transport access to the city's airport. The safeguarding of land for a runway extension at the airport is supported.

1.67 The Consultative Draft NPF2 is intended to guide Scotland's spatial development to 2030, setting out strategic development priorities to support the Scottish Government's central purpose – promoting sustainable economic growth alongside a greener Scotland. The framework recognises the need for better connectivity and accessibility by sustainable modes of transport. So as to ensure that Scotland is a good place to do business and an attractive tourism destination, high quality environments are needed as well as good transport interchange facilities at air, rail and sea gateways. NPF2 indicates the projects that Ministers propose to designate as national developments. That designation is the mechanism for establishing their need. These projects are essential in delivering the framework's spatial strategy in support of the Government's central purpose. NPF2 recognises tourism as making an important contribution to economic growth, supported by the attraction of international sporting events.

1.68 Choosing our Future: Scotland's Sustainable Development Strategy recognises that in achieving a sustainable future there will be many hard choices balancing the social and economic with the environmental. The strategy aims to bring about the long-term changes in the way that Scotland is governed, so that it sets an example to the world. Scotland's landscapes and scenery are a natural advantage, which is an important resource for tourism and for the economy more generally. But landscapes are dynamic. Human activities have shaped that landscape over thousands of years. They continue to do so and the strategy recognises the need to ensure their impacts are managed. Some mountain, loch, peatland and coastal landscapes are nationally and internationally renowned, and these need to be cherished and safeguarded so that they can be widely enjoyed both now and in the future.

1.69 SPP 1 – sets out the key principles and Ministers’ priorities for the land use planning system whose purpose is to guide change through an efficient and effective process that respects the rights of the individual whilst acting in the interests of the wider community. The main aims are to set the land use framework for promoting sustainable development; encourage and support regeneration; and maintain and enhance the quality of the natural heritage and built environment. The guidance accepts that development and conservation are not mutually exclusive objectives and that the aim is to resolve conflicts between the objectives in managing change.

1.70 The policy commends the judgement of the House of Lords (*City of Edinburgh Council v SoSS 1998 SLT120*) in setting the appropriate approach to decision making in development control: identify provisions of the development plan that are relevant to the decision; interpret them carefully, looking also at the aims and objectives of the development plan; consider whether or not the proposal accords with the plan; identify and consider material considerations both for and against the proposal; and assess whether these justify a departure. The weight to be attached to any material consideration in this balancing exercise is for the judgement of the decision-maker.

1.71 SPP 2 – deals with economic development and indicates strong support from the planning system for economic development where it is consistent with other national and local policies, in particular the promotion of social justice and sustainable development. The policy emphasises the importance of the provision of a range of development opportunities; the need to improve the integration of transport with new development and encouragement for more sustainable forms of development; and the protection of the natural and built heritage through safeguarding and enhancing the environment with new development contributing to a high standard of both quality and design.

1.72 SPP 3 – as in force when the inquiry took place – refers to the need for the planning system to create quality residential environments; to guide new housing to the right places; and to deliver land for housing development. Planning authorities are expected to meet in full the housing land requirement for each housing market area. New housing areas should be easily accessible by public transport and well integrated into walking and cycling networks. In rural areas new housing requirements devised within a development plan-led approach are expected to be met within towns and villages. Extensions to villages and new settlements are expected to be developed in a sustainable way.

1.73 A consultative draft replacement SPP 3 was also then available, and now represents the policy of the Scottish Government. It seeks to bring about the quicker delivery of land for housing than has resulted from the original policy document published in 2003. This is necessary to meet the national goal of a much increased supply of new housing (35,000 new houses each year) by 2015. Ministers’ objective is to refocus the delivery of new housing so as to build a better, more diverse range of properties to serve the economic, social and environmental aspirations of Scotland.

1.74 NPPG 5 – deals with archaeology and planning and refers to circumstances where it is decided that physical preservation in situ of archaeological remains is not justified and that development should proceed. In such cases, the planning authority should satisfy itself, before granting planning permission, that the developer has made appropriate and satisfactory provision for the excavation, recording, analysis and publication of the remains, and for the notification of any finds to the appropriate authorities. The guidance will be replaced in terms suggested by the consultative draft SPP 23 – Planning and the Historic Environment – which advocates a stronger management role using strategic environmental assessment; supplementary planning guidance; model policies; sympathetic adaptation and enabling development; and planning conditions and agreements.

1.75 SPP 6 – is concerned with renewable energy and sets the framework for encouraging, approving and implementing renewable energy projects. The policy seeks the use of renewable energy sources within new developments where these are economically viable and would help to reduce the environmental impact of the development. Opportunities for the use of renewable technologies in new developments are emphasised. A key role of the planning system is seen in securing the move towards low and zero carbon developments through energy efficient, microgenerating and decentralised renewable systems, so that carbon reductions are secured through design. All developments with a cumulative floorspace over 500m² should incorporate on-site equipment that will contribute an additional 15% reduction in CO₂ emissions beyond what would have been achieved under the 2007 Building Regulations.

1.76 SPP 7 - deals with flood risk and refers to the fact that coastal flooding is not widespread in Scotland, although it is expected to increase as a result of climate change. Storms and tidal surges are predicted to become more frequent and together with a rise in sea level, are likely to increase the probability of flooding along the coast.

1.77 SPP 11 – sets the national policy for open space and physical activity and provides guidance on planning for new outdoor facilities. Their potential as an attractor for tourists and for inward investment is recognised. However, the quality and diversity of the natural heritage is nevertheless the basis of many sporting and recreational activities and its use for public enjoyment should not lead to a loss of overall quality. In respect of golf, the predecessor of SportScotland identified an unmet demand for golf facilities around Aberdeen. Golf courses can increase the recreational use of the countryside but they can also have a significant impact. Poor location and management of golf courses, particularly on the coast, can cause loss of habitat for wildlife, although there can be ecological benefits particularly for land coming out of agriculture. Associated developments such as hotels can improve the attractiveness of an area to tourists and in turn bring employment benefits but these must be considered on their own merits in land use terms. A golf course should not provide the justification for approving associated development if it would not normally be acceptable in planning terms.

1.78 NPPG 13 – relates to coastal planning and acknowledges that the scale of development on most parts of Scotland's coast is not as great as in other parts of the UK. However, interrelationships between human activities and natural

processes do not respect boundaries, an example of this being the natural processes of erosion and deposition at work on the coast. Development which does not require a coastal location should not normally be permitted on the coast so as to achieve sustainable development. A location on the undeveloped coast should generally be considered only where the proposal can be expected to yield social and economic benefits sufficient to outweigh any potentially detrimental impact on the coastal environment, where there are no feasible alternative sites within existing settlements or on previously developed land. In other cases robust reasoned justification is required in support. Where projects require a coastal location, any development must be sensitively located to ensure that important views along the coast and from the sea are not disrupted and new buildings must be designed to a standard appropriate to the setting. Where the potential exists for significant damage to biodiversity, the precautionary principle should apply.

1.79 NPPG 14 – sets the policy applying to the country’s natural heritage which includes plants, animals, landforms and geology, as well as its natural beauty and amenity, encompassing both physical attributes and aesthetic values. Natural heritage is not confined to the various designated sites and is found throughout the countryside, in coastal areas and in many urban locations. Policy guidance is provided on the protection of landscapes and species and habitats, with distinctions drawn between statutory (international and national) and non-statutory (regional and local) designations. The presence of a protected species or habitat is acknowledged to be a material consideration in the assessment of development proposals and whether, or not, a designated area is likely to be affected. The policy indicates that 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 (paragraph 25).

1.80 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. The policy indicates that the precautionary principle should be applied where the impacts of the proposed development are uncertain, but there are good scientific grounds for believing that significant irreversible damage could occur to natural heritage interests of international or national significance. The precautionary principle should not be invoked to impede development unnecessarily. Where development is constrained on the grounds of uncertainty, efforts should be directed towards commissioning research designed to remove that uncertainty.

1.81 The policy specifically encourages the safeguarding of the natural heritage beyond the boundaries of designated sites, and makes this a material planning consideration where it is relevant, albeit at a lower level of protection than that afforded to designated sites. It states:

“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.”

1.82 Paragraph 48 then refers to Article 10 of the Habitats Directive, and the “appropriate management of features of the landscape which are of major importance for wild flora and fauna with a view to complementing and improving the ecological coherence of the Natura 2000 network.”“Beyond the specific requirements of Article 10, the development of networks of statutory and non statutory sites and the landscape features which provide links from one habitat to another can make an important contribution to the conservation and enhancement of biodiversity and the quality of the local environment.”

1.83 NPPG 14 lists a selection of features that may be of value in the development of habitat networks referred to in paragraph 48. This list specifically includes coastal habitats.

1.84 SPP 15 – contains the national policy concerned with rural development and diversification. Tourism is recognised to be of vital importance to the social, economic, environmental and cultural well-being of rural Scotland with many areas dependent on it for jobs and infrastructure. Planning authorities should support the development of the tourist and leisure industries with appropriate policies for the siting and design of new development. Large scale mixed use projects such as those combining a golf course with housing and commercial development are seen as presenting a particular challenge. In these cases the quality of the final product is crucial and the economic benefits have to be weighed carefully against the environmental and social impact.

1.85 SPP 17 - sets the national policy for planning for transport. For the transport network to support the economy most effectively, planning should assist in reducing the need to travel and in creating the right conditions for greater use of sustainable transport modes. In assessing development proposals, location policy must be correct and maximum parking standards applied. Transport assessment methodology will be used, as will travel plans, to promote sustainable transport to the end-users of developments. Development likely to affect trunk roads should be managed so as not to adversely impact on the safe and efficient flow of strategic traffic. New road junctions will only be considered exceptionally and will require significant developer funding. In rural areas most additional housing, employment, leisure and other services should be located where there is access from an existing road or footpath to a rail station or bus route and there is proximity to local community services within walking or cycling distance.

1.86 NPPG 18 – deals with planning and the historic environment and refers to the importance of the relationship between historic buildings, cultural features and the natural environment in giving an area its particular identity and character. The importance of good quality modern development in forming an important part of our heritage is also identified. Achieving sustainable development involves reconciling the protection of the historic environment with the identification and promotion of

acceptable opportunities for change. The effect of development on a designed landscape is acknowledged to be a material consideration.

1.87 PAN 43 – was published in 1994 and contains national advice on golf courses and associated developments. It cites the need for special care in considering the implications of new proposals alongside the continuing need to protect the historic, archaeological and visual qualities that define cultural heritage. The advice recognises that leisure and tourist developments can improve the attractiveness of an area and in turn bring employment benefits. However, the leisure or tourist facility should not in itself provide the basis for approving a housing development which would not normally be acceptable in planning terms – there should be a viable market for the houses and an acceptable environmental impact. The housing elements should be considered within the development plan requirement for housing land and assessed against development plan policies. Where a golf course proposal forms part of a mixed use development with another use such as a hotel, a conference centre, a country club, villas or chalets, their impact in terms of local economic and social benefit should be considered in relation to policies for tourism. The developer may suggest that only the complete package will be viable and there is a risk that the site will become overdeveloped to the detriment of the very qualities that attracted the proposal in the first place. The effect of coastal erosion on links courses in prompting clubs to stabilise dunes in order to protect greens and fairways is identified as grounds for careful consideration of new proposals in similar locations, since landscape or ecology may be altered to an unacceptable degree.

1.88 The advice refers to the fact that an essential quality of the early Scottish courses was the advantage taken from the natural features of the landscape. Courses thus feature natural hazards such as dunes, drumlins, moraines, tree clumps and rough ground. Proposals for any new golf courses in such areas should demonstrate that the landscape will not be adversely affected to an unacceptable degree. The advice also points to the need to consider the suitability of the site for both the course and the associated development in geographical, geological, topographical, nature conservation, cultural heritage and landscape policy terms as well as the retention of access to existing public open space and the creation of opportunities for new access.

1.89 Circular 6/1995, as amended in 2000, provides guidance on the conservation of the natural heritage outwith areas designated as European Sites. Paragraphs 35 to 38 state:

Conservation Outside European Sites

35. Article 10 of the Habitats Directive requires Member States to endeavour, where they consider it necessary, in their land use planning and development policies to encourage the management of features of the landscape which are of major importance for wild flora and fauna. These features are those which, because of their linear and continuous structure or their function as "stepping stones" are essential for migration, dispersal and genetic exchange... The requirements of Article 10 are transposed by Regulation 37 of the Habitats Regulations.

36. Structure plans, local plans and Indicative Forestry Strategies prepared in accordance with the advice contained in SODD Circular 9/1999 should include policies that respect the need to conserve and enhance our natural heritage, in accordance with current national policy and the UK's international obligations. In particular, these policies should seek to improve the ecological coherence of the Natura 2000 network in accordance with the requirements of Article 10. Regulation 37 requires that such policies shall include policies encouraging the management of features of the landscape which are of major importance for wild flora and fauna. Suitable planning conditions and obligations may serve to promote such management.

37. NPPG 14 sets out for planning authorities overall policy for the protection of the natural heritage in designated areas and the wider countryside.

38. The protection of SSSIs that do not qualify as European sites will also have an important contribution to make in meeting the requirements of Article 10 of the Directive and Regulation 37 of the Habitats Regulations. Scottish Ministers are considering what improvements may be made to the SSSI system [made subsequently through the Nature Conservation (Scotland) Act 2004]

1.90 The Nature Conservation (Scotland) Act 2004, section 3(1) states that an SSSI must be of special interest by reason of any its natural features, which, in accordance with section 3(2), relate to any of its flora or fauna or geological or geomorphological features. In determining whether or not a site is of special interest, section 3(3) states that “*SNH must have regard to:*

(a) the extent to which giving notification under that subsection in relation to the land would contribute towards the development of a series of sites of special scientific interest in Scotland representative of the diversity and geographic range of –

- i) Scotland's natural features*
- ii) The natural features of Great Britain*
- iii) The natural features of the Member States.”*

1.91 The aim of the Habitats Directive is outlined in Article 2.1, which states: “*the aim of this Directive shall be to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies.*”

1.92 Article 2.2 then goes on to state: “*measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.*”

1.93 The habitats of community interest are defined in Article 1(c) and are listed in Annex I, and the species of community interest are defined in 1(g) and listed on Annexes II, IV or V. Habitats and species listed on Annexes I and II form the basis of SAC selection. Species on Annex IV are referred to as European Protected Species in domestic regulations and those on Annex V are those species whose taking in the wild may be subject to management measures.

1.94 Priority species in the Habitats Directive are of particular relevance when considering developments under Article 6(4) of the Directive. The priority status reflects their importance as outlined in Article 1(d) of the Directive, which states: *“priority natural habitat types means natural habitat types in danger of disappearance, which are present in the territory referred to in Article 2 and for the conservation of which the Community has particular responsibility in view of the proportion of their natural range which falls within the territory referred to in Article 2;”*

1.95 The “favourable conservation status of habitats” referred to in Article 2.2 is defined in Article 1(e):

“The conservation status of a natural habitat will be taken as ‘favourable’ when:

- its natural range and areas it covers within that range are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable as defined in (i);”

1.96 The principal approach towards achieving favourable conservation status for the habitats and species is set out in Article 3 of the Directive. This states: *“A coherent European ecological network of special areas of conservation shall be set up under the title Natura 2000. This network, composed of sites hosting the natural habitat types listed in Annex 1 and habitats of species listed in Annex 2, shall enable the natural habitat types and the species’ habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range”.*

1.97 The Natura 2000 network includes both Special Areas of Conservation, designated for habitats and species other than birds, and Special Protection Areas designated for their bird interests.

1.98 Article 3(3) of the Habitats Directive states: *“Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate developing, features of landscape which are of major importance for wild fauna and flora as referred to in Article 10.”*

1.99 The UK is a signatory to the United Nations Environmental Programme Convention on Biological Diversity 1992 (“the Convention”). The duties imposed by the Convention are enacted in Scotland by the Nature Conservation (Scotland) Act 2004. This provides as follows:

“1. Duty to Further the Conservation of Biodiversity

- (i) It is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.*
- (ii) In complying with the duty imposed by sub-section (i) a body or office-holder must have regard to –*
 - (a) any strategy designed under section 2(1), and*
 - (b) the United Nations Environmental Programme Convention on Biological Diversity of 5 June 1992 as amended from time to time (...)*

2. Scottish Biodiversity Strategy

- (i) The Scottish Ministers must designate as the Scottish Biodiversity strategy one or more strategies for the conservation of biodiversity (...)*
- 4. Within one year of a strategy being so designated , the Scottish Ministers must publish in such manner (...) as they think fit, lists of –*
- (a) species of flora and fauna, and*
 - (b) habitats,*

considered by the Scottish Ministers to be of principal importance for the purpose mentioned in Section 1(1)”.

1.100 In accordance with the Act, the Scottish Biodiversity Strategy was published in 2004 under the title, “Scotland’s Biodiversity: It’s In Your Hands”. The need for a strategy is set out on page 6, which states:

“We need a strategy to ensure that biodiversity is conserved for the sake of our economy and future generations. Biodiversity conservation is an important dimension of sustainable development and a key measure of our success in achieving it.

We also need a strategy to ensure we meet our international obligations. The Convention on Biological Diversity is a 1992 United Nations agreement, to which the UK is a signatory, which commits us to “the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilisation of genetic resources”. To take forward the Convention, the European Union has set an objective in the 6th EU Environmental Action Programme “to protect and restore the functioning of natural systems and to halt the loss of biodiversity in the European Union” by 2010. It is vital that we play our part in Scotland in meeting that commitment.”

1.101 The Scottish Biodiversity List was published within one year of designation of the Scottish Biodiversity Strategy in 2005. The title given to the list is “*The List of Species and Habitats considered to be of Principal Importance for the purpose of Biodiversity Conservation in Scotland*”. The introduction to the list is as follows:

“The Scottish Biodiversity List is a list of flora, fauna and habitats considered by the Scottish Ministers to be of principal importance for biodiversity conservation.

The development of the list has been a collaborative effort involving a great many stakeholders overseen by scientists from the Scottish Biodiversity Forum. Completion of the list is an exciting development as it is the first time such a stock take has been done in Scotland.

The Scottish Biodiversity List is a tool for public bodies and others doing their Biodiversity Duty and is an important source of information and guidance for all.”

1.102 The Scottish Biodiversity List comprises four categories:

1. terrestrial and fresh water species;
2. terrestrial and fresh water habitats;
3. marine species and habitats; and
4. the species and habitats identified as important by the Scottish public in a social survey.

1.103 The list is used to guide decision-makers in public bodies to implement their duty to further the conservation of biodiversity in Scotland when carrying out their formal functions. This applies to the exercise of development management functions by all public bodies. The list of habitats considered to be of principal importance for biodiversity conservation includes habitats of types SD12, SD13, SD16, possibly SD17 and H11 as classified through the National Vegetation Classification (NVC), which are all terrestrial and fresh water habitats identified as occurring within the dune system, either within or outwith the SSSI.

Consultations carried out by Aberdeenshire Council when processing the application

1.104 The council carried out consultations before reporting the application to the Formartine Area Committee on 18 September 2007 and again before reporting to the Infrastructure Services Committee on 20 November 2007. The summaries here amalgamate the responses and are the consultees’ final position on the proposed development, except where additional submissions were made to the inquiry either in writing or orally.

1.105 Aberdeen City Council welcomes the development, which would more firmly place Aberdeen on the world map, but the council is also conscious of the environmental issues raised. It recognises that the proposal meets with many strategic policies, such as the countryside and coastal areas being the broad

locations for tourism and leisure development, but also recognises that the housing part of the proposal does not contain much detail on timing or phasing for it to comment on this in any greater detail. It considers that the development would address the current lack of a high quality hotel and conference facility in the Aberdeen City and Aberdeenshire region.

1.106 The social and economic benefits are recognised as being significant, complementing the existing and expanding golf industry in the area and assisting in diversifying the regional economy. However, it is also recognised that these benefits must be sufficiently significant to outweigh any environmental impacts on the SSSI for planning permission to be granted. No particular concerns are raised about the coastal path network, landscape impact, links to the airport or the proposed offshore wind development. It was agreed that the only particular issue for the city council was whether the proposed housing would have an effect on the traffic in the city, such as at the Bridge of Don. The city council will carry out its own audit of the transportation proposals, the results of which will be fed back to Aberdeenshire Council when it has been completed.

1.107 The city council amplified its consultation reply in a written submission to the inquiry, which has been summarised in Chapter 2.

1.108 Aberdeenshire Council: The Archaeology Service advises that a pre-consent field evaluation should be carried out to narrow down areas of archaeological activity. A condition should be imposed on any consent to require that archaeological works in advance of any other works on the site, which would include the recording and recovery of any archaeological resources.

1.109 Aberdeenshire Council: Economic Development, Estates and Finance officers have all assessed the economic impact assessment and financial review. They have commented on how the development would impact on the local economy and whether residential housing sales would be needed to make the proposal viable. The assumptions used would appear to be consistent with assessing this project against other projects by the applicant. These may not be the assumptions that the council would use, however, there is a substantial amount of detail in the document and all areas appear to have been covered. The assessment of the information uses figures drawn from the company's own report which have not been validated or tested by Aberdeenshire Council.

1.110 Whilst acknowledging the inclusion of contingencies in the project, there is a reliance on key factors occurring, such as the sale of all residential units at given prices, the uptake associated with the other types of accommodation, the level of membership being taken, level of occupancy of the hotel, the proposed sale of the hotel in 2021, ongoing income generation, the availability of labour and expertise together with assumptions based around construction costs for a significant project.

1.111 The Economic Development Officer has assessed the response from Johnston and Carmichael submitted by the applicant and considers it to be a reasonable assessment.

1.112 The applicant has confirmed that it is not intended that the hotel would be sold. The council's Corporate Finance Manager comments that the inclusion of the sale of the hotel in the business plan is simply to show a realisable value of the only remaining asset in the development (including the golf course). The private houses and holiday apartments and villas would all have been sold, so the realisable value of the hotel is included to complete the net present value of the project.

1.113 Aberdeenshire Council: The Education Service states that an extension to Balmedie Primary would be acceptable.

1.114 Aberdeenshire Council: The Flood Prevention Unit is content with the proposal and considers that it is entirely appropriate for further investigation works to be carried out throughout the project to aid the design. These may allow source control measures to be incorporated. The methods described to deal with surface water run off are acceptable at outline planning permission stage.

1.115 Aberdeenshire Council: The Planning Service Planning Policy and Environment Team provided an extensive assessment of the proposal, the main points of which are summarised as follows.

- In principle a golf resort consisting of a hotel, holiday homes and staff accommodation could be accommodated within the application site, but a number of issues must be considered. There would clearly be considerable economic benefits from a development of this scale and prestige. There are, however, questions over the scale of the proposal and it has yet to be demonstrated how it could sit within the site without damaging the natural and historic interest of the site. Critically for compliance with relevant tourism and employment policies, the proposal must respect the character, amenity and scale of development in the surrounding area. In relation to tourism developments, they should not damage the specific tourist interest being exploited. The issues of impacts on landscape, wildlife and built and cultural heritage form an important caveat to the promotion of tourism and employment facilities.
- Development of the scale of private housing proposed outside the provisions of the current development plan requires careful consideration. The acceptance of housing as development which assists in funding the golf course and resort may create an unfavourable precedent for other similar applications. The housing element should be considered in the context of Aberdeenshire Council's housing need and the continuous search for new sites which is carried out through the development plan process, unless there are material considerations which are considered to justify a different approach.
- In terms of transportation and infrastructure, the proposal has the potential to meet the policy requirement set out by the Structure and Local Plans. The proposed road network will improve the accessibility of Menie provided satisfactory access can be designed onto the trunk road. A significant volume of traffic would arise from this development and adverse effects on the road network must be considered.
- In terms of natural, built and cultural heritage, both regional and local policies protecting these interests consider that the level of public benefit,

socially and economically can sometimes outweigh adverse impacts. It is not evident that serious alternative locations within the site have been considered for the golf development. The golf fairways and tees are located within some of the most sensitive areas of the site. The environmental statement states that the proposal as submitted would result in the destruction of successional dune habitats and fragmentation of the sand dune system. This would be detrimental to the biodiversity of the coastal system as a whole and would result in highly significant loss of certain rare and scarce habitats and associated species.

- In terms of landscape, the development of a resort of this scale at any open coastal location will require careful consideration. Policy is designed to protect the existing quality of landscapes and does not consider new 'iconic' built features. In addition, there are clearly limited coastal sites that could provide the specific type of facility that forms the key feature of the proposal at Menie. However, the same cannot be said for all elements of the proposal, as residential development does not require a coastal location and opportunities are available elsewhere. The environmental statement describes the visual impact on Menie House as high. Mitigation has been proposed for Menie House and the designed landscape but the hotel and holiday home blocks are likely to have [an impact] on the setting of Menie House. A full programme of archaeological work would be required. Golf courses change the landscape by introducing intensively managed features into a relatively wild and natural landscape.
- In terms of scale, massing, design etc, although at an outline stage, the material submitted with the application gives an impression of the scale and massing of the hotel and holiday apartments. Although the environmental statement and supporting statement make reference to a high standard of design, both scale and massing are critical elements of design.
- In terms of public access, the development may have an effect on public access and mitigation measures will need to be provided to resolve issues identified within the environmental statement.
- Despite the additional information provided by the applicant, there are still details missing, which should be addressed at the outline stage. This includes the SUDS design and overall water management, foul drainage, abstraction from ground water for irrigation, paths and tracks for final course routing, proposals for rough management, a badger protection plan, a turf management plan and detailed habitat and plant species mitigation plans.

1.116 Aberdeenshire Council: The Planning Gain Coordinator has been progressing negotiations with the applicant and the agreed package so far contains several elements that will be addressed in kind by the developer, thus negating the requirement for financial contributions in certain areas. In respect of the proposed residential development, the applicant has agreed to the provision on site of a general store, a range of meeting rooms, public house, nursery/crèche, tennis courts, as well as the golf and fitness-related activities and other general everyday facilities to address sustainability issues and reduce vehicle journeys to neighbouring settlements wherever possible.

1.117 The developer intends putting forward measures to ensure that the resort is a low consumer of energy, as well as being low carbon in construction and

operation by reducing demand through improved construction methods and use of sustainable materials. A car park on site for the use of visitors, with signed formalised walkways together with information boards and a direct foot/cycle link to Balmedie avoiding the A90T, would be provided.

1.118 The local universities would be involved with training programmes for staff and the recreational requirements of the substantial workforce required during construction are also being discussed. Any section 75 agreement would contain measures which endeavour to employ locally based contractors and personnel throughout the development wherever it is practical and economically viable to do so. Provision would be made for bus services to stop at the site. A package of public arts measures would be incorporated into the development. An environmental management regime would also form part of any legal agreement.

1.119 It is intended that education requirements would be met off site and the developer has agreed to construct, under the supervision of the Council, the necessary accommodation that would be required. For affordable housing, discussions are ongoing with Communities Scotland and a registered social landlord for the provision of a substantial number of units off site in Balmedie. These would comprise mixed tenure, type and size and would address the needs of a wide range of those in housing need. The council's Housing Service has been consulted and is in agreement that off-site provision is the most practical arrangement in order to assist in the ongoing management of the units, as well as placing residents as close to schools, public transport, employment, community and social services as practicable. Negotiations pertaining to financial contributions would be agreed to augment these facilities to address the needs of residents should permission be granted. Peripheral benefits to medical, police and fire services would also be facilitated.

1.120 Aberdeenshire Council: The Transportation Manager comments on a number of matters contained in the originally submitted transport assessment and the subsequent scoping report to inform an amended transport assessment. The principle of access, and therefore the access strategy, is dealt with by Transport Scotland. Clarification is sought about when the second golf course would be built and operational. The proposals must demonstrate a commitment to reduce the overall need to travel, integrating land use and transportation needs and creating a communications framework that gives preference to cycling and walking. The commitment to the development of direct pedestrian links with Balmedie and to provision of shared pedestrian/cycle links is welcomed. It is noted that discussions have taken place with local bus operators and the commitment to providing a shuttle bus linking the development with the rail station and airport is welcomed, although it is suggested that it would be preferable to provide scheduled bus services coordinated with the rail and air services.

1.121 In the short term, Phases 1 and 2, it is anticipated that the majority of trips would route via the existing A90T towards Aberdeen and beyond. With the A90T dualling in place, it is understood that the signposted route would be via the new A975 Newburgh junction to the north. Whereas 'unfamiliar' drivers will follow the signposted route, many 'familiar' drivers e.g. staff and residents, might still favour the old road past Balmedie. Accordingly, it is requested that the amended transport

assessment includes clear justification for the distribution assumptions adopted. The transport assessment will include a travel plan framework and this must include measures and incentives which are targeted towards both the staff and residents of the proposed development.

1.122 The following matters remain key issues:

- a direct junction connecting onto the new A90T Balmedie-Tipperty section would be required. Should this not be possible, a package of measures would require to be put forward to safeguard Balmedie from the impact of development traffic;
- a direct, high quality cycle/footpath linkage to Balmedie would be provided;
- commitment to start up funding of a high quality frequent bus service may be required;
- commitment to a package of measures relieving the impact of the development traffic on the road network in Aberdeen City and on the trunk road network.

1.123 Aberdeenshire Council: The botanical consultant to the council draws attention to the main concerns of botanists and ecologists. The four higher plants listed in table 7.9 are said to be of only regional importance, whereas the latest 2006 Red Book listing for *Carex maritima* in particular lists this as endangered, which is the second highest category of threat and only 35 plant species are in the higher critically endangered category. *Pyrola media* should be classed as vulnerable in line with the 2006 Red Book, as well as *Festuca arenaria juncifolia* and *Ophioglossum azoricum* actually being scarce. In several ways the plan of the holes is less damaging than an earlier plan would have been and it is acknowledged that the course designers have made efforts to avoid damage and plan mitigation. However, the loss of dune habitats, loss of appreciable proportions of dune slack, the anticipated loss of almost all the populations of adders tongue (*Ophioglossum*) having only two other locations in Scotland and England and the anticipated 50% loss of curved sedge would be very serious. Several other locally rare attractive plants are threatened with extinction or major loss. Although the Sands of Forvie gives protection to coastal habitats, there are many types of habitats, particularly in the dune slacks at Menie, that are inadequately represented at Forvie or absent.

1.124 Aberdeenshire Council: EKOS carried out an independent high level review of the Deloitte information supplied by the applicant and the potential benefits that the development might create on behalf of the council. EKOS estimates the number of jobs created by the development for the ongoing operation of the resort to be 1100 at a local level and 1300 in total, which compares to the Deloitte estimates of 1250 and 1440 respectively.

1.125 Aberdeenshire Council gave evidence to the inquiry, which is summarised in Chapter 2.

1.126 The Aberdeenshire Environmental Forum urges Aberdeenshire Council to stand by its commitment to environmental sustainability by rejecting the application, because it is hard to see what is sustainable about the extensive and

irreversible damage to an internationally protected, ancient dune system and its associated habitats. The effective destruction of the mobile dune system and overall adverse effect on flora and fauna within or associated with these designated SSSI and SINS areas and the overall adverse impact on the whole ecology of the Menie Estate, which would occur if the project is allowed to proceed, would not be in the best interest of the natural environment in Scotland or of benefit to Aberdeenshire.

1.127 The Aberdeenshire Local Outdoor Access Forum has concerns about the severance of the popular circular walking route from Balmedie, possible loss of beach access from the coastguard houses area, deterioration of the visual aspects of public outdoor access in and around the development area, due to the erection of several very large, high and modern buildings which however iconic would be unlikely to appear attractive to most users. Clearer identification of the current and potential non-motorised access into and within the site in particular to beach walks and the North Sea Trail is required. Information should be provided on semi-permanent or permanent fencing-off of certain areas. Consultation should be undertaken with the relevant users' organisations. Detailed investigation of public access to and around similar golf courses elsewhere in Scotland should be undertaken, so the issue of management can be clarified.

1.128 The Aberdeenshire Local Outdoor Access Forum gave evidence to the inquiry in support of its concerns, jointly with the Ramblers' Association and ScotWays. This evidence is summarised in Chapter 3.

1.129 Architecture and Design Scotland acknowledges that the proposal may represent a significant economic opportunity but encourages the council to consider whether and how such a development would contribute to a sustainable future for the region in the broadest sense. On the basis of the limited information, there are serious concerns about the design approach indicated. Should a world class golf facility be located in such a sensitive landscape, it needs to be realised through an exemplary design process to secure a built development and reformed landscape of exceptionally high quality.

1.130 Were the design to be implemented as suggested it would have a negative impact on an area of high landscape value and would also devalue the Scottish architectural tradition it attempts to emulate. It is considered that the outline planning application should not be approved on the basis of the information submitted, as it would limit the ability to comment on and control the design and achieve the quality that the situation deserves. The designs should be revisited and more information provided to demonstrate, amongst other things: a creative approach to landscape design, sympathetic to the coastal location; an exemplary and contemporary approach to the design of the built environment, including to sustainable design; and compliance with Scottish Executive design related policies.

1.131 The Association for the Protection of Rural Scotland objects to the proposal on the grounds that it is of an inappropriate scale for such an important coastal site.

1.132 BAA advises that any increase in the bird population of this area would increase the bird strike risk at Aberdeen airport. The development could conflict with

safeguarding criteria unless detailed attention is paid to the design, including water bodies, landscaping and refuse disposal arrangements. A bird management plan would be required to prevent the breeding and nesting of geese and waterfowl on the site. If micro-wind turbines would be used on the site, BAA and NATS En-Route Ltd should be consulted, as these could affect navigational aids.

1.133 Belhelvie Community Council made several sets of comments on the proposed development including the environmental statement, the transport assessment and the drainage assessment. It also carried out a public consultation exercise to gauge the views of the local community, to which 120 replies were received. The community council advised that the consensus is that Aberdeen needs a landmark golf course and a superior hotel. Such a development would put the area on the tourism map and would be a sustainable resource after the decline of the oil industry. However, a number of concerns were raised, including the following issues.

- Although the development has its advantages, there are many areas where the proposal fails the development plan.
- It is on unallocated land and would be contrary to house building in the countryside policies.
- The leisure or tourist facility should not in itself provide the basis for approving housing development.
- The proposal is located in a nature conservation area, undeveloped coastal zone and area of landscape significance.
- Not only is part of the site in an SSSI, the area extending south of the SSSI where other development is proposed and including Balmedie Country Park is designated as a SINS.
- The use of artificial fertilisers, pesticides and herbicides in an area where only organic fertilisation has taken place would damage and alter biological features of special interest.
- The construction of the golf course would modify the present drainage systems and as the natural movement of the sea is northwards, any aqueous run off into the sea would adversely affect the Nitrate Vulnerable Zone to the north and the Ythan estuary, which is a RAMSAR site and Special Protection Area.
- There is considerable concern that rights of access would be lost.
- The scale and massing of the development is contrary to local plan policy Gen/2, as the development would not respect the existing features of the surrounding rural landscape, which is of small scale isolated farm steadings spread out across the countryside interspersed with undeveloped farmland.
- No account has been taken to locate the buildings to conserve energy efficiency or maximise solar gain.
- The requirement for travel would be increased, none of which travel would be by public transport, more probably helicopter or private cars.
- It would not minimise light pollution nor reduce the production of waste.
- This would be a gated community, which would deter social inclusion.
- Transient staff in tied accommodation would put a strain on social services.
- The existing roads infrastructure is not of an acceptable standard to accept the traffic associated with this type of development.

- There are serious concerns about the water and electricity supplies to a development of this magnitude, in relation to the potential detriment to the surrounding community.
- Residential development of this size also requires recreational facilities.
- The proposal does not comply with tourism policies, because it would not respect the character, amenity and scale of development in the surrounding area.
- No helicopter landing area is proposed and this development would lie under a helicopter exclusion zone used by North Sea helicopter traffic.
- In terms of PAN 43, residential development is not essential next to a golf course but deemed necessary in this instance for financial sustainability, as stated in the supporting statement. This appears to be contrary to NPPG 3, where it states that 'the leisure or tourist facility should not in itself provide the basis for approving housing development which would not normally be acceptable in planning terms'.
- Although the proposed community use of the facilities is welcomed, it is questioned whether the community would actually be able to afford to use them.
- The area north of Balmedie Country Park would be lost for public recreational use as it would become part of the second golf course.
- The maintenance of the scientific interest is underpinned by non-intervention in the process of change and the golf course construction and operation would result in permanent and ongoing impacts which would change the distribution, extent and character of dune habitats.
- There is the potential for in excess of 8500 vehicle movements per day from the complex.
- There would be increased traffic noise, dust, pollution and considerable road safety issues.
- Sign posting routes and traffic calming would not be sufficient to deter considerable increases in traffic volume through Balmedie village on a daily basis.
- There are concerns about the length and location of the filter lane which would be constructed to cope with traffic during the construction phase.
- No car parking provision for staff is proposed.
- The environmental statement states that the cycle and footpaths running alongside this access road would continue through to the footpath links at Balmedie Country Park, but the park does not have any existing cycle paths and any official footpaths.
- What is the requirement for the proposed food retail development?
- Some of the data is 10 years old and contradictory.
- The traffic implications of holding a championship are not assessed.
- No mention is made of the number of delivery vehicles.
- The Invertebrates Study and Appropriate Assessment identify additional negative impacts on the ecology of the site and the development would have a greater impact on the nature conservation value of the area than initially thought. The community council is particularly concerned that the council considers the cumulative effect of all the impacts that are now known and reassesses whether the economic benefits do still outweigh the negative impacts on nature conservation.

- If permission is granted a financial bond should be made a condition to ensure that if the applicant or future operator of the site should encounter financial problems the restoration of the site is secure.
- If permission is granted a section 75 agreement should be imposed to ensure that:
 - the impact on the nature conservation interest is minimised;
 - no hard engineering works are involved in stabilising the sand dome and dune system;
 - MEMAG has authority to prevent damaging activities;
 - a rigorous landscape evaluation is undertaken;
 - no commitment is given to either the height of the hotel and holiday apartments or the eventual number of houses for sale;
 - a minimum of 40% of the energy requirement for the hotel, holiday apartments and homes is generated on site using renewable energy technologies; and
 - the employment benefits are derived locally with preference being given to those living within the North East and those attending the proposed university course.

1.134 Buglife (The Invertebrate Conservation Trust) advises that, despite the limited scope of the survey of terrestrial invertebrates, the site holds a range of sand dune specialists, with 5 IUCN endangered and 8 IUCN vulnerable species present. The survey also found 16 species that have recently been added to the list of priority species on the UK Biodiversity Action Plan. The proposed development would cause disturbance to the dunes, dune slacks, scrub, heath and grassland micro-habitats present in the area, which would be detrimental to the associated invertebrate fauna. It is essential that suitable mitigation measures are implemented to protect these species.

1.135 Central Aberdeenshire Access Panel advises that it is not possible to assess access proposals, as this is an application for outline planning permission. The Panel expects to see an access statement explaining the approach to be taken to ensure the needs of disabled people would be met in the design and management of the development.

1.136 The Civil Aviation Authority considers that the development would not constitute an aviation en-route obstruction. As the height is likely to be less than 50 metres, there is nothing further to add.

1.137 Crown Estates property extends from the Mean High Water Spring Tides seawards. Its interests do not appear to be affected by the proposed development.

1.138 Defence Estates has no safeguarding objection providing that the height of any development does not exceed a height of 45.7 metres above ground level. However, they have indicated a willingness to allow a higher development to proceed subject to discussion and would be more concerned about there being no flat surfaces or too much glass.

1.139 Foveran Community Council believes that the development should go ahead. However, it considers that the proposed height of the holiday apartments is excessive. A reduction in height would be an aesthetic improvement, as well as helping to reduce numbers and therefore road congestion. The impact of the development on the trunk road is a concern, as are the potential side effects of the proposed housing (educational, medical and environmental). These implications need further study.

1.140 The Garden History Society notes that whilst it is accepted that the landscape is not included in an inventory of gardens and designed landscapes in Scotland it does retain some local and regional significance and should be afforded protection. The landscape provides the setting for the category B listed Menie House. The scale of the development proposed therefore causes some concern. It states that it is difficult to see how any major revision of the design could significantly reduce the impact of the designed landscape of Menie House in this open coastal landscape setting. By substantially reducing the extent of the residential development and the height and scale of the hotel and pulling all buildings away from the designed landscape, it is possible that an acceptable scheme for the setting of the house may be devised. The Society objects to the proposed development shown in the environmental statement.

1.141 NATS En-Route Ltd considers that the proposed development would not conflict with safeguarding criteria.

1.142 The North East Scotland Biological Records Centre provided extracts from its database showing all habitats and wildlife designations on the site.

1.143 The Ramblers' Association questions the justification for the development, as it is only based on the current lack of a Championship course in the north east and the lack of any existing 5 star hotel outside Aberdeen. The number of extra visitors to the area using the airport raises general issues regarding environmental objectives and sustainable development. The long term economic and social benefits predicted are therefore questioned. Evidence from Scottish Natural Heritage shows that informal outdoor recreational visits, including to the coast, have a value of £3.6 billion per year. Tourism attitudes surveys show that Scotland's beautiful scenery and natural environment are the most important tourism assets. The SSSI is of national importance, whereas the development of a new golf course is not. More specific comments are made about the impacts on nature conservation, the effects on the landscape, the policies that the development contravenes, the increase in vehicular traffic and the lack of provision for other modes of transport and concerns over public access.

1.144 The Ramblers' Association gave evidence to the inquiry in support of its concerns, jointly with ScotWays and the Aberdeenshire Local Outdoor Access Forum. This evidence is summarised in Chapter 3.

1.145 The Royal Society for the Protection of Birds objects to the proposal as it is considered that the development would lead to unacceptable levels of destruction of nationally rare habitats on an important SSSI. It would also have severe adverse effects on species and habitats subject to national and local

Biodiversity Action Plans and it would be contrary to policy and the Scottish Biodiversity Strategy. Such adverse impacts as acknowledged in the developer's own ES are not outweighed by any over-riding need for the development. It is made clear however that it is not the principle of a golf resort or golf course to which it objects but the damage it causes to the SSSI and the natural heritage in this location. The RSPB gave evidence to the inquiry in support of its objection, jointly with SWT and the Botanical Society of the British Isles. This evidence is summarised in Chapter 3.

1.146 The Scottish Civic Trust does not object to a golf course and resort at this location. However, archaeological evaluation should be carried out before works start on site. More detailed drawings are needed to ascertain the impact of the proposals, particularly the resort hotel, on Menie House and its designed landscape. The council should produce detailed development briefs for the residential development sites, which should be for low density development of the highest quality.

1.147 Scottish Enterprise Grampian has identified 6 priority industries, including tourism, in which Scotland has a competitive advantage and which will drive long term sustainable growth. The proposed development would generate a substantial economic impact, as well as increased global awareness of the area as a leisure destination. Maintaining the high quality of life in the area is crucially important to sustaining its strong economy. If planning permission is granted there should be an obligation on the developer to work with the council and others to agree and implement an environmental strategy.

1.148 Scottish Enterprise's Tourism Director explains that tourism is one of the six priority industries for Scottish Enterprise, in recognition of its current importance to the Scottish economy and its potential for future growth. The potential for growth reflects the strength of Scotland's tourism assets. Golf is undoubtedly one of these and Scotland's golf courses and its reputation as the 'Home of Golf' are significant international competitive advantages in tourism. However, in order to realise the potential of golf as a generator of tourism revenues, Scotland needs modern visitor facilities and high standards of service to compete with other countries, especially to attract overseas visitors. Scottish Enterprise and Scottish Development International have been working for a number of years to attract international golf operators into Scotland.

1.149 The project for Menie Estate is the kind of development which has been sought for Scotland. International operators such as this applicant tend to have substantial existing customer bases of their own and, therefore, have the ability to bring visitors to Scotland who would not otherwise come, resulting in a high level of net additional benefit to the local and Scottish economies. In addition, investments by organisations with the applicant's profile generally help to attract attention to a destination, build its reputation and potentially help to build confidence for other investments to follow. From a tourism and economic development point of view, this is a project which is important for tourism and the economy, not only for Aberdeenshire but for Scotland as a whole.

1.150 The Scottish Environment Protection Agency (SEPA) objects to the potential threat to the status of groundwater and wetlands on the site due to lack of information in this regard. SEPA considers that confirmation of the proposed method of irrigation and an assessment of any abstraction is a key matter which requires clarification prior to the granting of any permission.

1.151 SEPA amplified its consultation reply in a written submission to the inquiry, which is summarised at paragraphs 1.186-1.198 of this report.

1.152 Scottish Natural Heritage objects to the proposal to construct a championship golf course in the location proposed, as the development would lead to the loss of the special interest in that area. It is also noted that it would lead to considerable loss of coastal habitat south of the SSSI which is also of SSSI quality, and of habitats listed in Annex 1 of the Habitats Directive. It is also contrary to the aims, objectives and actions in the UK Coastal Sand Dunes Habitat Action Plan, with direct impacts leading to a loss of 82 hectares of coastal habitat and indirect impacts leading to loss and fragmentation of a considerably greater area. SNH considers it is not possible to significantly mitigate or compensate for such a loss should this application be approved. The proposed mitigation fails to recognise that the communities which develop in these sand dune habitats represent many hundreds of years of ecological continuity. This does not lend them to translocation and once lost, many species would never return.

1.153 SNH welcomes the assessment of impact on the ecological and geomorphological interest but considers that the consideration of alternatives is inadequate. In particular, consideration should have been given to alternative layouts which avoided sensitive coastal landforms, processes and habitats. This could have included the possibility of creating dune habitat further inland and building the golf course on the created habitat. There is also little evidence that the design of the resort has been an iterative process, taking into account geomorphological, ecological, landscape and recreational impacts in its design.

1.154 SNH states that the policy assessment is selective in its identification of policies and in the assessment against these policies there is an overestimation of the level of policy conformity. SNH has concerns about the sustainability assessment, which it considers significantly underplays the impacts of the development and appears to contradict the conclusions of other chapters of the environmental statement. In terms of bats, otters and badgers there is insufficient information to ascertain impact.

1.155 In terms of landscape, the development would result in a significant loss of distinctive landscape character and there is no evidence in the environmental statement that an iterative and master-planning approach to consider the capacity of the landscape to accommodate different scales of development has been undertaken. In terms of access and recreation, SNH supports the proposal to produce an access strategy but notes that residents of the proposed new housing could cause increased recreational pressure to the Ythan estuary, Sands of Forvie and Meikle Loch Special Protection Area. In terms of housing and transport, SNH's advice is that the natural heritage impacts of housing cannot be assessed without more detailed information and a master planning approach.

1.156 SNH has commented on the invertebrates survey and states that Menie Links has diverse communities of invertebrates and that the highest scores were from the most mobile sections of the dunes where the highest proportion of specialist invertebrates occurred. Sixteen species recently included in the list of UK Biodiversity Action Plan (BAP) priorities were recorded, which are species which have shown a marked decline in the UK and require habitat management measures to safeguard them. SNH notes that the baseline information the report contains would be included in the iterative design process to be undertaken as part of the preparation of detailed design proposals and mitigation measures. SNH advises that the proposal would result in a significant negative impact on the site's invertebrate fauna, particularly for the sixteen BAP species recorded. The ecological requirements for most of these species are not well known and, therefore, the identification and application of adequate and effective mitigation would be problematic. The stabilisation of the sand dome and other development works would heavily modify and, in some instances, destroy, the habitats upon which these species depend.

1.157 SNH commented on additional information on winter and passage bird surveys 2006-2007 in November 2007 and advised that a more complete report using additional information and/or analysis would need to be completed in order to come to a valid conclusion as to the absence, or otherwise, of an adverse effect on the integrity of the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and RAMSAR site. If the council is minded to grant outline planning permission for the proposed development, a full appropriate assessment would need to be completed.

1.158 SNH gave evidence at the inquiry in support of its objection, as summarised in Chapter 3.

1.159 The Scottish Wildlife Trust objects to the proposal, as it represents an inappropriately located and badly designed development that would have a significant detrimental impact on the local biodiversity and on people's quality of life. The proposal would include the stabilisation of the dunes system, effectively destroying a highly sensitive and dynamic ecosystem, resulting in the demise of an entire habitat. The conservation of Scotland's biodiversity is a primary function of the planning system, as stated in the Nature Conservation (Scotland) Act 2004.

1.160 The environmental statement substantiates an unacceptable level of impact to the dune ecosystem and an unacceptable level of uncertainty regarding species, including incomplete survey work on invertebrates. It is SWT's view that the conservation objectives of the designated sites would be jeopardised and adversely affected. The planning application and environmental statement is overall well thought out. However, it is incomplete, as the surveys of some of the flora and fauna are still to be carried out and the data on invertebrates is non-existent at present.

1.161 SWT gave evidence to the inquiry in support of its objection, jointly with the RSPB and the Botanical Society of the British Isles. This evidence is summarised in Chapter 3.

1.162 Scottish Water does not object to the proposal, but this does not guarantee a connection to its infrastructure until a satisfactory solution has been identified. There is capacity in the water supply network subject to upgrading the network. For foul water there is presently capacity for part of the development but additional infrastructure would be required at a later date. Assessments of the impact of this development on its existing infrastructure would be required and agreements would be reached between Scottish Water and the applicant on the upgrading of new works required for later stages of the development.

1.163 ScotWays (Scottish Rights of Way Society) recognises that access across golf courses is restricted under the Land Reform (Scotland) Act 2003 to a right of passage rather than a right of recreation. There is concern about references on the drawings to security gates and ScotWays would be concerned if public access was to be restricted through the development as a whole. Outwith the area of the golf course, the general rights of access under the 2003 Act would apply to the site and should not be restricted by security fences, except where exclusions apply under the Act. The specifics of how access would be dealt with are vague. While access to the buildings may be legitimately curtailed, that to the golf course may not.

1.164 ScotWays gave evidence to the inquiry in support of its concerns, jointly with the Ramblers' Association and the Aberdeenshire Local Outdoor Access Forum. This evidence is summarised in Chapter 3.

1.165 SportScotland supports the principle of the golf course and associated facilities, as this would provide a new facility in this area.

1.166 Transport Scotland has advised that the audit it has carried out indicates that this is a development which makes a strong contribution to the economic objective in terms of job creation and productivity impacts. For this reason, Transport Scotland would allow a new access to the existing trunk road to service the development. A STAG 2 appraisal will confirm the most appropriate form of access. Transport Scotland has confirmed a willingness to discuss an access onto the upgraded A90T but has also indicated that no formal agreement to this can be sought or provided until such times as planning permission has been granted.

1.167 Transport Scotland amplified its consultation reply in written submissions to the inquiry, which are summarised at paragraphs 1.178-1.185 of this report.

1.168 The University of Aberdeen: The School of Biological Sciences (Entomology) agrees with the nature and level of threats identified by the environmental consultants and has two major concerns. These are that the northern section of the golf course impinges on the dune systems, which comprise about one third of the Foveran Links SSSI. The first major impact would be that the naturally dynamic nature of sand movement would be curtailed if the course was built. Given that this dynamic geomorphological condition is one of the main listed qualifying features of the SSSI and the whole range of sand movement patterns and structures at Foveran Links depends on sand mobility, it is inevitable that the integrity of the SSSI would be destroyed if the sand is stabilised. The development would be strongly detrimental to the SSSI and no mitigation is possible, however well meaning

the proposed management committee. The only obvious mitigation would be to relocate at least the northern section of the golf course onto the agricultural land inland of the dunes. It may be possible to re-engineer the topography so that it appears to be an inland section of the dunes.

1.169 The second major point refers to the habitats associated with the sand dune system and the species present. The most valuable habitats are the semi-natural dune slack pools and wetlands which contain a large number of plants and animals of regional significance, as well as being part of the habitat occupied by those nationally important species such as the otter. It is not agreed that these habitats can be translocated and successful re-creation is low, particularly for marshy habitats.

1.170 The School of Biological Sciences believes that the methods used by, and the results of, the bird surveys and invertebrates survey are reliable. The bird data indicates that there would be some loss of relevant habitat and that, even accepting the possible slight gain of new habitat, on balance this would lead to a small adverse effect on an internationally important species, the pink-footed goose. It is stated that although slight, this is a deleterious impact and that no further mitigation can be put in place to avoid this.

1.171 With regard to invertebrates, there are a range of species present which depend on the full set of habitats on the site. The figures quoted in the invertebrate report are an accurate record of the rates of decline reported in recent literature. Whereas none of the invertebrates listed are in the UK Biodiversity lists as Priority Species, these lists do include some that are now regarded as endangered or vulnerable because of recent declines. These are UK trends and the recent figures for North East Scotland may well be different in detail, but this serves to emphasise the importance of our local populations, as safer reservoirs for these vulnerable species. The populations of insects are therefore regarded as of regional importance, in a UK context of significant decline. It is very difficult to judge the exact scale of impact for each of these species but the report attempts this and the general nature of the analysis is sound. The conclusion should therefore be accepted that there would be a significant adverse impact on a community of invertebrates, which includes species of at least regional interest.

1.172 The University of Aberdeen: The Geosciences School (Geomorphology) states that the proposed project would have a significant impact on the southern part of the SSSI. While the proposal includes significant detail on the proposed changes to the terrain and how it would be managed, the changes involve rather more than the alteration of the existing topography to create the necessary terrain for the golf course. The movement of the dunes and the sand dome are of great importance for the entire ecology of the area as well as the geomorphology itself. It is clear that it would be possible for the proposed course to be constructed while still allowing a degree of dynamic evolution of the affected parts of the dune system, but the path of such evolution would have been irrevocably changed by terra-forming and localised dune stabilisation.

1.173 In such situations, the resulting dunes and associated systems could not be considered natural and would compromise the integrity of the SSSI. While

there is movement of sand from the beach to the dunes, the predominant movement in the dune fields appears to be rather more northerly in direction. It is therefore difficult to rule out the possibility that the character of these other dune fields, which lie to the north of the estate might be affected by any changes to the dynamics of the dune system that took place within the estate in consequence of the creation of the golf course. Also, while the designers may say that each of the fairways in the northern area would be separated from the others by areas of natural dunes, any such dunes would have to be stabilised to prevent them from encroaching on the fairways.

1.174 VisitScotland welcomes the proposal. In an increasingly competitive global market it is important that the area's tourism product is of exceptional quality and enhances the area's reputation. The area is experiencing some problems related to demand for quality hotel rooms and there is strong evidence that a lack of suitable accommodation in the area is placing a constraint on growth. There is no internationally recognised golf resort in the area comparable to St Andrews, Gleneagles, Loch Lomond or Turnberry, which is to the area's disadvantage in attracting visiting golfers. The development would be beneficial to the area's economy, reputation and recreational quality.

1.175 The Woodland Trust advises that, as no direct loss of either the ancient woodland or the linked secondary woodland in the middle of the site is proposed, there are no particular objections to the proposal. However, these currently isolated woodland areas would suffer longer-term degradation from increased human activity in the vicinity and the integrity of this habitat should be protected by green buffer zones. The plans indicate future residential development and future golf adjacent to the woodland and these developments could be significantly damaging. The Trust asks to be consulted on future applications for the site.

1.176 The following organisations have no objection to, or comments on, the proposal: Aberdeenshire Council Environmental Health and Waste Management; the Aberdeen Western Peripheral Route Team; Grampian Police Crime Prevention; Grampian Police Fire and Rescue; the Health and Safety Executive; Historic Scotland; Scottish Executive Environment Group; and Scottish Executive Planning Division. The Architectural Heritage Society of Scotland and Aberdeenshire Council's Emergency Planning Officer were consulted but did not make any comments.

1.177 Two of these consultees -Transport Scotland and SEPA - provided further written submissions to the inquiry.

Transport Scotland

1.178 The Trunk Roads Network Management Division of Transport Scotland has an interest in any developments that may impact upon the trunk road network, and in the delivery of a sustainable, integrated transport network, which provides a genuine choice of alternative travel modes, consistent with Government policy. The policy is aimed at:

- supporting the function of the trunk road network in carrying long distance traffic;
- ensuring development is sustainably located;
- encouraging alternative means of travel with less environmental impact; and
- reducing reliance on the private car.

1.179 Transport Scotland has been involved in pre-application discussions with the applicant's representatives, including consideration of the potential for development access to the A90T and the progress of the A90T Balmedie to Tippetty upgrade. SPP 17 – Planning for Transport indicates that there is a general presumption against new junctions onto the trunk road network. Where a new access to the trunk road is being considered it has to be fully justified.

1.180 Transport Scotland considers that the proposed development would make a strong contribution to the economic objective, in terms of job creation and productivity impacts. For this reason, a new access to the A90T would be allowed to service the proposed development. The most appropriate form of access would be confirmed through further discussions.

1.181 Transport Scotland informed Aberdeenshire Council that, should the council grant outline planning permission in advance of conclusion of trunk road issues, the development should be constrained to phases 1 and 2 (as defined by Transport Scotland) until the opening of the new A90T Balmedie to Tippetty dual carriageway upgrade.

1.182 Transport Scotland's advice to Scottish Ministers is that there is no objection to the proposed development, subject to a number of conditions being attached to any outline planning permission. These cover the following matters:

- splitting the development into 4 phases, as follows:
 - phase 1 - the 2 golf courses and ancillary facilities, the hotel, the staff accommodation, and the 36 golf villas;
 - phase 2 – 100 private houses;
 - phase 3 – 300 private houses and 3 holiday apartment buildings; and
 - phase 4 – 100 private houses and 1 holiday apartment building;
- occupation of phase 1 is dependent on:
 - the installation of the proposed access roundabout on the A90T to an approved design;
 - mitigation works to the A90T/B999 (Ellon Road) roundabout;
 - mitigation works to the A90T/A956 (Parkway) roundabout; and
 - the closure of existing accesses onto the A90T road at Menie House, Hill of Menie and Pettens;
- occupation of phase 2 is dependent on mitigation works to the A90T Parkway/ Scotstown Road roundabout; and
- no development additional to phases 1 and 2 shall be occupied until
 - the Aberdeen Western Peripheral Route (AWPR) has been opened;
 - the A90T Balmedie to Tippetty dual carriageway upgrade has been completed; and
 - a junction assessment showing the impact of the proposed development on the AWPR junction has been approved.

1.183 Aberdeenshire Council's suggested planning conditions amend the phasing of the development: phase 1 is as defined above, but phase 2 comprises only 1 block of holiday apartments. The conditions require that, apart from phase 1 and the amended phase 2, the development shall not be occupied until the Balmedie to Tippetty section of the trunk road has been upgraded to dual carriageway. In addition, there shall be an additional grade separated junction to serve the development in the vicinity of Orrock House, north of Balmedie village.

1.184 Transport Scotland has no objection to the amended phasing. However, it is not possible to agree to the additional grade separated junction. The Balmedie to Tippetty draft road orders have been published and compulsory purchase orders have been prepared and are likely to be published shortly. These orders cannot be altered to accommodate a private development.

1.185 However, if outline planning permission is granted, Transport Scotland is prepared to discuss the principle of the additional junction. The acceptability of the junction would depend on the detailed designs. Any additional land required for the junction would have to be acquired and the construction costs borne by the applicant.

Scottish Environment Protection Agency (SEPA)

1.186 SEPA was consulted by Aberdeenshire Council and objected to the proposed development on 29 August 2007. There were sixteen grounds of objection, numbered i) to xvi). Subsequently SEPA advised that six of these had been resolved satisfactorily: ii), iv), v), vi), xi) and xii); and that three would be resolved provided appropriate conditions were imposed viii), ix) and x).

1.187 However, there are still seven issues identified in the original consultation letter which remain unresolved. These issues are:

- i) a lack of consideration and assessment of alternative site layouts, including alternative locations for the clubhouse and golf course;
- iii) a detailed analysis of the consequences of the impacts of development on certain species and habitats and an assessment of the loss of a significant part of the Scottish resource;
- vii) an assessment of the impacts on groundwater, including details of any proposed abstractions, nutrients, pesticides, fuels and salinity. SEPA considers that confirmation of the proposed method of irrigation of the golf course and an assessment of proposed abstraction is a key matter which requires clarification before outline planning permission can be granted;
- xiii) a lack of a detailed sustainable turf management plan, including details of measures to reduce the use of chemicals;
- xiv) details of the proposed course environmental management plan;
- xv) a consideration of climate change, including the maximisation of water efficiency; and
- xvi) further details of mitigation proposals, as some of those outlined in the environmental statement are questionable.

1.188 The statutory duties under the Water Environment and Water Services (Scotland) Act 2003 (SEPA2) are identified below. SEPA considers that these duties required the council to refuse outline planning permission. Scottish Ministers are subject to the same statutory duties and have to determine the planning application as follows:

- to secure compliance with the Water Framework Directive (SEPA1);
- having regard to the social and economic impact (the duty to secure compliance with the Directive is absolute, irrespective of the social and economic impact);
- promoting sustainable flood management;
- acting in the best way calculated to contribute to the achievement of sustainable development; and
- having regard to the desirability of protecting the water environment.

1.189 The Water Framework Directive requires member states to prevent deterioration in the status of water bodies, including groundwater. The statutory regime is found in the Water Environment (Controlled Activities) (Scotland) Regulations 2005 ('CAR', SEPA4). Some elements of the proposed development would constitute controlled activities and authorisation would be required from SEPA under CAR.

1.190 The courts have held that a decision maker considering a development likely to involve a significant adverse effect on the environment has to ensure, prior to granting planning permission, that there are sufficient details of the proposed development, its potential impact on the environment and any mitigation measures. SEPA does not consider that there are sufficient details available for appropriate mitigation measures to be identified.

1.191 There are a number of policies in the development plan that are relevant to protection of the water environment. However, SEPA considers that there is insufficient information to demonstrate that the development would be sited and designed to protect groundwater and wetlands. The development does not, therefore, accord with the development plan. Furthermore, SEPA is unable to conclude that the proposals accord with national planning policy and guidance or that they are capable of being authorised under CAR in terms of PAN 51 – Planning, Environmental Protection and Regulation, because insufficient information has been submitted to demonstrate that groundwater and wetlands would not be damaged.

1.192 Groundwater at the site would be at potential risk from:

- non-mains foul drainage;
- saline intrusion induced by groundwater abstraction;
- point source and/or diffuse pollution from chemicals used and stored on site during construction and operation (fertilisers, pesticides, fuels etc); and
- improperly designed Sustainable Urban Drainage Systems permitting infiltration.

1.193 The potential impacts on the wetlands include:

- significant damage and deterioration to groundwater dependent wetlands from groundwater abstraction;
- significant damage and deterioration to wetlands due to changes to ground and surface water quality due to point source and/or diffuse pollution from chemicals, saline intrusion induced by abstraction and from non-mains foul drainage.

1.194 SEPA considers that the potential impacts to be significant environmental impacts that go to the principle of the development and need to be considered, in accordance with the Environmental Impact Assessment Regulations, prior to determination of the application. Furthermore, mitigation proposals should not be considered solely by means of a planning condition, as proposed. They are an integral part of the environmental assessment process and need to be considered prior to determination. For example, the scale and nature of abstraction and impacts on groundwater and wetlands first need to be adequately assessed and then appropriate mitigation measures set out.

1.195 SEPA considers that the following information is still required:

- a revised layout to reduce impact on wetlands and groundwater to an acceptable level, having regard to the following matters:
 - detailed information on impact on species and habitats associated with or dependent on groundwater;
 - an assessment of the impacts on groundwater, including details of proposed abstractions, taking into account climate change and maximisation of water efficiency;
 - a quantitative assessment of the potential impacts on groundwater quality associated with fertiliser and pesticide usage;
- the principles on which the environmental management plan would be based, derived after the above impacts have been assessed; and
- mitigation measures for impact on groundwater and wetlands, derived after the above impacts have been assessed.

1.196 SEPA commented further on documents T2 – the revised Hawtree layout and T4 – Revised hole-by-hole analysis of February 2008 golf course masterplan. These do not address the full range of impacts on groundwater and wetlands set out in SEPA's original consultation response and in the original written statement.

1.197 It appears that the revised layout would have similar or greater impacts on wetlands, for example, young dune slack. T4 describes destruction of major wetland interest at paragraph 3.3, where a seasonally wet deflation surface would be used to create an expanded lake. At paragraph 3.6, a stream terrace is described as very marshy and that it would need to be raised to avoid winter flooding. T4 does not address other impacts due to changes such as drainage or water management, including abstraction.

1.198 Mitigation proposals in the form of turf translocation are described. However, there is no significant evidence that this technique would work for the wet dune slack habitats. SEPA does not agree with the anticipated success rate, since these habitats require a fine balance of seasonally fluctuating moisture and associated soil chemical conditions that take several decades to develop under natural conditions.

CHAPTER 2

The case for the development

The case for Trump International Golf Links Scotland (TIGLS)

2.1.1 The case for TIGLS was led at the inquiry by The Right Honourable Lord Boyd of Duncansby QC. Evidence was given by Mr Donald J Trump, Dr Martin Hawtree, Mr Iain Webster, Mr Stewart Dunlop, Professor William Ritchie, Dr Tom Dargie and Mr David Bell.

Mr Donald J Trump

2.1.2 Mr Trump is a real estate developer and investor from New York City. He has built a number of golf course resort developments, all of them with championship courses. His golf courses in Los Angeles and Palm Beach are both rated number 1 in California and Florida respectively. His course in Bedminster, New Jersey is considered one of the best new courses built in many years, and his course in Westchester County is rated one of the best courses in the New York/Connecticut area. Recently, Trump International Golf Club in Puerto Rico hosted a PGA Tour event and drew 78,000 people, approximately double the number expected. He is also involved in golf courses in the Canouan Islands (West Indies) and the Dominican Republic. He believes that if he is allowed to build in Scotland, it would be the greatest golf course anywhere in the world. He considers that Pine Valley New Jersey is the greatest course in the world at present.

2.1.3 It has always been his ambition to create a great golf course outside the United States, preferably, because of his heritage, in Scotland. He has investigated over 200 sites throughout Europe. Scotland is recognised throughout the world as the home of golf. The game was invented in Scotland, which hosts some of the finest links courses including the highly prestigious Royal and Ancient Golf Club of St. Andrews which governs the amateur game worldwide. Links courses are almost unique to Scotland and symbolise Scotland and golf. Examples include St Andrews, Carnoustie, Turnberry, Royal Troon and Muirfield.

2.1.4 If he is to build the best golf course in the world it has to be in Scotland. It must look and feel Scottish and be sympathetic to the setting and landscape. It also has to be extraordinary. Creating a golf course from scratch to compete with courses which have already established themselves among the greatest in the world is difficult. The only way to do it is to choose a site with superb topography and hire one of the best links architects to design it. Mr Trump knew this was the right property in the right location to realise this vision. It has great vistas and majestic dunes with views out to sea and over Aberdeenshire and beyond. He believes the course would be capable of hosting the Open Championship one day.

2.1.5 Dr. Martin Hawtree is a highly-respected golf architect and his speciality is links courses. His reputation in this area is second to none. At first he worked with Tom Fazio II, who has worked on a number of Mr Trump's golf developments, but eventually Dr Hawtree was given the sole design assignment. The design has been through many different iterations, in each case to improve the quality of the course as well as take account of the sensitive nature of the site. It would continue to evolve, but Mr Trump believes that the latest design is close to perfection. He confirmed that it would not have any significant changes. The course appears to grow out of the land. It uses and respects the topography. It creates challenging holes in a beautiful setting. In an aerial photo of the site it is possible to see the 'holes' already.

2.1.6 Mr Trump has been concerned about the environmental effects of the development from the outset, although he acknowledged that he did not know the land was protected when he bought it. He hired the best environmental consultants and has taken their advice and accommodated their concerns within the development. He acknowledged that Dr Dargie advised that the course should be moved inland, but that would not be possible. Dr Dargie is now a big fan of the development. When complete, the land would be environmentally enhanced and better than it was before. The site has not been taken care of properly in the past.

2.1.7 He appreciates the fact that the northern part of the championship course would be developed within the southern end of a Site of Special Scientific Interest (SSSI) and knows that the designation has been made because of the geomorphology of the dunes. The stabilisation of part of the dune system would have environmental benefits and many people would welcome it. The dunes would be kept and the difference would hardly be noticed.

2.1.8 If the championship course were moved away from the southern end of the SSSI and built elsewhere on the site, Mr Trump could no longer build a truly great course. He stated very clearly that if he were to be refused permission to develop on the southern end of the SSSI, he would withdraw from this development because it would not, and could not, fulfil his vision of doing something outstanding. Objectors have suggested that outline planning permission could be granted subject to a condition that there would be no development on the SSSI. It was submitted that the applicant would wish Scottish Ministers to refuse the application rather than to grant consent subject to such a condition. It is important that all 18 holes are located in the dunes to create a challenging course. If it is not going to be the best, Mr Trump would not want to build it.

2.1.9 Mr Trump is fully committed to mitigating the effects of the course on the environment. Dr. Hawtree's design minimises the amount of earthmoving and it would cause less disturbance than the previous plan. In fact, the less that is done the better it would be. Further refinements can be made to the layout in order to ensure that the effect on habitats and species would be minimised. There is the opportunity to create additional habitats which would produce environmental benefits. The stabilisation would be done sensitively using marram and other indigenous grasses. Construction work would be properly supervised and sensitively executed.

2.1.10 Mr Trump has instructed that a body should be set up to advise on the construction and operation of the golf courses and related facilities. This body would be known as Menie (Links) Environmental Management Advisory Group (MEMAG). MEMAG would also give advice on how to minimise adverse changes and facilitate good management practice. The reputation of the development is fundamental to its success. In answer to questions about public access, Mr Trump confirmed he would abide by the law. He thought that not very many people used the site at the moment. He was referred to paragraph 13.2.3 of the Environmental Statement (Core-G3), which summarises the recreational use at Menie. The table there confirms his opinion.

2.1.11 A world class golf course also requires world class facilities. The clubhouse would be the nucleus of the development. The hotel would be a grand five star building that would complement the landscape in the same way that the hotels at Turnberry and Gleneagles do. The hotel and conference centre would attract golfers and non-golfers. Mr Trump believes that it would in itself be a major boost to the economy of the north east of Scotland.

2.1.12 Mr Trump has also applied for permission to build 500 houses to help fund the development. Golf courses alone do not make a fair return on investment. Besides, there is currently a shortage of good quality housing in the area. He would be happy to wait until the housing market picks up to construct the houses. He would build the course anyway and hope that the housing would come good. He would build just one of the proposed blocks of holiday apartments initially, with the remainder depending on market uptake. Mr Trump confirmed that he would be using his own money to build the golf course and considered that not many people could afford to do it. The development would be a major boost for the economy of this part of Scotland. Such would be the quality and reputation of the course and the associated resort that it would benefit Scotland as a whole.

Dr Martin Hawtree

2.1.13 Dr Hawtree holds the degrees of Bachelor of Arts, Master of Civic Design, and Doctor in Philosophy. He is a golf course architect, the son and grandson of golf course architects, and he has more than 35 years' professional experience. He is a Fellow of the European Institute of Golf Course Architects and was President of the former British Institute of Golf Course Architects from 1996 to 1998, before it became the European Institute.

2.1.14 To start with at Menie, he worked with Tom Fazio II, the golf architect for the project, as a consultant, commenting on layouts and advising the Trump organisation on matters to do with links golf and championship golf. During that time he became fully aware of the sensitivity of the site and was told of detailed discussions with a wide range of environmental consultants. He acknowledged that he first spoke to Professor Ritchie at the end of November 2007. He first established the layout to meet Mr Trump's requirements and then sought the consultants' advice.

2.1.15 Dr Hawtree was aware of Mr Trump's ambitions to produce a world-class 18-hole championship links course, in traditional Scottish style, capable of one day hosting a major championship. Land would also be reserved for a second 18-

hole course and a driving range and for other uses such as a hotel, housing, holiday chalets and ancillary facilities. He considered the characteristics of the site more than supported the project's ideals and would allow their full realisation.

2.1.16 Eventually his role became that of lead architect. The layout plans evolved from T1 to T2. The changes enhanced site features, realised the objectives of a pure links course and reduced the quantities of earth movement to disturb the dunes as little as possible by avoiding the dune ridges, which the Fazio design cut through. He prefers to work with the land and do the minimum of reshaping. In terms of geomorphology, Professor Ritchie felt that the new layout represented an improvement over the previous one. It was Mr Trump himself who suggested that the Blairton Dunes be incorporated into the championship course at its southern end. The extension of the championship golf course southwards on T2 into the area marked on T1 as 'Future golf' would still leave sufficient land available for the second course.

2.1.17 Dr Dargie indicated that the use of more of the dune slack areas entailed a greater loss of valuable habitats. This was partly because of the introduction of a semi-rough border around fairways and a transition zone to link golf course grasses with the adjacent natural habitats and to widen the previously unrealistically narrow corridor for play. The transition would be a soft transition not a hard edge or a sharp line. Dr Hawtree assumed that Tom Fazio had taken environmental information such as that produced by Dr Dargie in RSB61. Dr Hawtree acknowledged that the areas outwith the fairway would still be part of the golf course. Asked about impacts on groundwater, Dr Hawtree said that irrigation would be kept to the minimum needed to ensure survival of the grass. He would not expect the water table to vary much. Dune slack areas would be unaffected. Sustainable management practices recommended by the Royal and Ancient would minimise the use of chemicals and the risk of water pollution.

2.1.18 There are refinements still to be discussed on the exact locations of tees, greens and fairways to minimise habitat and dune disturbance. There would be no cart tracks between the holes. The tracks shown as green lines on T2 are provisional. Other tracks may be needed. Dr Hawtree understands there would be no golf buggies and the tracks shown would not be able to accommodate them. Public access to and through the course would be designed to minimise danger to the public. Dr Hawtree has seen Scottish Natural Heritage's CD showing the course in its finished state and considers that it slightly exaggerates the impact of the holes on the landscape. Dr Hawtree estimated that there would be 150-160 rounds of golf per day and a maximum of around 20,000¹ rounds per year. The second course would have a similar number of rounds. There would be a large influx of people if the course was used for a championship event. The best routes for crowd movement would be calculated well in advance. Within 9 months of a championship event a course has completely recovered.

2.1.19 A links course is any course occupying an area of stabilised wind-blown sandforms such as dunes, slacks, hummocks, hollows and plains, normally set on a raised marine platform. This is the terrain on which golf started in the 15th

¹ This figure was later revised by Iain Webster see paragraph 2.1.29

century and to which it was largely confined until the mid-19th century. The style and features of modern-day golf courses derive from these early links courses, which is why sand bunkers still appear on inland non-sandy sites. Links golf produces one of the purest and most natural forms of the game, where its origins in rugged terrain, sandy hazards, stiff winds and close-cropped turf are revealed.

2.1.20 A world-class links course might be defined as one which attracts many visitors from all over the world who come to play because of:

- the special features of the locality for tourism and golf;
- its history as a club;
- the great and memorable championships which have been played over it and the heroic, sporting legends that surround the course;
- the challenge of its playing demands and the enjoyment of its sporting character, brought about through design and sometimes centuries of modification;
- the richness, drama, and interest of its links/coastal landscape and seascape; and
- good management involving hospitality, welcome, marketing, and high standards of course condition.

2.1.21 The Menie site would have no sporting history, no legends and no championships. What it would have, would be superlative topography, landscape, drama, alternating spaciousness and enclosure, a great many panoramic views along the dunes and out to sea, a rich texture of vegetation habitats surrounding the golf holes, and a very challenging but enjoyable course. Whilst many might come to visit the course as a result of the attraction of the Trump marketing brand, they need a reason to return again and again and for that to happen, a spectacular, genuine links course, with all of the challenge and features present in other world-class links courses would be required. Dr Hawtree considers Royal Birkdale the world's best golf course. It would be his ambition for Menie to be even better, but that would be for posterity to judge.

2.1.22 Dr Hawtree believes that something like the present layout of the championship golf course is needed to fulfil Mr Trump's aspirations for the estate. Dr Hawtree guarantees the world-class status of this course and considers it to be the most exciting piece of links land he has seen in his working life. He is aware that part of the site outside the SSSI contains sensitive habitats and rare plant species. His understanding is that mitigation is possible. A substantial part of the dune and slack backdrop to the course would remain untouched and produce as much wild-life as is encountered in other links courses. What cannot be mitigated is the fixing of the mobile dune system in the SSSI by stabilising it, to allow golf to be played without frequent inundations of sand over the grassed playing areas.

2.1.23 The reasons for incorporating parts of the SSSI into the golf course are as follows:

- The scale of the dune topography and landscape is varied, striking and spectacular. Variation and drama increase significantly in the SSSI.

- The topographical playing interest of the holes would be equal to the best of other world-class links courses and would intensify within the SSSI.
- The holes would be wider-spaced than is usual on links courses, which would allow the natural surroundings to play a large part in the experience of playing the course. The density of the holes would be least within the SSSI, which is in keeping with its vastness of scale. The wider, inter-fairway spaces at Menie should allow an equal or greater amount of wild-life than that found at other links courses and an increase in wildlife compared to what exists on the site at present.
- The landscape and seascapes are very dramatic. The course would be cradled between the two high domes at either end and in between rise up to tees for wide glimpses of course, dunes, and sea, and then fall back into enclosed narrow valleys with gothic-like towering dunes close by. Nowhere is this rhythmic sequence more intense and dramatic than within the SSSI.
- The vegetation of some trees, grey dune, gorse, wet slacks, wet and dry heath with heath and crowberry, offer a tapestry the equal of other great links courses. Within the SSSI it is hoped to retain certain areas of blown sand, which would add a new landscape image to the usual repertory of links scenery and which was frequently encountered in the early years of links golf. These would be located at hole 15, south of hole 13 and between 12 and 17. The remainder of the dome would be stabilised into grey dune, in time producing its own variety of plant material and wildlife.
- The SSSI land combines brilliantly with the rest of the site and would produce an exhilarating finish to the round.

2.1.24 T5A is a photograph of part of the dome of the SSSI over which the 13th hole would play. T5H is a photo-montage of Dr Hawtree's idea of how the finished hole and adjoining stabilisation of the sand might appear. He acknowledged that this hole had one of the shortest fairways on the course. In short, the site and the consequent championship golf course would lack for nothing. There would be no weak holes. At so many other courses, including those of world-class, one would wish for differences. The site at Menie comes fairly close to an ideal. If the course did not enter the SSSI, the consequence would be a weaker, less visually striking championship course, a second course which would be the poor brother of the main course and might well not function correctly as a reserve, being in part on non-links land. Commenting on Mr Wood's alternative design, Dr Hawtree said he could make improvements, but it would not be world-class. Agricultural land is not a substitute for dunes, and by going behind the dunes, a lot of the spirit of being close to the sea would be lost. Dr Hawtree's design would be less visible from the A90 than that of Mr Wood, since most of the fairways would be concealed in dune valleys.

2.1.25 Dr Hawtree estimated that the championship course could cost in the range £5-12 million to construct. The cost for the 2 courses could be of the order of £20 million, excluding design. The golf course at Menie would have to compete with other new commercial ventures as a sound investment and to complement the existing great golf courses nearby. With erudition and clever reproduction the site of the first nine holes plus additional non-SSSI land might produce another Cruden Bay, Murcar, Royal Aberdeen, which are all world-class golf courses; but there would be no point. The Menie links would have to establish itself on its own terms as the

most stimulating stretch of golfing links anywhere in Scotland and for that to happen he believes the SSSI land is necessary.

Mr Iain Webster

2.1.26 Iain Webster is a member of the Institute of Chartered Accountants in Scotland, a Fellow of the Securities Institute and a member of the Corporate Finance Faculty of the Institute of Chartered Accountants in England and Wales. He has been in professional practice for 26 years, most recently in charge of corporate finance at Johnston Carmichael, Scotland's largest independent accounting practice.

2.1.27 His brief was to provide a critical and analytical review of the financial case for the proposed development. This was done to establish whether the project was viable based on the assumptions being employed by TIGLS. He reviewed the financial assumptions and, where appropriate, challenged them. TIGLS was keen that the projections were critically and independently reviewed before they were made public.

2.1.28 All the main cost and revenue driving assumptions in the projections have been checked; where possible against a source of reasonable third party evidence. As the plans are at an outline stage, the development costs and operating costs are also by necessity at a similar level. Where possible the costs and revenues have been compared to comparable facilities or have been built up from base data, which has been checked for reasonableness in relation to the facility and the proposed level of operation.

2.1.29 In relation to the construction costs, the primary evidence was provided by Hardies (T7, Appendix 1). This was compared to British construction industry statistics. The hotel operation was compared to similar hotels, although there are none similar of this size in Scotland. The membership fees assumed were compared with similar golf courses, such as Gleneagles and St Andrews. The cost for a round of golf would be £150 in the summer and £75 in the winter, with reduced rates for local residents. There would be 25,000 rounds per year in the early years. This is a very conservative figure, which would not stress the course in the beginning. It might have potential for 40,000 rounds per year. The second course would have the same number of rounds.

2.1.30 Some of the assumptions made by TIGLS have been changed subsequently to make them more robust. For example, no golf memberships had been included previously; also, it had been assumed that owners of the private houses would spend money in the resort every week, which was not realistic. Mr Trump would not borrow money to construct the golf course. Once it was constructed, its equity value would be used to borrow against for the next stages of the development.

2.1.31 A computer based financial model has been developed which models the proposed development costs on an annual basis. This allows the project to be evaluated for investment purposes using the well established technique of discounting the cash-flows to arrive at a net present value (NPV). The model does

not produce profit and loss accounts on the basis of generally accepted accounting principles, as this would not be appropriate for project evaluation purposes.

2.1.32 The returns for the golf resort were evaluated with and without the houses. The output of the financial model has therefore distinguished the NPV for the golf-related elements of the development and the residential elements. This has been done to establish whether the golf resort on its own would provide an acceptable rate of return for all investors (i.e. Trump Scotland and those banks and other financial institutions who may lend money to build and operate the development). Two scenarios have been run. The first is to evaluate the golf resort (golf course and related activities, five star hotel, golf villas and holiday-style accommodation largely for use by visitors to the golf resort) and the proposed residential development. The second excludes the proposed residential development.

2.1.33 The proposed development is a significant one, with construction costs expected to exceed £1 billion in nominal terms (T7, section 4, figure 4.1). These costs are to be phased over 7 years (T7, Appendix III). The initial development is to focus on building the championship golf course and supporting facilities, including golf villas and holiday homes, which make up the core of the proposed resort development. Thereafter the plan is to build a 450 room 5 star hotel, a second golf course, a conference centre and spa, further holiday homes and a residential development. The expected construction period of 7 years starts from the date work commences on the first golf course. T7 states, *“The resort elements of the Menie Estate project are of a scale not previously seen in the United Kingdom”* (T7, paragraph 3.1).

2.1.34 The key sales revenues are the one-off revenues generated from the construction of the resort (T7, section 5). These comprise: golf joining fees; golf villa sales; holiday home sales; and sales of private houses. The key operating costs and revenues for each of the operational activities within the resort have been considered (T7, section 6). They are: the golf course and related activities; the hotel and associated facilities; rental income from golf villas; and holiday home resort income.

2.1.35 The annual cash spend arising from the capital expenditure and operations is summarised in annual terms in the output schedules in Appendix II of T7. The spending assumes that construction would commence in April 2009. The aggregate construction costs, income and operating expenditure are summarised in the column headed ‘Forecast’ in Figures 7.1.1 (with residential) and 7.1.2 (without residential) of T7. This includes forecast operating income and expenditure from the date of commencement of operations for each part of the resort up to 31 March 2022. These totals are shown in nominal amounts, which allow for expected inflation of both revenues and costs. Also included in these summary amounts is an amount representing the ‘residual value’ of each of the operational parts of the resort, which are necessary to perform the financial evaluation.

2.1.36 Figure 7.1.1 shows that the aggregate amounts for the whole resort (including the residential development) are:

| | |
|----------------------------|------------------|
| • construction costs | £1,069.6 million |
| • sales revenues | £971.1 million |
| • residual values | £374.0 million |
| • net operating income | £223.2 million |
| • total project cash flows | £498.6 million |

2.1.37 Figure 7.1.2 shows that the aggregate amounts for the whole resort (excluding the residential development) are:

| | |
|----------------------------|----------------|
| • construction costs | £887.5 million |
| • sales revenues | £673.9 million |
| • residual values | £374.0 million |
| • net operating income | £211.3 million |
| • total project cash flows | £371.7 million |

2.1.38 The evaluation discounts the cash flows to their net present value using a discount rate of 10%. This is a weighted average rate based on an assumption that the financing for the resort would be a mixture of debt (about 90%) and equity funding. The net present value outputs shown in the columns headed 'NPV' in figures 7.1.1 and 7.1.2 are:

| | |
|---|------------------|
| • total for the entire development | £35.536 million |
| • total for the resort, excluding residential | £(20.72) million |
| • the residential development alone | £56.257 million |

2.1.39 This analysis illustrates that the golf resort on its own would be unlikely to generate sufficient return on investment to be attractive to investors and lenders, since it produces a negative net present value of some £20 million. This means that the actual returns for all the investors falls below the 10% target return. The inclusion of the residential development provides the project with income from the profit on sales of the residential homes, which reduces the net capital outlay for the whole resort. The net capital investment is lower and the operating income is slightly higher due to additional revenue from annual membership fees from the private home owners resulting in a higher rate of return on investment. This results in a positive net present value. If the private houses were not built immediately due to unfavourable market conditions, the costs of the development would increase as there would be a higher capital outlay before the costs could be recouped. In these circumstances, NPV would reduce.

2.1.40 Based on the analysis carried out of the project and on the evaluation of the project cash flows to derive the net present value, Mr Webster concluded that, the project may only be attractive to investors if the residential development was undertaken as part of the overall project. His view was that current conditions in the housing market are not necessarily a guide to the future. The proposed development is a long-term project, and he would expect market conditions to improve. He would be prepared to recommend the project to investors, while

suggesting that it would be worthwhile putting time and effort into looking at the figures in more detail. He also considered that the development is relatively high risk, with the 7-year construction period being particularly risky. There is likely to be a higher than normal level of construction inflation because of the London Olympics and the Glasgow Commonwealth Games. Mr Trump would have an outlay of £600 million before any cash flow was generated from the development.

Mr Stewart Dunlop

2.1.41 Mr Dunlop is a Research Fellow at the Fraser of Allander Institute at the University of Strathclyde in Glasgow. He has been employed at the University of Strathclyde since 1986 and at the Fraser of Allander Institute since 1987.

2.1.42 He assessed the economic impacts of the proposed Menie Estate developments using a standard technique to assess economic impacts. This generated the total impact of the developments, including the employment and Gross Value Added (GVA) created in Scotland and the local economy, the latter defined to include the area covered by Aberdeenshire Council and Aberdeen City Council. There was no serious challenge to the methodology adopted by Mr Dunlop.

2.1.43 The economic impact estimates developed in the study allowed for displacement, which is where an economic activity such as the proposed Menie Estate development may take market share from other firms producing the same good or service. It also allowed for leakage, which is the possibility that some employment may be taken up by residents from outwith the study area. Thirdly, the estimates produced also allowed for multiplier effects, which include the additional activity provided by spin-off wage and supplier expenditures. It has been suggested that the construction jobs for the housing should not be considered as additional since, if the houses were not constructed at Menie, they would be built elsewhere. It was submitted that whether or not this is correct, the net effect is miniscule. It is acknowledged that unemployment in the north east is low, but Mr Dunlop said that 40,000 people in Aberdeen are not economically active, whilst figures from the Office of National Statistics suggest 13,000 of these people would take a job if offered. Oil industry employment in north east Scotland is expected to decline by 15,000 jobs by 2020, and the local economy needs to find other employment opportunities.

2.1.44 The estimates were produced using data produced by TIGLS as part of the estimated construction and operational expenditures, which are the same figures as used by Mr Webster and also a range of economic data produced by the Scottish Government. The report produced by EKOS comes to different conclusions, but that is because T6 uses information which EKOS did not have. The EKOS report validated T6, as the figures produced by EKOS are in the same band. Mr Dunlop advised that the fact that the development would be owned by Mr Trump is a factor in his analysis. If the Trump brand were not there, the resort would not be so much of an attraction. He considered that displacement would be greater without Trump, as the golf resort would be competing with other similar courses.

2.1.45 Economic impact estimates were developed for the construction expenditure that TIGLS expects to spend to develop the Menie Estate and also for

the ongoing operations that would take place there once the Menie Estate was fully operational. The main findings of the report (T6) were as follows:

A. Under a 25% displacement assumption:

- the construction activity would create 7,042 net full time equivalent jobs in Scotland and £399.9 million worth of GVA in Scotland
- the construction activity would create 2,165 net full time equivalent local jobs and £120.7 million worth of local GVA
- the ongoing golf, hotel, holiday homes and villa operations would create a total of 1,856 net full time equivalent jobs in Scotland and £49.2 million worth of GVA in Scotland
- ongoing operations would create a total of 1,418 net full time equivalent local jobs and £33.5 million worth of GVA in the local economy

B. Under a 50% displacement assumption:

- the construction activity would create 4,694 net full time equivalent jobs in Scotland and £266.6 million worth of GVA in Scotland
- the construction activity would create 1,443 net full time equivalent local jobs and £80.5 million worth of local GVA
- the ongoing golf, hotel, holiday homes and villas operations would create a total of 1,237 net full time equivalent jobs in Scotland and £32.8 million worth of GVA in Scotland
- the ongoing operations would create a total of 945 net full time equivalent jobs and £22.3 million worth of GVA in the local economy

2.146 Asked whether displacement was more likely to be 25% or 50%, Mr Dunlop said this is a unique development with nothing comparable to provide a guide. In general terms 25% would be quite a high level of displacement; 50% was definitely high.

2.1.47 It was submitted that if the figures are considered to be approximately correct, then the advice to Scottish Ministers should be that the potential economic benefits are meaningful and significant. Of equal importance is the support of the business community. The council vision encompasses the promotion of Aberdeenshire on the wider national and international stage and promoting the diversification of the economy. Aberdeenshire and Aberdeen City's determination to diversify the economy is in line with national policy, as described in the National Planning Framework.

2.1.48 Scottish Tourism: The Next Decade (Core-B2) was produced in 2006. Its key target is to increase revenue growth from tourism by 50% by 2015. Emphasis is placed on quality, short breaks, business tourism, special interest and special experience trips, including active holidays, of which golf is the most important. The application at the Menie Estate would meet these aspirations in large part. It was submitted that the development is clearly of national importance. The figures for job creation are very significant, and would be above the threshold for grant aid were the development to be eligible. Mr Dunlop was not aware of any similar development.

2.1.49 The Scottish Government's Economic Strategy, published in 2007, sets out the Government's priorities for economic growth. Jonathan Hughes for the Scottish Wildlife Trust (SWT) considered that a development on a high quality landscape which also promoted new habitats and biodiversity could meet the objectives in the strategy, but only if it did not encroach onto the SSSI. That is the point of difference between TIGLS and SWT/RSPB/BSBI. It is a matter of judgement whether the proposed development meets the objective of sustainability, as this is not just about the environment, but includes economic and social factors. The development would help promote and sustain economic growth. It would be of a high environmental quality, promoting biodiversity and responsibility.

Professor William Ritchie

2.1.50 Professor Ritchie has been Director of the Aberdeen Institute for Coastal Science and Management at Aberdeen University since 2002. He is also Visiting Professor in Ocean Science and Adjunct Professor of World Maritime University, Malmö. From 1983-1989, he was Head of Department of Geography, University of Aberdeen and was appointed Vice-Principal of the university in 1989. From 1995-2002 he was Vice-Chancellor of Lancaster University. Professor Ritchie gave geomorphological advice to TIGLS on an independent basis, based solely on scientific judgement. He does not support or oppose the proposed development at Menie Links.

2.1.51 The mapping and interpretation of the area contained in the 2006 environmental statement is original, intensive geomorphological research, the conclusions of which remain largely unaltered. Specific elements in these geomorphological assessments are indicated in the following paragraphs.

2.1.52 The coastal dune and beach / dune interface must not be utilised in any way by the developer, a recommendation required to preserve the integrity of the coastal longshore sediment system within the Aberdeen Bay sediment cell. The Menie area is currently located in an accretionary zone, which is likely to continue into the future, but cannot be guaranteed.

2.1.53 In relation to hole 14, SNH considers the coastal dune to be "*extremely close*" to the fairway. Professor Ritchie does not agree and considers that no intervention would appear to be necessary. It is agreed that the cascading steep bare sand slope near the location of some of the tees and to the west of the first section of the fairway would require intervention to prevent further instability and downslope slumping. Controlling techniques for this area would require further discussion.

2.1.54 Professor Ritchie thought that the fairway of hole 14 would be 30-40 metres away from the coastal dune and was surprised to be told that it scales at 21 metres on T2. In any event, the exact line of the hole would not be determined until the detailed stage when the contractor pegged it out on site. He acknowledged that the tees would be 7.5 metres higher and that the fairway would be 2 metres lower than existing levels at hole 14. TIGLS considers that this issue has been overplayed. It is assumed that the transition zone would be a hard edge, which is not the case. In any event the exact line of the hole would not be determined until

the detailed stage, when it would be pegged out on site. It remains the applicant's position that the coastal dunes should not be touched.

2.1.55 As illustrated by production T14, the gap in the coastal dunes to the south east of the dome, which had some effect on the dynamics of the dome, has closed completely since 2006. A survey in 1978 showed this gap to be much wider, almost 200m, but it did not extend downwards to beach level: it was more an extensive de-vegetated area with considerable sand blow landwards. The exact consequence of this closure, which shows every sign of permanence, to the movement of the dome needs further study. Nevertheless, although a contributing factor to mobility, it is likely to have been much less important than the main 'rolling advance' of the larger volume of sand within the total mass of the dome.

2.1.56 Issues of possible climate change, including speculation of sea level changes and possible increased storminess, are irrelevant since they are wholly independent variables which will occur whether or not the development proceeds. SEPA's 2007 assessment classified this coastline as having no flooding risk. In so far as these changes might impact on the use of the golf course, any trends would have to be considered within the proposed 'adaptive' or 'soft solution' management system. This can be defined as reacting to change in ways that are measured responses, which do not rely on pre-determined, fixed managerial solutions. 'Soft' is a brief description of those engineering techniques that eschew fixed, hard, man-made coastal defences but attempt to work with natural forces and materials to achieve more responsive, flexible and mobile solutions. Moreover, under the policy of no development along the coastal edge and on the primary dune ridge, the golf course management regime would not be permitted to construct any form of coastal protection works along the Menie shoreline.

2.1.57 There are geomorphological differences between the interior dunes and links landforms at south Menie and north Menie, as defined by the SSSI boundary. It is accepted that the SSSI boundary is appropriate and that the area to the north is properly designated as having considerable geomorphic interest for both its landforms and formative processes within the normal guidelines that SNH uses for the definition of an SSSI.

2.1.58 In contrast, the south area can be assessed as having less geomorphological interest. It is stable, mature and essentially non-dynamic. In Professor Ritchie's opinion, the area to the south of the SSSI would not qualify for inclusion within it on geomorphological grounds. Impact would therefore be low to moderate and individual holes would modify existing topography without significant earth moving. Stabilisation of existing bare sand areas would be almost negligible, as such surfaces are not present in south Menie. It is noted that SNH is also concerned about the impact of the second course on the Balmedie sand sheet. However, given that this area is not within the SSSI there should be no concern about development in this part of the site.

2.1.59 Like north Menie, considerable areas of existing links and dunes at south Menie would not be altered, due to the wide separation between fairways and to the design, which normally requires 'clearance' for the first drive from tee to fairway. Nevertheless, some reshaping and surface modification would be needed,

but this would be almost entirely within existing low axes and depressions in the existing topography. There would be no reason to reduce the elevation of most of the higher dunes and ridges.

2.1.60 Other than along the coastline, north Menie SSSI is not connected by active geomorphological processes to south Menie, because the nature of the south to north movement of active features, specifically 'the dome', has left a buffer zone of recolonised, stable deflation and slack surfaces at its southern margin. Similarly, north Menie is not connected by significant transfer of sediment north of the Sandend Burn (the north limit of Menie Estate) and Drums Links, which is also part of Foveran SSSI, other than along the beach by longshore processes. There was a historical link between the movement of sand from the beach to the dome, but this particular route is now closed and diminished significantly with the abrupt reduction in recreation and visitor pressure after 1976.

2.1.61 Menie is part of Foveran SSSI and is estimated to be equal to one third of the total area, which stretches south from the Ythan Estuary. Further north, the Sands of Forvie National Nature Reserve (NNR) continues the conservational designations for the north end of Aberdeen Bay. Unlike north Foveran and south Forvie, the sedimentation link with the Ythan Estuary is less important. The remainder of Foveran SSSI contains similar dune landforms at different stages of development as can be found at Menie. Although not identical, Foveran also has an extensive deflation sequence, with large areas of bare sand at the north end. This includes a large arcuate mass of sand, which migrates northwards against older dune landforms.

2.1.62 In general, there are more open connections between these bare sand areas, with de-vegetated coastal dunes and the open beach than at Menie. The general morphology is similar to the dome at Menie, but is less massive and has a different shape. Nevertheless, the formative processes of sand movement are the same, but they might have different rates of change due to local factors. In general, such massive inland bare sand features are almost unknown elsewhere in Scotland, but are uniquely found at Balmedie, Menie, Foveran and Sands of Forvie.

2.1.63 The north Menie SSSI contains an excellent assemblage of dune and links landforms with clear examples of active and historical formative processes. Accordingly, Chapter 6 of the environmental statement described the impact of the golf course development as normally moderate to severe. Like south Menie, many areas, in addition to the coastal zone, would be untouched due to the spacing of the fairways and to the avoidance of some dynamic and topographically over-steep slopes. Nevertheless, the majority of holes would have a severe impact, as they necessitate topographic modifications and artificial stabilisation.

2.1.64 The applicant accepts that there would be a significant loss of dynamism, but the dunes would not be destroyed; neither would all the dynamic processes. TIGLS acknowledges that north Menie has a national significance for geomorphology. However, it was not selected as a Geological Conservation Review site (GCR) when these sites were originally chosen, in contrast to Sands of Forvie. It has now been promoted as a candidate GCR, but work on this commenced within one month of SNH's appointment of Dr Hansom to advise on the application.

2.1.65 Interest has focused on the golf course architect's need to stabilise the open, unvegetated sand dome and contiguous areas. If this were done, then a major element in the reason for site designation, i.e. dynamic and relatively rapid but variable movement in a generally northwards direction, would cease. There is no disagreement between developer and objectors on this specific concern. Extensive landforms and many excellent examples of dune-forming processes would be lost by the need for topographic modifications, stabilisation and other controlling techniques.

2.1.66 It is also agreed that this golf course design requirement crystallises the question as to whether or not sufficient geomorphological interest remains in the north Menie area to continue to justify the appellation SSSI. Professor Ritchie considered that sufficient areas of interest would remain, even if the dome were to be stabilised. North Menie is only part of the SSSI; the coastal dunes and beach would be retained, as would an area in the north east corner and some areas of blown sand elsewhere. There would also be considerable habitat interest. It is accepted that the dome would be stabilised and much, though not all, of the geomorphological interest in the North Menie part of the Foveran SSSI would no longer exist.

2.1.67 There is also general agreement on the specific locations of the greens, tees and fairways that would be affected directly or indirectly by both topographic reshaping and by the stabilisation of mobile sand in order to meet constructional and operational requirements. Very minor differences between the developer and SNH relate to the latest version of the golf course layout, but there is probably room for some 'fine-tuning'. Nevertheless, this is almost irrelevant compared with the central issue of the proposal for relatively extensive stabilisation of large areas of mobile bare sand surfaces within the SSSI.

2.1.68 In April 2008, a modified golf course layout was submitted. For most tees, greens and fairways, there would be less impact on the existing dune and links topography. Partly due to the shortening of some holes and the re-siting of holes 15 and 16, there would be additional avoidance of some mobile sand surfaces. Nevertheless, substantial areas in the SSSI require stabilisation to provide vegetation cover. Holes 12, 13, 17 and 18 fall wholly, or partly, into this category with hole 13, on the dome, requiring complete stabilisation. The amount of stabilisation and vegetation cover would also affect geomorphological processes in adjacent areas. The plans would require little or no stabilisation of mobile sand surfaces elsewhere in the course, but all tees, greens and fairways would require topographic modification (or smoothing) and revegetation to convert natural surfaces to golf course standards.

2.1.69 The most recent hole-by-hole assessment was written after a site visit with SNH and the golf course architect in May 2008. The most recent design would require much less cut and fill and would avoid several dynamic dune zones. The overall impact on the landforms would be less and the amount of stabilisation would be reduced. This new plan also provides more information on tracks between greens and tees and would make use of low ground, existing pathways and natural depressions. The areas that would be used for ancillary constructions, e.g. the

clubhouse, also seem to be less. In general, these reductions are mainly a consequence of re-positioning and re-alignment.

2.1.70 Professor Ritchie acknowledged that there would be little scope for mitigation where there was direct impact and modification of the landforms and their formative processes in the construction and operation of tees, fairways and greens. Stabilisation would freeze the landform in its present state and would stop sand movement. Mitigation could be applied, however, in the sense of ensuring that the minimum area that needs to be altered would be used and that constructional activities would not impinge unnecessarily on adjacent, relatively untouched dune and links areas. Moreover, local changes to the alignment of most fairways would try to change as little as possible. Replication of some types of dune landforms, including slacks, could be done. For example, full topographic restoration of such landforms has been achieved at St. Fergus after pipeline landfall works. Except for the area to the west of hole number 11, no plans exist to do this but, if beneficial, it could be considered on an opportunistic basis during cut and fill operations.

2.1.71 TIGLS considers that the CD provided by Scottish Natural Heritage does not assist (SNH53). Better software is available and the floating line makes it difficult to demonstrate the effect on the landscape. Furthermore, the transition zone is seen as a hard edge, whereas it would be a soft transition.

2.1.72 One of Professor Ritchie's key recommendations is the creation of a Menie (Links) Environmental Management Advisory Group (MEMAG), the principle of which is endorsed by Aberdeenshire Council and listed as a planning condition. The proposals for MEMAG come from Professor Ritchie's positive experiences at Sullom Voe and St Fergus. Appendix 6-6 of the environmental statement includes a definition of purpose, area of concern, terms of reference, possible membership and committee structure (Core-G3). Its primary purpose would be for monitoring; it would not have the power of veto, as the legal responsibility for what happens on the site must rest with the developer. Moreover, MEMAG cannot take the place of statutory bodies with enforcement powers, such as the council, SEPA and SNH.

2.1.73 A body such as MEMAG, with access to the full range of environmental scientists and knowledge of site conditions could be an effective means of channelling good practice. It could also provide the necessary technical expertise to undertake appropriate field studies and monitoring. MEMAG would also be useful in the pre-construction phase, where timely advice could prevent additional negative impacts on adjacent dune and links environments. It is not intended that the group would have an input into the design of the course. MEMAG would be created:

- to monitor environmental changes;
- to advise on good practice managerial responses;
- to act as an independent check that developer commitments in relation to the dunes environment would be fulfilled;
- to advise on mitigation and minimisation of environmental impacts; and
- to commence work before site work begins and to continue to advise throughout the operational life of the development.

Dr Tom Dargie

2.1.74 Dr Dargie has a Bachelor of Science degree in Botany and Geography and is a Doctor of Philosophy (Plant Ecology). He has a Diploma in Vegetation Survey and is a Member of the Institute of Ecology and Environmental Management (IEEM) and a Chartered Environmentalist. He has been an academic at the Universities of Sheffield, Dundee and Aberdeen and has been a self employed ecological consultant since 1988. Stewart Angus for SNH accepted that no-one has more knowledge of the vegetation of dune habitats in Scotland than Dr Dargie.

2.1.75 Dr Dargie's initial advice to the applicant was that the development should avoid the SSSI and the sand dome to the south. His opinion remains the same. However, his view is that if outline planning permission is granted and mitigation takes place, the habitat conditions would be better overall than they are at the current time.

2.1.76 Dr Dargie considered that much of the present dune dynamism in North Menie will disappear before the end of this century, without development for golf, although TIGLS acknowledges that Professor Ritchie and Dr Hansom were more cautious and did not claim this to be the case. In nature, large masses of mobile sand tend to stabilise over time as a consequence of normal dune vegetation successional processes. Young dune slacks undergo succession to mature slacks and early succession species will be lost. Dr Dargie acknowledged that this theory of stabilisation cannot be proved.

2.1.77 He considered the following to be the hierarchy of designations on the site: 1 – SSSI (most important); 2 – Annex 1 Priority Habitat; 3 – Annex 1 Habitat; and 4 – SINS. In closing submissions, the Special Protection Area (SPA) to the north of the site was referred to as first in the hierarchy of designations, with the others in the order explained by Dr Dargie. The applicant does not accept the submissions made by RSPB that the SSSI should have the same ranking as an SPA, because of the European dimension. The applicant agrees with the hierarchy outlined by SNH, although the distinction between habitats depending on whether they are in the SINS or not, is not considered to be material.

2.1.78 Dr Dargie prepared two documents, which update information included in the 2007 environmental statement. T4 is the revised Hole-by-Hole Analysis, which includes tables which summarise the impacts of golf development on Menie dune habitats. Data were obtained by GIS overlay analysis using a digital version of the 2008 Hawtree course.

2.1.79 T50 covers several matters. It reviews the accuracy of Menie habitat work, including the identification of national vegetation classification (NVC) types. This is necessary to be confident about the amount and types of ground which would be affected by the development. Menie sample data for key NVC types was assessed for accuracy, which allows potential new NVC types to be compared with published NVC types using all species in samples and the NVC tables. It identifies soil acidity and wetness as important factors affecting the key dune habitats at Menie. T50 is a revision of the 2006 habitats baseline, which corrects some 2006

errors. A revised NVC habitat map is included in the document, including an enlargement of Foveran Links SSSI and Foveran Links SINS.

2.1.80 T50 presents strong evidence for extensive change due to land management in the Menie sector of Foveran Links SSSI. Eight examples are given of habitat change, mainly due to poor management of winter stock grazing. The scale of change due to excessive winter feeding of stock is probably sufficient to be classed as 'unfavourable declining' and even 'partly destroyed', using JNCC Common Standards Monitoring Guidance. Ground south of the SSSI and SINS sectors is in generally good condition.

2.1.81 The vegetation and ecology of Menie dunes comprises areas named as follows:

- strandline and outer foredune – occurs on the highest beach levels and outer dune face, with only a slight extension inland beyond the outer dune crest. It receives sand blown up the beach onto the coastal foredune;
- mobile dune – is usually made up of pure marram and includes bare moving sand on the Menie sand sheets ('domes') and marginal areas. This category represents rapidly changing ground caused by the dynamics of blown sand away from the coastal edge, marking internal re-distribution of sand;
- dune slack – a depression within sand hills, often with the floor under the influence of the dune water table. At Menie dune slacks mark ground which has had dry sand blown away until wet sand is exposed, preventing further sand removal. The floor of the depression can be flooded in winter but is usually dry or damp in summer. Young dune slack has a very varied amount of plant cover. Older forms which are wet can have a high cover of mosses. Mature slack is dominated by dune willow (*Salix repens*) and there are transitions to wet dune heath in the oldest areas, with much crowberry (*Empetrum nigrum*);
- fixed dune grassland ('grey dune') – sand sedge (*Carex arenaria*), common bent-grass (*Agrostis capillaries*) and sheep's fescue (*Festuca ovina*) are typical species. A high lichen cover is found in some areas. These areas mark ground receiving little or no blown sand, with a stable surface, allowing a more species-rich dune turf to develop compared with mobile dune conditions;
- dune heath – refers to ground dominated by heath species, with crowberry commoner than heather (*Calluna vulgaris*) at Menie. It forms on former fixed dune grassland areas once soils conditions are sufficiently acid, or as a result of the heath species acidifying the soils themselves;
- swamp, standing water and running water – mainly sweet grass (*Glyceria maxima*) but includes a soft rush (*Juncus effuses*). Sweet grass is an indicator of higher nutrient status and occurs around and in permanent streams, which are probably carrying increased nutrients from agricultural land inland; and
- wet grassland and flushes – including soft rush grasslands and areas with creeping bent-grass (*Agrostis stolonifera*) and silverweed (*Potentilla anserine*). These vegetation types are often indicators of past disturbance (e.g. ditching) and the more extensive areas at Menie might represent ground which was once cultivated.

2.1.82 A map of ground showing high, moderate and low nature conservation interest is presented in Figure 5 of T50. This shows that ground of high interest is very extensive and forms a near-continuous block on the seaward side of the Menie development area.

2.1.83 Calculating direct impacts of the golf development on habitats is difficult because the golf development plan is incomplete. Only a first course is nearly finalised in terms of detail, plus locations for a clubhouse, driving range and putting practice area. Only the likely effects on habitats and species of this footprint can be reported accurately. Additional golf development would involve a second shorter course with impacts smaller in scale. Overall effects would be less than double those of the first course. Importantly, the development footprint to be applied in Foveran Links SSSI is near final.

2.1.84 In relation to T64, which is the interpretive site investigation report and includes an investigation of the groundwater resource, Dr Dargie explained that it was not possible to drill boreholes within the SSSI. He acknowledged that the absence of information on groundwater in this area was a substantial obstacle to his investigation, although he considered that he had enough information for an outline planning application.

2.1.85 The environmental differences between the two courses are covered in the Hole-by-Hole Geomorphological Assessment (T4). There would be less geomorphological impact from the Hawtree course, allowing dynamic processes and habitats to be retained in the north of the development, east of hole 15. The most important habitat difference between the two courses arises from the new position for this hole. It would result in an increased loss of 0.7 ha of young slack. The affected area is very dry and rare dune slack species are absent. This increased loss is balanced by notable reductions in loss elsewhere, involving mobile semi-fixed and fixed acidic dunes. The change enables geomorphological dynamics to be maintained in the north of the Menie sector of Foveran Links SSSI. The Fazio course would destroy 2 slacks, the Hawtree course would destroy one. The slacks destroyed would be below average slack size.

2.1.86 Total direct impact would be 41.7 ha, 15.8% of all habitat on blown sand in the Menie development area. The golf course would largely avoid habitats of moderate and low interest. This rounded 16% loss underestimates the proportion of key dune habitats affected (35.1 ha), which would be 19.2% of all key dune habitats (182.8 ha).

2.1.87 The NVC categories recorded at Menie can be allocated to Natura habitats, as listed in Annex 1 of the EC Habitats Directive (Core-F2). Losses per Annex 1 habitat would be as follows:

- 13.3 ha of white or mobile dunes (22% of the habitat in the development site - this includes bare mobile sand);
- 14.8 ha of grey dunes (Priority) (18% of the habitat);
- 3.4 ha of decalcified fixed dunes (dune heath) (Priority) (21.5% of the habitat);
- 3.6 ha of humid dune slacks (27% of the habitat).

2.1.88 Dr Dargie pointed out that these loss figures are exaggerations. About 7 ha of the loss figure is made up of transition rough habitat around fairways, which would be managed as dune habitat providing a playable lie. It would not be destroyed or translocated and represents a habitat modification effect, not habitat loss. The total figure of 35.1 ha also includes all bare sand on the dome, as Dr Dargie assumed it would all be stabilised. In fact, areas of bare mobile sand could be retained. Furthermore, 9.8 ha of the 13.3 ha figure is made up of bare sand with no vegetation. Accordingly, the accurate figure for direct impacts on NVC types making up Annex 1 habitats is 18.3 ha (35.1 ha, less 7 ha of transition rough and 9.8 ha of bare mobile sand). This figure represents approximately 10% of Annex 1 total habitats (which extend to 182.78 ha). Put another way, 90% of Annex 1 habitats within the site would be unaffected.

2.1.89 Dr Dargie examined losses as four Habitats Directive Annex 1 habitats, considered at four scales: local, dune site, dune region and all-Scotland. All four habitat types would show significant loss at local, site and region scales. These results show a significant adverse effect at the regional scale for habitats of European importance. The development would involve a 0.7% loss for mobile dunes at the national scale. Development of the second golf course would probably double that figure to around 1.5%. This would produce a significant adverse effect at the national scale.

2.1.90 Direct impacts on the habitats of Foveran Links SSSI were calculated in two ways. The golf course footprint in the SSSI would be 10.7% of the SSSI area. The footprint comprises the fairways, greens, semi-rough transition zone, tees, semi-rough around tees, paths, putting green, driving range and clubhouse. The overwhelming majority (89%) of the SSSI would be completely unaffected by the golf course. Using SSSI habitat extent (excluding the area between the low and high mean water springs), the golf footprint would be 14.0% of the SSSI resource, with 86% of SSSI habitats unaffected. This habitat analysis was applied in the Menie sector of the SSSI. The golf course footprint would be 32% of the Menie sector. Two thirds of this sector would be unaffected by direct impacts on habitats. All calculations of percentage loss for the SSSI and the Menie sector of the SSSI would represent a significant adverse effect, before taking account of mitigation.

2.1.91 Within Foveran Links SSSI there would be serious effects on nationally important species for hole 18. These are significant adverse. Outside the SSSI there would be direct effects upon nationally important species for holes 1 and 3. Large extents of lichen-rich grassland and dune heath would be affected by holes 1, 2, 3, 5, 6 and 7. Changes to the course design cannot be made to avoid these impacts. The effects on rare plants and the area of lichen interest should be regarded as significant adverse. The indirect effects of golf development are likely to be significant adverse.

2.1.92 The total area affected by development within the SSSI would be 19.35 hectares. Of that total, 3.38 hectares would be transition rough. Bare mobile sand accounts for 9.62 hectares. Accordingly the impact on NVC vegetation making up Annex 1 habitats within the SSSI would be 6.35 hectares, or 8% of Annex 1 dune habitat total for the Foveran Links SSSI (all figures from T4). Alternatively, 92% of Annex 1 habitats within the SSSI would be unaffected.

2.1.93 In relation to indirect impacts, these would comprise increased nutrient levels and loss of rabbit grazing. These are operational issues, which could be addressed through proper environmental management informed by MEMAG. As for the possibility of championships being played on the course and damaging habitats, Dr Hawtree, Dr Dargie and Mr Rooney for Scottish Natural Heritage all considered that championship matches could be held successfully on environmentally sensitive sites.

2.1.94 Dr Dargie argued that effective mitigation could be achieved for significant adverse effects to habitats and plant species. Sufficient suitable ground is available within and outwith Foveran Links SSSI to re-establish all habitats likely to be lost to development. He proposed habitat translocation of habitat turf as the main technique and this would also be used for species affected by development. Translocation would involve stripping turf from a donor area and transporting the turf to a receptor area, which has a very similar environment to donor ground.

2.1.95 Dr Dargie agreed that 35 hectares of the site would be translocated. He acknowledged that, as T53 indicates, the largest area of translocation undertaken in that study was 7 hectares, the size of the area proposed for translocation at Menie is very large. However, the applicant is not concerned, or daunted by, the scale. He explained that Figure 6 of T50 shows the potential receptor areas. He accepted that this figure is based on the habitats mapped in 2006 and 2008, which depend on the current water management regime at the site.

2.1.96 The figures on habitat loss show that, even without translocation there would still be a considerable amount of Annex 1 habitats within the SSSI and within the site. Accordingly, if the test in paragraph 25 of NPPG 14 were to be applied, the development would still be acceptable without any attempt at translocation. Dr Dargie accepted that habitat translocation within an SSSI is not an acceptable alternative to maintained conservation within SSSI boundaries, a policy of the JNCC. He acknowledged that there is a strong presumption against this method and that it is a measure of last resort. TIGLS is aware of this, but Dr Dargie considered it would be unacceptable not to make the attempt. The alternative, if approval is granted, would be for the stabilisation of the dome to use conventional hydro-seeding methods with a low-interest grass sward based on common non-dune species. There would also be a need to dispose of much turf stripped from golf areas, probably by burial within the golf footprint.

2.1.97 Dr Dargie regards much dune vegetation and most threatened species as resilient and capable of surviving translocation. He acknowledged that the work would have to be undertaken by a very experienced contractor who has specialised in very sensitive habitats. In addition, appropriate equipment would probably have to be developed so that the turf could be extracted and transported without breaking up. The translocation trials undertaken at Menie by Dr Dargie were not intended to be rigorously scientific. Mature dune slack was selected to assess the success of one particular piece of excavator equipment, which was deemed to be inadequate. Examples of more sophisticated equipment are given in T53. Once the required range of equipment was assembled, more comprehensive trials would be organised. The grey dune translocated very well; mobile dune habitats were less successful;

whereas the translocation of dune slack habitats was not a complete success, but neither was it a complete disaster.

2.1.98 He agrees with Scottish Natural Heritage's view that translocation of dune slack would be difficult. He estimated that there would be at least 66% success for habitats established in receptor areas in the short term (1 – 5 years). Following remedial measures, he estimated that near-100% would be possible in the medium to long-term (5 – 25 years). He acknowledged that this is not a measure of the likely success for translocation of dune slacks. Instead, it is a measure across the range of habitats, including those which are more easily translocated.

2.1.99 He accepted that he did not know how much of the dune slack had a stony horizon, as this would need a soil survey. He considered that the success of the translocation of dune slack would depend on how much of it was located on thick sand and how much over stony soil and he could not give a firm figure. His confidence of 100% success would depend on being able to overcome these difficulties. He considered that there would be as much young dune slack after translocation has taken place as there is now. As there would be natural processes on the site after development took place, new areas of young dune slack would form. Moreover, while young dune slack is an Annex 1 habitat, it is not a priority habitat, unlike grey dunes and dune heath.

2.1.100 Dr Dargie agreed with Stewart Angus for SNH, who stated that there is a very large proportion (98.6%) of the Scottish young dune slack resource at Menie. However, a NVC survey in 1990 showed only 0.06 hectares of young dune slack within the SSSI as a whole. When Dr Dargie surveyed the Menie part of the SSSI in 2006 and 2008, he found 3.59 hectares, a twenty fold increase. The figure of 98.6% assumes no significant change in other sites, which may be a rash assumption given the changes at Menie.

2.1.101 Dr Dargie was asked whether what he calls mitigation should be more properly considered to be compensation. He agreed that it is compensation, as the loss of dynamism in the SSSI cannot be mitigated. There would be only relatively small areas of dynamism left. But good quality dune habitats would be established in place of bare sand and mobile dunes. The end result would be much less natural but not wholly artificial. The applicant has not understated either the impacts on habitats or the challenges of translocation.

2.1.102 The alternative golf course design submitted by RSPB would have a severe adverse effect on grey dune, dune heath and dune slack habitats. The alternative design might be as harmful, or even worse, than the development proposed by TIGLS.

2.1.103 He presumed that MEMAG would be adequately resourced to undertake its work and that funding for translocation and habitat enhancement work would be sufficient to use best practice. He considered that an ecological clerk of works, or indeed a team of them, would be required to monitor the sensitivities of this site if outline planning permission was granted.

2.1.104 Habitat enhancement is also proposed as further mitigation. The applicant wishes to restore dune ground in unfavourable condition to favourable status. The condition of the SSSI is not good, which was accepted to some extent by Stewart Angus. Many golf courses are wholly or partly on land located within a SSSI, although only 2 in Scotland are located on an area which was designated as an SSSI first. There is a wealth of knowledge and experience concerning environmental management on these sensitive sites and it is widely accepted that such management can produce environmental benefits.

2.1.105 Dr Dargie concluded that residual direct effects on habitats would be reduced from severe (in the absence of mitigation) to moderate in the short term. This applies both in the Foveran Links SSSI and to ground further south. In the medium to long term he considered residual effects would be slight to moderate in the same areas. He agreed with Dr Gore (for Aberdeenshire Council) that the integrity of the SSSI would be compromised if the development were to go ahead, but stated that that analysis takes no account of mitigation. He considers that a proportion of the SSSI would be enhanced, as recognised dune vegetation would be re-established on ground where it has been lost because of stock grazing. On the other hand, he acknowledged that the re-established vegetation would not be natural and a partly artificial dune landscape would be created.

Mr David Bell

2.1.106 Mr Bell has a BSc from Aberdeen University. He is principal of ECOS Countryside Services, an ecological consultancy he established in 1987, specialising in field survey and evaluation. A core area of work is in environmental impact assessment.

2.1.107 He undertook site-specific surveys for badger, great crested newts, otter and water vole in 2006 (Core-G3). He repeated the surveys for badger, otter and water vole during the early part of 2007 (Core-G1). These surveys were undertaken at the appropriate times of year and used standard methodologies agreed with SNH in advance. No signs of great crested newt were recorded during the surveys, which concur with data held by the local biological records centre and the results of the national great crested newt survey undertaken in 1996.

2.1.108 Both otter surveys found regular signs of use of watercourses, ornamental ponds at Menie House, Menie Flight Pond and the Blairton Flight Ponds. The most frequently recorded signs were spraints (droppings) and footprints along the lower Blairton Burn and its outfall. No holt or rest area was found within the survey area, which extended beyond the site boundary, by up to 500m. However a holt was located to the north of the site on the Drum Links. The site is within the home range of local otter but it does not appear to be important for breeding. Otter have recovered from serious population decline with the latest national survey recording a very high occupancy, 92%, and otter now have a favourable conservation status in Scotland. On the basis of these surveys and recommended mitigation in the Environmental Statement (ES) SNH withdrew an earlier objection and agreed that the golf development was unlikely to have a significant adverse effect on the local otter populations.

2.1.109 Mr Bell undertook surveys for water vole in 2006 and 2007 recording no signs of this species. This concurred with data held by the local biological records centre. Badger surveys were undertaken in 2006 and 2007, recording a significant presence that included a main sett, annex sett and outliers. Foraging areas were mapped and advice taken from Grampian Badger Group. Further data was provided by the local biological records centre and adjacent surveys to inform routing options for the A90T at Menie. SNH agreed that there was unlikely to be a significant adverse effect on badger, if mitigation measures detailed in the Environmental Statement were provided as a Badger Protection Plan.

2.1.110 Site specific bat surveys were conducted by others. These surveys looked at the wider area of the proposed site and buildings at Menie House. Small numbers of two species of Pipistrelle bat were recorded foraging and roosting at Menie House and foraging around other farmsteads and plantations in the wider development site. The conclusion of the surveys was that the golf course development would not pose a significant risk to bats. Recommendations were made for improving connectivity of habitats used and to improve the foraging value of the area for bats.

2.1.111 Breeding bird surveys were undertaken in 2006 (Core-G3), which were repeated in 2007 (Core-G6) to take account of development boundary changes. The whole site was surveyed, not just designated areas. Both surveys recorded similar numbers of bird species, 56 in 2006 and 57 in 2007. In 2006 22 species were recorded as breeding whilst the number in 2007 was 23 species. All possible, probable and proved breeding bird species in each year were evaluated for their conservation importance. There were no Annex 1 EC Birds Directive or Wildlife & Countryside Act 1981 (& later amendments) or Schedule 1 breeding birds.

2.1.112 Some species were present in national and local Biodiversity Action Plans (T47, T48, T49, T57 Core-F8) and a total of nine Red List Species of High Conservation Concern were recorded. These Red List and priority action biodiversity species were: common linnet; common starling; corn bunting; grasshopper warbler; house sparrow; reed bunting; sky lark; song thrush; and yellowhammer. The most numerous breeding key species was sky lark, with breeding numbers in the range 40-80 pairs in 2006 and 23-60 pairs in 2007. Other species were recorded in much lower numbers, with house sparrow and common linnet the only species exceeding 10 pairs in either year.

2.1.113 Both breeding survey reports assess the quality of bird habitat according to national guidelines used for assessment of SSSI and found that the sand-dune habitats were of highest quality, with a score of 20 out of 24. The figure of 24 is the SSSI qualifying threshold for identifying a nationally important assemblage. The lowland damp grassland, lowland open water and scrub were of lower importance.

2.1.114 The key species and habitat in bird conservation terms are sky lark and sand dune. Sky lark made no use of areas of mobile sand and limited use of yellow dune habitat for breeding. This species showed a clear preference for semi-fixed dune, heath and dune grassland for breeding. A hole by hole comparison of habitat losses between the original course layout by Tom Fazio, compared to the new

Hawtree course layout was carried out by Dr Tom Dargie. This showed a reduction of 3.34 hectares in the original areas lost to the course in terms of semi-fixed dune, dune grassland and heath. Tom Fazio incorporated mitigation for wildlife interest in his original design. The Hawtree design is derived from Fazio's. Mr Bell's main concern was otter. He suggested that artificial otter holts could be installed and this advice was implemented by Dr Hawtree.

2.1.115 The reduction in habitat loss is not sufficient to prevent short-term reductions in sky lark numbers. Numbers of sky lark would be determined in the medium to long-term by the success of dune habitat mitigation and the Red List bird species actions in the Course Environmental Management Plan (CEMP). The minimum aim of this plan would be to ensure no net loss of bird breeding interest and to identify management to increase numbers, targeting all Red List species.

2.1.116 Winter and passage survey of birds using the Menie site and adjacent beach and inshore waters were undertaken over the period September 2006 to May 2007 (Core-G4). The main aim of these surveys was to identify special interest in relation to local European sites and to record significant species or numbers of species. A total of 85 resident, passage and wintering species were recorded within a total survey area that extended from Balmedie to the mouth of the River Ythan and was bounded by the A90 and the North Sea. Locally important numbers of lapwing, golden plover and curlew were recorded, mainly outwith the site.

2.1.117 The key species recorded on-site was pink-footed goose. Geese were recorded roosting on land to the south of Menie House. The peak count was 3,500 birds or 1.3% of the Greenland/Iceland population. These birds were likely to form part of the flock roosting in the Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area (SPA) to the north. A preliminary assessment was carried out as part of this report. On the recommendation of SNH a full 'Appropriate Assessment' report has been produced to address the potential recreational disturbance effects on the SPA and to address the issue of the potential loss of a pink-footed goose sub-roost. This additional report is now the subject of an appropriate assessment by the competent authority, the Scottish Ministers.

2.1.118 An entomology brief was agreed with SNH and as a result four orders were surveyed at Menie in 2007. These were Lepidoptera, Aquatic Coleoptera and Hemiptera, Orthoptera and Terrestrial Coleoptera and Hemiptera.

2.1.119 Two nationally scarce species of aquatic macro-invertebrates, *Rhantus suturalis* and *Enochrus ochropterus*, were found in one pond close to the proposed 7th hole, which would not be likely to be directly impacted. Data was provided for the 17 sites surveyed and would be used to inform detailed design. In relation to the terrestrial orders, surveys recorded no species that were listed in UK or North East Scotland Biodiversity Action Plans, nor any Red Data Book species (Core-G5). Three species, not rare in the UK context, were identified as declining and particularly sensitive to the changes in habitat due to development. Potentially negative impacts were identified for a total 56 species of invertebrate. The data from these reports would be used to inform mitigation based on specialist advice at the time of preparing the CEMP.

2.1.120 The process of mitigation for flora and fauna is limited by the outline nature of the application and opportunities afforded at detailed planning stages would be significant. The opportunities in the medium to long-term could be maximised by the preparation of the CEMP, produced by an impartial and independent group (MEMAG) in accordance with best practice identified in the Scottish Golf Environment Group publications (Core-G5, T44, T48). SNH is a lead partner in the golf environment group.

2.1.121 The guidelines in the publications referenced would be enriched by outside experts brought in to advise on issues relating to key receptor species, such as Red List birds and protected species. Whilst the aim of the plan would be to retain and enhance existing interest through management and monitoring, it would also seek to create new opportunities for wildlife and to underpin national and local biodiversity priorities. This may apply to species previously present at Menie or new ones that could be encouraged to take advantage of new habitat creation and management. The adoption of flagship species e.g. aquatic beetles, bats, barn owl, sky lark, reed bunting, tree sparrow, otter and grayling butterfly, within the CEMP could see targeted action for boundary habitats, wetlands and watercourses, grassland and planting of new broadleaved native woodland. Specialist monitoring would endeavour to protect, improve and create lower plant habitats in relevant dune areas. The feasibility of re-introducing water vole at Menie could be one of the more exciting projects.

2.1.122 Mr Bell has had a brief look at the alternative golf course plan put forward by the RSPB (RSB17B). Although the alternative plan is not drawn at the same detail as the Hawtree design, he considers that the alternative would have a major adverse effect. It would affect the Blairton Ponds, burns and the dune heath, which were avoided by both the Fazio and Hawtree designs. The heath is important for macro-invertebrates and there is a concentration of wildlife activity around the water bodies.

2.1.123 The conclusion of the environmental impact assessment, with regard to birds and protected species, is that the golf course would not, after mitigation, have a significant adverse effect and this has been broadly agreed by SNH, RSPB and SWT in their written responses to Aberdeenshire Council. Overall there would be no significant change in the number of breeding birds or the number of species. He considered that the development would be better for some species and worse for others if it went ahead. Invertebrate mitigation would be identified and implemented at detailed design stages and would be included in the CEMP. Mr Bell acknowledged that, because the SSSI was designated for its geomorphological interest, that takes precedence. However, if the dunes were to be stabilised as a result of the development of the golf course, an opportunity arises to increase ornithological interest on the site.

Written submissions

2.1.124 In addition to the oral evidence presented at the inquiry TIGLS produced 6 written statements. These covered: Planning Policy; Groundwater Environment (two statements); Access Strategy and Recreation; Appropriate Assessment; and Transport.

2.1.125 The Planning Policy statement provided a ready reference summary of the policies which set the context for considering the planning application. It did not provide any interpretation of their application to the proposed development. The policies of the approved structure plan and the adopted local plan contained in the statement are the same as those that have been summarised above in Chapter 1. National planning policy and advice documents referred to are also the same, with the addition of the following:

- SPP 10 – Planning for Waste Management;
- Draft SPP 23 – Planning and the Historic Environment;
- PAN 38 – Housing Land;
- PAN 42 – Archaeology;
- PAN 44 – Fitting New Developments into the Landscape;
- PAN 53 – Classifying the Coast for Planning Purposes;
- PAN 58 – Environmental Impact Assessment;
- PAN 60 – Planning for Natural Heritage;
- PAN 61 – Planning and Sustainable Urban Drainage Systems;
- PAN 63 – Waste Management Planning;
- PAN 69 – Planning and Building Standards Advice on Flooding;
- PAN 73 – Rural Diversification;
- PAN 74 – Affordable Housing;
- PAN 75 – Planning for Transport;
- PAN 79 – Water and Drainage; and
- PAN 84 – Reducing Carbon Emissions in New Development.

2.1.126 TIGLS produced two statements on the Groundwater Environment; the first was in response to the objection made by SEPA on 29 August 2007 and the second responded to SEPA's written statement of 21 May 2008. Discussions between the applicant and SEPA achieved a measure of agreement, but there are a number of outstanding matters. In relation to these, the applicant stated that some information would not be available until the reserved matters stage. There has been some assessment of the impacts on habitats (T4 and T50) and a planning condition would cover the requirement for a habitat management plan. Detailed information on groundwater impacts would also be the subject of a condition, as would the requirement for a sustainable turf management plan and a Course Environmental Management Plan. A condition would require the submission of a water management plan.

2.1.127 In response to SEPA's written statement, the applicant stated that an environmental statement has been produced in support of the outline planning application. This and other related documents have produced sufficient information and comfort to enable the submission of further details to be covered by planning conditions. It is considered that a technical solution acceptable to the planning authority and SEPA should be available at reasonable cost. This approach is reasonable because the application is in outline and subsequent applications for approval of reserved matters would be accompanied by the necessary supporting environmental information. It should be noted that extensive invasive survey work within the SSSI would be necessary to comply with SEPA's requirements at this

stage. This would require permission from Scottish Natural Heritage. In the event of a refusal of planning permission those works would have been unnecessary.

2.1.128 In relation to the allegation made by SEPA that granting outline planning permission would be in conflict with the Water Framework Directive and the Water Environment and Water Services (Scotland) Act 2003, the requirements of the Directive should be delivered by SEPA consenting under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 (known as the 'CARS'). These regulate any activity liable to cause pollution of water, abstraction and impoundment of water and building and engineering works in the vicinity of water. Compliance with the Directive can therefore be left to the CARS regime.

2.1.129 SEPA also stated that it would be contrary to the Environmental Impact Assessment Directive and the Regulations to grant outline planning permission where the environmental implications of the development are not known. However, the Directive and Regulations require only to assess the likely significant effects and the likely main effects of the development. It has not yet been decided whether there would be any groundwater abstraction and there is no detailed design, so there can be no likely effects of these matters to be assessed.

2.1.130 Where environmental effects cannot be identified until the reserved matters stage, the environmental impact assessment of those matters can be left until that stage. This is now catered for in the amended Environmental Impact Assessment Regulations. There is no question of the development going ahead without proper assessment and the publicity and public consultation of the impact that goes with that assessment.

2.1.131 The written statement on the Access Strategy and Recreation at the site analysed the existing recreational use of the site and adjacent areas, including the Forvie National Nature Reserve to the north and the Balmedie Country Park to the south. As the quality of the environment found at Menie is considered to be comparable to that at Forvie, tourists and residents on the site would be much more likely to walk to the beach at Menie rather than driving 7 miles north to Forvie. For this reason, the impacts of the proposed development on Forvie are predicted to be minimal.

2.1.132 All of the recreational activities which take place within the Balmedie Country Park would not be directly affected by the proposed development. The area proposed for future golf in the south of the application site would have an impact on the informal recreational activity which overflows from the park. However, this activity is very limited. Furthermore, the changes proposed as part of the resort would increase the range of recreational opportunities on offer. In addition, there is room within the country park itself for the informal recreation that takes place currently on the southern part of the application site.

2.1.133 A draft Access Strategy has been produced (Core-G10). In addition to retaining the existing equestrian path, which leads north from the country park through the dunes to Newburgh, 3 access routes are proposed. Route A runs along the northern boundary of the site along a road and track from the A90 to Delfrags, Hatterseat and the northern beach area. Route B would be the primary access

through the resort for pedestrians and cyclists and would lead from Hill of Menie at the A90 south eastwards to the beach. The route would cross the dunes and the proposed golf course, probably on boardwalks. Route C would lead from the northern car park at the country park across the area identified as 'Future Golf' to the beach.

2.1.134 TIGLS accepts the analysis of the law applicable to public access rights in Scotland made by Mr McKay for ScotWays. The applicant also accepts the imposition of planning conditions requiring the preparation of a detailed access strategy, in consultation with relevant groups including the Ramblers' Association. There would also be a planning condition requiring the construction method plan to include public access arrangements. TIGLS does not see the rights of access by the public as inconsistent with the proposed development.

2.1.135 A written statement on Appropriate Assessment summarised the appropriate assessment report that had been submitted to Scottish Ministers and Scottish Natural Heritage. The report addresses the impact of the proposed development on the Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area (SPA).

2.1.136 The qualifying species of the SPA are: common tern; pink-footed goose; eider; redshank; lapwing; sandwich tern; little tern; and the waterfowl assemblage of more than 20,000 birds. It was agreed with SNH that the scope of the further investigation by TIGLS would consider two of the components of the Conservation Objectives of the SPA, as follows: the population of pink-footed geese as a viable component of the site; and no significant disturbance of the species.

2.1.137 Surveys for geese using the Menie Estate during the day for feeding and roosting were undertaken. It was concluded that the combination of low proportion of the SPA goose population using the Menie site and the considerable mobility of the geese between feeding areas and between roosts made it very unlikely that there would be any reduction in the total goose population using the SPA as a result of the proposed development. Even so, it may be considered that mitigation or compensation would be desirable and this could include provision of feeding fields outside the development area; screening of the retained flight pool by hedging or shrubs and a buffer zone around the pool to reduce disturbance; and creation of an additional roost pool outside the proposed development area.

2.1.138 The second potential impact was the potential for recreational disturbance to the species in the SPA. The report estimated that the proposed development could increase visitor numbers to the SPA by between 18% and 23%. TIGLS controlled mitigation would include: location of the development; provision of open space and improved access within the application site; a code of conduct, including information packs; and improvement of attractiveness and capacity of the existing semi-natural open space. In addition, Scottish Natural Heritage would continue to operate existing measures to advise users of the reserve to avoid impact on species within it.

2.1.139 It is concluded that:

- the residual impact on qualifying species for the SPA would be slight;
- the proposed development would not be a threat to the Conservation Objectives of the SPA, as all populations would be sustained, albeit with a local reduction in numbers at Menie, with no likely change to the population in the north east of Scotland or at European sites; and
- the integrity of the SPA would be maintained and the Conservation Objectives sustained.

2.1.140 With regard to Transport, TIGLS produced a written statement in response to that from Transport Scotland – Trunk Road Network Management Directorate (TRNMD). TRNMD has no objection to the proposed development, subject to the imposition of a number of detailed conditions. Most of these were acceptable to TIGLS, although some were not. TRNMD subsequently made amendments to the suggested conditions and TIGLS now accept all of these.

2.1.141 One of the conditions proposed by the council is that there should be a grade separated junction on the trunk road network for access to the site. The feasibility of this proposed new junction has not been assessed by TRNMD and would not be, unless outline planning permission is granted. The applicant accepts the proposed condition on the basis that, should TRNMD refuse consent, further discussions would be held with the local roads authority to explore alternative traffic management measures.

2.1.142 With reference to the concerns expressed by Dyce and Stoneywood Community Council about the use of helicopters from Aberdeen airport to the development site, the likely use has been overestimated by a significant margin. At other leisure resorts operated by the Trump Organisation, one helicopter trip per week is considered to be high.

Additional matters from closing submissions

2.1.143 The decision on the application will be taken in the context of section 25 of the Town and Country Planning (Scotland) Act 1997. Scottish Ministers' decision will be in accordance with the relevant policies of the development plan, unless material considerations indicate otherwise. Although there is some support from policies in the development plan, TIGLS accepts that the application does not accord with the development plan and concedes that the proposed development would be a significant departure from the plan. TIGLS agrees with and adopts the written statement on planning policy submitted by Aberdeenshire Council.

2.1.144 Mr Boyd accorded particular relevance to Paragraph 25 of NPPG 14. The development would have significant adverse effects on the qualities for which the north Menie part of the Foveran Links SSSI was designated. However, those effects are clearly outweighed by social and economic benefits of national importance. The decision maker's task is to identify all relevant factors, setting aside irrelevant ones, and applying judgement to these relevant or determining factors. The first stage is the development plan; if it is relevant to the case, that policy will be

a determining factor. The second stage is to consider all of the other considerations. These require a two-part test: is the factor related to planning purpose? If so, the second part of the test is, is it relevant to the case? If it is, it will be one of the determining factors. The decision maker can apply significant weight to one factor and much less weight to another.

2.1.145 It was submitted that, in this case the determination of the national interest relates to a Scottish and not a UK context. It is Scottish Ministers, accountable to the Scottish Parliament, who will determine the national interest.

2.1.146 In relation to the area outwith the SSSI but within the botanical SINS, the following points were made:

- TIGLS agrees with RSPB that this area has ecological features that would justify its notification as a SSSI;
- however, the Foveran Links SINS falls outwith the SSSI boundary and does not merit the same treatment;
- Professor Ritchie's opinion is that notification of this area as a SSSI would not be justified on geomorphological grounds alone;
- TIGLS does not accept the reference made by RSPB to the *Basses Corbières* case, to the effect that the SINS should be treated as an SSSI. SSSI is a domestic notification, a subjective/discretionary procedure compared with that under the European Directive for designation of a European site (e.g. a SPA) which is mandatory; and
- however, TIGLS accepts that the development has to be judged against NPPG 14, as the development must include the SSSI land.

2.1.147 TIGLS accepts that the proposed housing is contrary to the development plan. Aberdeenshire Council has a traditionally tight land supply. The council and Aberdeen City Council now aspire to a more flexible and generous supply of 7-8 years. The council stated that 72,000 new houses would be required for the city and Aberdeenshire between 2009 and 2030. The proposed housing is therefore a crucial element in achieving this objective. The site is located within one of the possible locations chosen for strategic housing land supply.

2.1.148 TIGLS and Aberdeenshire Council have reached agreement on the 'heads of terms' for an agreement under section 75 of the Town and Country Planning (Scotland) Act 1997. A draft agreement based on those terms will be prepared so that it is ready for signature in the event that outline planning permission is granted. In relation to the potential transfer of land by the council for the affordable housing provision, if this land was to be transferred by the council to any other party for less than the best consideration, it would require Scottish Ministers' consent under section 74 of the Local Government (Scotland) Act 1973. The section 75 agreement would include:

- the provision of 98 affordable houses on land provided by the council;
- the provision of 52 open market entry level houses on land provided by the council;
- the provision of a primary school for 225 pupils;
- a financial contribution of £500,000 to fund community facilities;

- off-site road works to the A90 trunk road;
- the establishment and operation of MEMAG; and
- a local training and staff recruitment programme.

2.1.149 Regarding the proposed conditions, and whether or not it is appropriate for a condition to replicate a legal agreement, Circular 4/1998 sets out government policy on planning conditions. This states that conditions should only be imposed where they are necessary and it is not necessary to re-state legal requirements in a planning condition. However, a clear requirement in a planning condition could address any future ambiguity or change in legal requirement. TIGLS has also reached agreement with the council on the proposed conditions and wishes to adhere to that agreement.

2.1.150 The imposition of a personal condition for Trump International Golf Links Scotland would be contrary to policy, unreasonable and unnecessary. Circular 4/1998 states that:

“planning permission runs with the land and it is seldom desirable to provide otherwise. There are occasions relating, for example, to strong compassionate or other personal grounds, where the planning authority is minded to grant permission for the use of a building or land for some purpose which would not normally be allowed. In such a case the permission may be made subject to a condition that it shall enure only for the benefit of a named person – usually the applicant. A permission personal to a company is generally inappropriate. Conditions of this type will scarcely ever be justified in the case of a permission for the erection of a permanent building”.

2.1.151 A personal condition for the construction of a golf resort with residential development by a company would be contrary to this policy. If the outline planning permission is granted it would also cover 500 houses, which would obviously not be occupied by Mr Trump. Furthermore, it would not be valid to sever a permission to make only some of it personal to the company.

2.1.152 The RSPB submitted that a grant of planning permission would send out negative signals about the ability of the planning system to protect the best of Scotland's natural heritage. SNH submitted that Scottish Ministers should be slow to grant a consent in the specific circumstances of the case and having regard to the resultant vulnerability visited on other nationally designated sites from large scale commercial development. These submissions should be disregarded. Every case should be considered on its own merits and precedence is not a material consideration. Moreover, Scottish Ministers are obliged to go through the assessment in NPPG 14.

2.153 Development plans try to anticipate the future, attempting to direct development to preferred locations. Sometimes an opportunity arises that has not been anticipated. Seldom has there been such an audacious and ambitious proposal. Huge sums of money would be invested at a high risk to the developer. There is near unanimous support from the business community, from the council and from thousands of ordinary people. This is a once in a lifetime opportunity, the likes of which will not be seen again. It would be a tragedy for Scotland if it passed by.

The case for Aberdeenshire Council

2.2.1 The case for the council was led at the inquiry by Mr Murray Shaw. Councillor Anne Robertson, Ms Mhairi Donaghy and Dr Christine Gore gave evidence on behalf of the council.

Councillor Anne Robertson

2.2.2 Councillor Robertson is an elected member for Turriff & District and has been a councillor since June 1997. She is a member of the Formartine Area Committee and the Leader of the Council, having taken up that position in May 2007. She has served on a number of committees, including Social Work and Housing, Policy and Resources and Corporate Services.

2.2.3 She was not involved in the consideration of this application by the Infrastructure Services Committee, but was involved in considering the application as a member of the Formartine Area Committee and attended the meetings on 18 September, 20 November and the hearing on 27 September all in 2007. In that capacity she had full access to the papers produced for councillors and was one of the 7 councillors who voted to grant planning permission at the Formartine Area Committee on 20 November. She made that decision fully aware of the conflicting views, particularly the balancing of environmental impacts and economic benefits, which were clear from the hearing on 27 September.

2.2.4 Dealing with complex planning applications is not easy, and different people can come to different views about whether or not permission should be granted. Detailed and careful consideration was given to this application both by the officers of the council and by its elected members. The officers' recommendation was encapsulated in the committee report submitted to the Formartine Area Committee of 18 September. Councillor Robertson accepts, without question, the conclusion reached in that committee report to the effect that the proposal was not in conformity with the development plan. Notwithstanding this, at the Formartine Area Committee it was resolved to grant planning permission, having regard to the benefits which it was perceived would be derived from the scheme, particularly in the economic context. She considered that the housing element was an acceptable part of the development.

2.2.5 The issues that arose out of the Infrastructure Services Committee decision on 29 November have been exhaustively commented upon in the press. Councillor Robertson respects the views of the councillors who voted against the grant of planning permission. However, she does not think that those views reflected the views of the council generally, given the decision of the full council on 12 December 2007, which was confirmed on 24 April 2008. The councillors who voted for the resolutions made at the meetings of the full council accepted the underlying arguments which had led to the decision that was made by the Formartine Area Committee.

2.2.6 The council is guided by a vision which is set out in the strategic priorities document (page 2, AC1). Those strategic priorities form part of a broader strategic framework that guides the work of the council. It is helpful to look at these

priorities in the context of the Aberdeenshire economy. The economy of Aberdeenshire has been very buoyant over the last 30 years, reflecting the significant benefits which have accrued from North Sea oil. While that is a benefit, it is equally a challenge going forward. This is recognised by the Aberdeen City and Shire Economic Forum (ACSEF). The council is a partner in ACSEF and Councillor Robertson is a member of the board, representing Aberdeenshire Council within the partnership.

2.2.7 The most recent economic review published by ACSEF (AC4) dates from the summer of 2007. It summarises the economic position and reflects the buoyancy of the economy. It does, however, recognise that there are challenges to be faced, including dependency on oil and gas and concerns in relation to other traditional markets which are under pressure. She considers that one of the key issues for Aberdeenshire Council to address is sustaining the economy and vitality of the area, in the knowledge that reliance on oil cannot continue and that there are issues with other traditional industries.

2.2.8 In the latter part of 2006 the council approved a policy document entitled 'Economic Development Priorities to 2011' (AC2). The document paints a healthy picture for the economy, but it does point to a significant level of employment both in the oil and gas and manufacturing sectors and identifies decline in both of these. Significantly the decline in oil employment is projected to be 30% over the next 10-15 years (page 5, AC2). The document identifies the Aberdeenshire coast and recreational tourism as opportunities. It sets out aspirations, including having acquired a world-class reputation for recreational tourism by 2011. Another ACSEF document 'Building on Energy' (AC3) sets out an economic manifesto with a vision to 2025. It identifies a range of issues and opportunities, and specifically identifies establishing Aberdeen and the area as a major tourist destination. Councillor Robertson acknowledged that the economy in the north east is not dependent on oil and gas.

2.2.9 Understandably, none of these documents refer to this application. However, this application would provide significant benefits. It would provide jobs; although unemployment in the area is lower than many parts of the country, there are unemployed people and all jobs are welcome. Furthermore, the economy needs to be diversified. The proposal would also provide significant direct economic benefit for the area in terms of direct expenditure. The information the council had suggested that direct economic benefit would be significant. This was verified independently by EKOS. Critically, it would provide a world-class facility that would enhance the reputation of Aberdeen and Aberdeenshire in the global economy. It would undoubtedly assist in promoting Aberdeenshire internationally as a location for leisure. Lastly, it would provide a top level hotel facility close to Aberdeen, which is badly needed. It is not surprising that this proposal is so strongly supported by the business sector in the area. Councillor Robertson considered that the improvement in the prosperity of the local community, which would come from the economic benefits of the development, would also lead to social benefits and an improved quality of life.

2.2.10 Tourism in itself is a generator of significant income in Scotland and there is support for the proposal in that context too. Both the Scottish Government

and VisitScotland identify the importance of tourism to the national economy. The document entitled 'Scottish Tourism - The Next Decade' (AC17) was published in 2006. The report identified tourism as an important sector globally and sought to identify how Scotland should benefit within that market. VisitScotland published its Tourism Prospectus in 2007 (AC10). This identifies the means to improve and develop further financial benefits from tourism in Scotland. One of these is capital investment. It identifies as an example the investment which has already taken place (including the St Andrews Bay golf development) but equally identifies the potential that developments such as this one (which is specifically referred to) would bring, both in international tourism and business tourism. The ambitions of this document are high - 50% growth in tourism in Scotland. More locally there is the North East Scotland Tourism Partnership, which has a strategy and action plan for growth (AC14, 15 and 16). The proposed development would assist in meeting the aspirations of the tourist industry, as well as directly supporting the aspirations of the council and ACSEF.

2.2.11 The minute of the meeting of the Formartine Area Committee identifies that the reason for recommending that this application should be approved as a departure from the development plan was the overriding economic circumstances. These include: diversifying the local economy; supporting the development of tourism; and increasing the national and international profile and attractiveness of Aberdeenshire and Scotland as a whole in terms of inward investment opportunities.

2.2.12 Councillor Robertson accepted that there would be significant environmental impacts from the proposed development. She also accepted that in any difficult planning application there requires to be a balancing of the issues. That is now a matter for Scottish Ministers. Opportunities such as this rarely come along. If consent is not granted she doubts if any alternative will emerge. It is because of the economic benefits that this development would bring that the council so strongly supports it. She therefore urges Scottish Ministers to grant planning permission for the development.

Mhairi Donaghy (EKOS)

2.2.13 Ms Donaghy is employed as Associate Director at EKOS Economic Development and Regeneration. She has an honours degree in Social Science (economics and politics) followed by two post graduate diplomas in urban property appraisal and in local economic development. Since joining EKOS in 2002 she has undertaken numerous research studies covering the broad remit of economic development, but has focused on project appraisal and physical area regeneration. EKOS is one of Scotland's largest independent economics consultancy practice, specialising in economic development and regeneration. EKOS has substantial experience of project appraisal, including economic impact assessment. The majority of its clients are public sector organisations, but EKOS also works with private sector clients to support planning applications.

2.2.14 Economic impact appraisal is the industry standard method of estimating the actual impact that any proposal will have on the local and national economy. EKOS' appraisals use orthodox appraisal techniques (of which there are several), including government statistics and guidance materials. However, impact

assessment is not a complete science and requires judgement based on professional experience in the application of official data sources and guidance materials to any specific project proposal.

2.2.15 The purpose of appraisal is to estimate the net additional impact that a specific development proposal could have on the local and national economy, taking account of competition, displacement and spin-off benefits. There are a number of technical terms and stages involved in economic impact appraisal, as follows:

- **Additionality** – this normally refers to the additional impact of public sector assistance on development projects and proposals, but for this proposal a broader definition was adopted that considers the likelihood of any element going forward in the absence of the whole proposal i.e. the additionality of each element. The only element affected by this would be the residential element, for which the gross impacts have been reduced by half.
- **Displacement** – this is an estimate of those impacts that may reasonably have been achieved by other competitor businesses in the absence of this particular proposal. A proportion of the business at Menie Estate would constitute ‘new’ sales to Aberdeenshire and/or the Scottish economy, but a proportion would also include ‘existing’ sales taken from existing businesses. Displacement effects on the local labour market and the extent to which employees would be displaced from existing, primarily local, businesses were also considered.
- **Leakage** – this considers the proportion of the jobs that would be taken by residents outwith the area (local and national levels) for each of the individual project elements. It was assumed that potential employees would be prepared to travel further to access higher value and salary jobs, but that the majority of the on-site jobs would be taken by existing local residents or by those moving to the area based in the proposed staff accommodation.
- **Multipliers** – these are the indirect employment impacts that would be generated by the purchase of goods and services by residents and businesses located in the new development and the induced employment generated by the consumption expenditures of those directly and indirectly employed at the development.

2.2.16 It is standard practice to estimate economic impacts at both the local and national levels. Local level impacts are those that could occur in the Aberdeenshire and Aberdeen City area. National level impacts are those that could occur at the Scottish level. Impacts are normally different, but are not cumulative, at the local and national levels depending on local baseline economic conditions and the technical factors described above.

2.2.17 Estimates of economic impact are normally reported against six main types of impact, as follows:

- **Gross jobs** – are those accommodated through the operation of the completed development. This equates to the number of people that would be directly employed and is normally reported as the number of Full Time Equivalent (FTE) positions, translating temporary and part-time employment into a proportion of permanent and full-time positions.

- Net additional jobs – are those generated through the development, but taking account of additionality, displacement, leakage and multipliers. Net jobs are different, but not cumulative, at the local and national levels, dependent on levels of competition within the local area and the geographic dispersal of multiplier impacts i.e. spend.
- Construction jobs – reported as both gross and net that would be generated through the physical development and construction of the proposal. EKOS adopts a method of estimating construction jobs in terms of annual equivalent posts i.e. the number of people that would need to be employed to complete the development over one 12 month period.
- Off-site jobs – are the employment impacts that would be generated by the spend patterns of the additional residents and visitors at the local and national levels, associated with the development.
- Wages and salaries that would be generated by the local and national level net additional jobs.
- Gross value added (GVA), or economic contribution, of the net additional jobs at the local and national levels measured in simple terms by the wages, salaries and profits that would be generated through the production of goods and services.

2.2.18 For this appraisal, EKOS employed official statistics from the Government's Annual Business Inquiry, giving average output, salary and GVA factors by industry sector for 2005. These indicators were inflated through two stages: firstly, using the retail price index (RPI), prices were inflated from 2005 to 2008 rates; and, secondly, using official data on the proportion of part-time employees within each industry sector to identify full-time equivalent rates. The Annual Business Inquiry is produced by the UK Government and gives economic data for industry sectors against a number of geographic levels. The data is not operator specific and provides industry averages. Ms Donaghy used Scottish level data, rather than Aberdeenshire level data, to improve the reliability of the data and avoid any specific operator issues at the local level.

2.2.19 In October 2007, EKOS was appointed by Aberdeenshire Council to undertake an economic impact assessment and financial review of a report prepared by Deloitte MCS Limited for Trump International Golf Club Scotland Ltd. The council was particularly interested in finding out how many jobs would be created by the operation of the completed development and to understand how much additionality and displacement would occur as a result of the development. EKOS saw the full Deloitte Economic Impact Assessment and Financial Review, dated March 2007. EKOS was unable to replicate the appraisal contained in that report because of the lack of detailed information and instead undertook an independent assessment of the potential economic impacts.

2.2.20 EKOS' initial appraisal was revisited before the inquiry and a detailed baseline review for the project and the area was prepared. This allowed EKOS to review issues and information in greater detail. The baseline review covered three areas: socio-economic profile, focusing on the labour market; established and proposed leisure attractions, focusing on golf; and hotel and conference facilities, focusing on capacity and occupancy. Given the location of the proposed development, the review covered both Aberdeenshire and Aberdeen City. This

analysis informed EKOS' views on the potential for the development proposal to compete with, or contribute towards, the economy at the local and national levels. EKOS' assessment of economic impacts therefore changed, with some elements increasing but others reducing.

2.2.21 EKOS' revised assessment of economic impact, as presented in the May 2008 Economic Impact Review report (AC9), are as follows:

- 900 net additional jobs at the national level, generating salaries of £16m and GVA of £42 million per annum; and
- 4,050 net additional one-year equivalent construction jobs at the national level, generating total GVA of £190 million (rounded from £194 million)

2.2.22 At the inquiry Ms Donaghy corrected her report to include the economic impact of the proposed 950 holiday apartments. The revised figures are contained in AC19, as follows:

- net additional development-related employment:
 - at the local level of 1,400 jobs, equating to a 1.7% increase in total employment in Aberdeenshire and 0.6% in the wider Aberdeen City and Aberdeenshire area;
 - at the national level of 1,200 jobs;
- net additional construction industry employment:
 - at the local level of 1,900 jobs, which, if split evenly over the 7-year construction period, equates to 275 jobs per annum, a 4% increase in construction jobs in Aberdeenshire and 2.1% in the wider Aberdeen City and Aberdeenshire area;
 - at the national level of 4,050 jobs; and
- net additional development-related GVA (on and off-site):
 - at the local level of £64.1 million, equating to a 2.1% increase in the GVA for Aberdeenshire and 0.7% for Aberdeen City and Aberdeenshire combined;
 - at the national level of £56.6 million.

2.2.23 The Fraser of Allander Institute was appointed by TIGLS to review and update the economic impact assessment for the development proposal. Ms Donaghy reviewed this report and considers that Fraser of Allander has adopted a different method of estimating gross employment impacts, using estimated wage payments for the operational running of the completed proposal, as outlined in the financial appraisal prepared by Johnston Carmichael. EKOS has not had an opportunity to review or analyse the Johnston Carmichael report and was unable to use the data to estimate job impacts. The EKOS appraisal adopts an industry recognised method of using standard employment densities, together with EKOS' experience and professional judgement, to estimate gross jobs. This partly explains the different outcomes.

2.2.24 EKOS has also estimated the off-site impacts associated with the leisure and residential elements of the proposal, i.e. the net additional jobs, salaries and GVA that could be generated through resident and visitor spend in

Aberdeenshire and Scotland as a direct result of their residence at, or visit to, the proposed development. The two methods therefore produce different gross and net impact assessments, with EKOS' impacts lower for net additional employment at the national level i.e. 900 FTEs against 1,237 FTEs, but higher for net additional GVA - £42 million against £35 million. The EKOS review also estimates lower construction impacts at the national level for both employment and GVA – 4,050 against 4,694 and £194 million against £267 million. It is important to make a distinction between construction jobs, which have a one-off impact, and the operational (on- and off-site jobs) which have a continuous annual impact. However, construction is an important part of the local economy and its contribution is falling. To ignore the benefits, as advocated by Councillor Ross, seems to be perverse.

2.2.25 The method adopted by the Fraser of Allander Institute is a valid approach, and one that EKOS could have adopted if it had been provided with the financial data prior to completing its economic impact assessment. Adopting this comparable method would, however, still have produced different estimates of net additional impacts as EKOS would have used its separate professional experience in the interpretation of economic impact appraisal measures i.e. additionality, displacement, leakage and multiplier factors.

2.2.26 While the EKOS and Fraser of Allander appraisals produce different levels of employment and GVA impacts, both identify significant economic impacts at both the local and national levels. The impacts are nationally significant and could be considered against public sector grant awards to create new or safeguard existing jobs in Scotland. RSA grant is awarded to create or safeguard jobs and may involve significant grants. These grants are awarded to projects creating lower levels of employment than would be created at the proposed development. Information is available in the public domain. Ms Donaghy estimated that the development proposal would generate 900 net additional FTE positions, at no cost to the public sector, which would help the process of local economic growth and diversification. The only real issue is whether the 500 houses would be additional or would be built in any event. However, this has a negligible impact on the figures in relation to jobs and GVA at either the local or national level.

Dr Christine Gore

2.2.27 Dr Gore holds the Degrees of Bachelor of Arts in Town and Country Planning, Bachelor of Planning, and Master of Philosophy in Town and Country Planning. She also holds a Doctorate in Business Administration. She has been a Member of the Royal Town Planning Institute since 1989. She is the Director of Planning and Environmental Services with Aberdeenshire Council and has corporate responsibility for all matters relating to land use planning, including development planning, planning policy, environmental planning, and development management. Prior to joining Aberdeenshire Council in 2004 she was a Corporate Director with Waveney District Council in Suffolk, England and from 1995 to 2000 was Head of Planning and Community Services with South Oxfordshire District Council. Prior to this she gained 13 years experience as a planning officer at various levels of seniority with Manchester City Council, Liverpool City Council and South Oxfordshire District Council, mainly in development control.

2.2.28 The council's consideration of the application is described in the Preamble to this report. In answer to questions, Dr Gore acknowledged that the council had not concluded its appropriate assessment process before the Infrastructure Services Committee meeting. When the application was called-in by Scottish Ministers, this matter was put in abeyance. Aberdeenshire Council has resolved on two separate occasions since 4 December 2007 that it supports the application.

2.2.29 The areas of most relevance to the application relate to environmental impact, landscape impact and housing. In general terms, the application represents a significant departure in these respects from national, structure plan and local plan policies. In relation to environmental and landscape policies in particular, these provide that development which has an adverse effect on specific designated or protected areas will only be permitted where the social or economic benefits of the proposed development are sufficient to outweigh its detrimental impacts. The measure of that sufficiency varies according to the specific designation in question. It is the balance of these interests which is the fundamental basis for the determination of this planning application. The council considers that outline planning permission should be granted, and that that decision is not conditional on significant mitigation or enhancement.

2.2.30 A range of other policy considerations are applicable to this application, and whilst it conflicts with some of these, it broadly complies with many of them, or would do so as a consequence of the imposition of conditions upon any planning permission that may be granted.

2.2.31 The important role of tourism in the diversification of the economy is recognised at national, regional and local level in adopted policies and strategies. The development plan for the area supports tourism development at appropriate locations and recognises that development on as large a scale as that proposed at Menie presents particular challenges in terms of its potential impacts.

2.2.32 The council believes that a world-class tourist facility based around the proposed golf course development at Menie would have significant economic benefits for the north east of Scotland and for Scotland as a whole. The priority attached to growing the economy of Aberdeen and Aberdeenshire is clearly set out in the National Planning Framework 2004 and the Draft National Planning Framework 2007. The jobs created in both the construction and operation of the development would have clear benefits to the area, as would the increase in tourist visitors to the area for both leisure and business purposes. However, the policy position is clear that the impact on natural, built and cultural heritage must not be compromised to an unacceptable level by developments which are otherwise desirable in economic terms.

2.2.33 The adverse impacts of the proposed development on the SSSI and Site of Interest to Natural Science (SINS) which lie within and adjacent to the site have been well documented. It is clearly the view of many environmental consultees that the objectives of these designations, and the overall integrity of the site, should not be compromised even given considerable economic benefits. Whilst the basis of

those views is both recognised and respected, based on a balance of judgement they are not shared by the council.

2.2.34 The impact of the built elements of the proposed development on Menie House and the wider landscape has been the cause of concern based on the illustrative drawings contained within the supporting statement to the planning application. Dr Gore explained that the planning officers considered that the illustrative designs produced by TIGLS, which show a traditional Scottish style, would not be appropriate in this area. The proposed development should fit as well as it can into the landscape. She considers that TIGLS should go back to the drawing board and that Architecture and Design Scotland should be involved when the detailed designs are being considered. In relation to the impact on Menie House, Historic Scotland has not objected to the application and the council is satisfied that by following an appropriate process an appropriately responsive and iconic design for the buildings on site could be achieved.

2.2.35 Aside from the environmental impacts of the proposal, the most controversial aspect, and that which cannot be considered as tourism-related, is the proposed housing development. This element is a clear departure from housing policy in the structure and local plans and cannot be defined as 'enabling development', as it does not relate to a listed building at risk.

2.2.36 Consideration of housing development at this scale would normally take place through the development plan process. Dr Gore considers that it is a windfall site. A provisional draft structure plan to replace that currently in existence was published in April 2008, and indicates the estimated housing demand in Aberdeen City and Aberdeenshire as being around 72,000 homes during the period to 2030. The spatial strategy identifies the A90 corridor from Aberdeen to Peterhead as a Strategic Growth Area in recognition of, in particular, the potential of the port at Peterhead and the regional Economic Forum's 'Energetica' initiative, which is promoting this part of the region as a primary focus for economic development and diversification. The council accepts that the draft structure plan is not a material consideration at this stage, but it is clear that there is likely to be significant development in Aberdeen and Aberdeenshire over the next 20 years or so. If development at Menie was to be consented, it would be unlikely to be out of step with the future pattern of development given the aspirations in the draft structure plan.

2.2.37 The applicant has made commitments in relation to the residential development which give the council confidence that a high quality residential environment would be created. The council also believes that the residential development has the potential to be a demonstration of best practice in relation to sustainability, and that the impacts on the landscape can be mitigated through design and the provision of appropriate strategic landscaping.

2.2.38 The housing is clearly contrary to policy and its use to cross-subsidise the resort element of the proposal has the potential to be argued as a precedent. The council is firmly of the view that this position can be defended given the sheer scale and unique circumstances of the proposal. The council is also content that allowing the housing element of the proposal would have no impact on the current

housing allocations within the structure plan. There is no suggestion that the proposed housing would be justified by a lack of housing land.

2.2.39 The only material consideration in policy terms that can justify planning permission being granted in view of the adverse environmental impacts of the proposed development is the economic and social benefit arising from the development being of sufficient significance. Although the applicant's Economic Impact Assessment and Financial Review was submitted in confidence, a summary of the main economic and financial impacts of the development was provided to the Formartine Area Committee on 18 September 2007. The case officer concluded at that time that these were of a magnitude such as to greatly benefit the economy of both Aberdeenshire and Scotland.

2.2.40 An independent assessment of the potential economic and financial impacts of the proposed development was subsequently commissioned from EKOS. This indicated that the proposal would have a significant impact on the economy of the area. A more detailed assessment of the proposal has been undertaken by EKOS in preparation for the inquiry, which provides additional confirmation that the economic and financial impacts of the proposed development would be significant at a local, regional and national level.

2.2.41 In addition to the council's own assessments of the benefits of the proposed development, both VisitScotland and the Scottish Council for Development and Industry have published reports which refer to it as an example of the vision and innovation that will be required if Scotland is to grow in reputation and success as a tourism destination for recreation and business.

2.2.42 The officer's recommendation in respect of this application ultimately rested on the respective weight to be given to the environmental impacts and housing element of the proposal as significant departures from policy, compared with the demonstrably significant economic benefits to be gained from it.

2.2.43 During the processing of the application the applicant was asked on a number of occasions to consider relocating the golf course to avoid encroaching on the SSSI, and removing or reducing the housing element of the proposal. These requests were consistently declined and ultimately the recommendation had to be made on the application as it stood. The difficulties arising from the application were balanced against the possibilities of their mitigation and the opportunity given by the development to diversify and grow the economic base of the area. Dr Gore does not consider that a golf course and clubhouse alone would be adequate justification for the significant adverse impact on the SSSI. All of the facilities of the resort would be required to justify this impact.

2.2.44 The final recommendation for approval was not arrived at lightly or easily. Dr Gore estimated that the council had about 60-70% of the material that was before the inquiry. Dr Gore acknowledged that the integrity of the SSSI would be compromised by the proposed development and whilst the conflict with landscape, natural and built heritage considerations is recognised, these are not considered to be compromised to such an unacceptable degree as to justify refusing the application.

2.2.45 The social and economic benefits are of national significance and override the adverse environmental impacts. She considers that some of the social benefits of the development would come from the economic benefits. She also referred to the provision of training opportunities for those who would work on the site and the opportunity for people classified as economically inactive to find jobs there. She acknowledged that national importance is not defined anywhere. However, as there is no definition this suggests that the planning authority's judgement has to be exercised. Dr Gore referred to paragraph 25 of NPPG 14. The second bullet of that paragraph represents the council's position in relation to the proposed development. The housing element is a significant departure from policy but represents the 'cost' of the overall investment and is seen as a justifiable exception to policy.

2.2.46 A comprehensive list of conditions has been proposed which would provide the council with a high degree of control over the development if it is to proceed. She does not agree with SEPA's written submission and considers that a suspensive condition could be attached to require the submission of further information. A section 75 agreement has been negotiated with the applicant to secure off-site infrastructure and any necessary mitigation that cannot be dealt with by conditions. Affordable housing would also be constructed. It is appropriate that the affordable housing would be located in Balmedie itself, as that would be closer to local facilities. The section 75 agreement is close to being concluded. Dr Gore considers that MEMAG's role has to be clear, but she does not agree with submissions made by the RSPB that it should have the power of veto. That would not be appropriate; it is the council's role, in consultation with statutory consultees.

Additional matters from closing submissions

2.2.47 When the council was considering the planning application, planning officers from the council accepted that mitigation might well be possible. Dr Dargie and Mr Bell gave evidence in this regard for TIGLS. The council accepts that the applicant is committed to significant mitigation and enhancement measures. It also believes that, because of the real expertise of those involved, there is a very real prospect that significant and material mitigation would take place.

2.2.48 The council understands the suggestion made by various parties that a personal condition may be appropriate. Given the terms of Circular 4/1998, that is not proposed. However, the conditions suggested by the council are intended to secure a high quality development regardless of the operator. Based on the evidence the council believes that the commitment shown by Mr Trump is genuine.

2.2.49 Mr Walton was questioned about whether the need for the housing element to make the development profitable is a material consideration, and he accepted that the question of what was material was 'grey'. The council considers that the question of whether the benefits which may result can only be achieved if part of the development is consented to provide economic support makes the need for that part of the development a material consideration. The case of *Wain v Secretary of State [1989]JPL 190* was referred to.

2.2.50 With regard to the conditions proposed by Councillor Johnston, the council does not consider it is necessary for a specific cap to be set on cut and fill operations. A much more meaningful discussion needs to take place with the applicant. Imposing a height restriction would be an artificial constraint to achieving an iconic design. The council does not consider that a 'no species loss' condition would be enforceable.

The case for Aberdeen and Grampian Chamber of Commerce (AGCC)

Mr Geoff Runcie

2.3.1 Mr Runcie is Chief Executive of Aberdeen & Grampian Chamber of Commerce. The Chamber is a private sector, member-led business organisation which represents more than 1,200 companies, which in turn employ more than 90,000 people in the private sector. He also appeared at the inquiry on behalf of Scottish Council for Development and Industry, Aberdeen City and Shire Hotels Association, Aberdeen City Centre Association, Aberdeen Convention Bureau, the Federation of Small Businesses, VisitScotland and the Dean of Guild. Between them these organisations have a membership of more than 2,500.

2.3.2 The Chamber's policies are developed and collective opinion gathered from individual balloting of members and through the constituted policy council and elected board. These cover key matters relating to the business community and the wider economy of the north east. There is a group of affiliated Chambers across the North of Scotland, including Cairngorms, Inverness and Moray Chambers, together with Montrose to the south. Collectively they work to promote common business interests across this wide economic area. This is relevant in terms of the Trump proposals as the impact of the development would benefit the wider region and the whole of Scotland.

2.3.3 The Chamber engaged with the Trump team at an early stage in order to better understand the plans and to assess the economic impact of the development. Information was provided to members in a variety of ways, including a business breakfast and presentations to the Chamber's elected Council members by representatives of the Trump organisation. Information was posted on the Chamber's website and the development was covered in the Chamber's business magazine. The resultant support for the project from the members is overwhelming across all sectors of business.

2.3.4 The Chamber is a key stakeholder and participant in a number of strategic forums, in particular ACSEF, Aberdeen City & Shire Economic Forum. This public-private sector partnership has created a strategic economic vision for the region and this month published a detailed action and delivery plan to realise the full potential for the region both now and in the future. That plan will allow significant change in the way that economic diversification opportunities are viewed, embraced and adopted.

2.3.5 ACSEF has had a vital role in understanding the life cycle of the oil and gas industry and in supporting the development of an energy and diversification strategy for the years to come. Since the oil shocks of the 80's, the industry in

Scotland has successfully positioned itself as global leader while remaining based in the north east of Scotland. That very activity has required a different disposition by the agencies and organisations that both represent and support the business community, the Chamber being no exception.

2.3.6 A number of major infrastructure projects are being brought forward for delivery and these will underpin a widening and more flexible economic base from which businesses can operate both domestically and internationally. In particular, investments at the airport, in the railway infrastructure, in the trunk road and local road networks are all seen as being vital to, and highly related to, the future economic vibrancy of the region.

2.3.7 The region's desire to diversify beyond the oil and gas industry is further supported by the development of a new and important life sciences sector capability in Aberdeen, the related communications, professional services, sectors which have spun out of the oil and gas industry and of course the substantial educational proposition that is not only available to students studying mainstream academic courses but increasingly bespoke training related to the energy sector.

2.3.8 The region has however always struggled with its tourism proposition and, due to its geographic location, attracting people to the region is a challenge, this challenge has often been exacerbated by relatively poor transport infrastructure and poor marketing. The very nature of the economic shape of Scotland suggests that the strongest case for supporting major tourism developments is often able to be made in the Central Belt and other regions such as the north east, find it particularly difficult to make a business case to either attract investors or to attract funding to develop projects that are home grown.

2.3.9 Despite having almost 60 golf courses across the north east, the international golf tourism proposition is not as strong here as other parts of Scotland, such as St Andrew's, Loch Lomond or Ayrshire, with their world classic courses. In economic terms the value of golf tourism in Scotland is estimated to be more than £96 million. Much work has been done by ASCEF and the City and Shire councils to support golf promotion. There are a number of highly regarded courses in the north east but the area does not have the global recognition that other parts of Scotland and, increasingly, other parts of the world have, with their signature style courses pitched right at the very top end of the market.

2.3.10 Proposals brought forward by the Trump International Group fit extremely well with the Chamber's ambitions and the ambitions of the Scottish Government to increase tourism revenue by 50% by 2015. Significantly the Chamber has had representations from a number of members who are themselves involved in the regional golf course industry, highlighting the benefits that they would all be able to access should the Trump proposals be delivered. These include prominent, existing north east clubs such as Royal Aberdeen, Cruden Bay and Murcar, who all see significant benefit in being adjacent to the new facilities. In addition, the proposals for high quality, high profile, top level courses at Stonehaven and at Blairs College on South Deeside and Aberdeen's own ambitions for its Hazlehead course all point to golf and the golf tourism industry as being a key sector of opportunity for this region.

2.3.11 There is no doubt also that the global Trump brand whilst often associated with Mr Trump's undoubted business success is also associated with a list of world-class leisure facilities, one of which is now proposed for the Menie Estate. The publicity and media interest from around the world in the Trump proposals give an indication of the power and reach of his brand association. The Chamber believes that the interest shown so far is only the beginning and if the project is realised it would become an integral part of the north east's visitor attractions. This would play a key role in seeing this region achieve its full potential and making its full contribution towards the Scottish Government's ambitions with regard to the growth of the tourism industry.

2.3.12 Business tourism is worth in the region of £960 million to Scotland, with approximately £150 million being spent on business tourism in Aberdeen City and Shire, yet the potential for expansion is huge. Realising the Scottish Government's target to increase tourism revenue demands investment and innovation. Proposed within the resort development is a substantial high quality hotel. There is currently a significant under supply of quality hotel space in the Aberdeen City and Shire area. The organisers of the bi-annual Offshore Europe conference in Aberdeen, which brings 34,000 delegates to the city for 4 days, identified this as one of the key frustrations they received in feedback from delegates attending the 2007 exhibition.

2.3.13 Whilst a number of new hotels are under construction or in planning, the reality is that what is needed is a spread of accommodation from bed and breakfasts right up to more 5 or 6 star hotels to attract some of the global players both at Government and global corporate levels. This is reinforced by figures from Aberdeen Convention Bureau which shows that the north east potentially lost out on hosting a number of major conferences with a total economic value of £11.5 million due to a lack of suitable hotel accommodation. The proposed Trump International Hotel complex would not only significantly help address that issue but would also provide an infrastructure of facilities to support work to attract more business and business tourists to the area.

2.3.14 The Chamber has studied the figures made available by Aberdeenshire Council, the Trump Organisation and other bodies with an expertise in economic impact assessments, including the Fraser of Allander Institute which recently completed economic impact assessments for Aberdeen Harbour and Aberdeen Airport. The Chamber is satisfied that the material brought by various parties to our attention, is in line with its expectations of the economic impact of the development. The number of tourism jobs proposed is almost unheard of. It is of significant merit economically and is substantial and important at a national level.

2.3.15 The local authorities are currently updating their structure and strategic land use plans as part of a national initiative by the Scottish Government, to make sure that there is an up to date and effective local planning context. The current draft structure plan envisages significant growth in the housing market. To respond to this, there needs to be a step change in both the release of land and in the investment from developers and house builders. The housing element of the Trump proposition whilst seen by many as controversial, is undoubtedly capable of making

an important contribution to the future housing demand in the region and therefore has merit on that basis alone.

2.3.16 The structure plan identifies the likely development along a number of key transport corridors and the Trump proposals sit within one of the key transport corridors, which will be brought more into play by the completion of the Aberdeen Western Peripheral Route. Whilst this is not seen as conditional to the success of the Trump resort and golf proposals, it would have a material bearing upon it and the development itself would equally be able to make good use of the infrastructure investments by the Scottish Government.

2.3.17 The Chamber probably represents the widest possible cross section of businesses in the region. The overwhelming majority of businesses, both in the Chamber's membership and others, in the region and beyond are fully behind the development and realise the prize that it represents. A measure of this was the overwhelming expression of structured and well articulated support which was manifest in the letters of support received during the consultation period.

2.3.18 The Aberdeen and Grampian Chamber of Commerce, and the other organisations represented by Mr Runcie at the inquiry, have considered the matter very carefully and listened to a wide group of stakeholder opinions on this issue. The Chamber has participated in the formal consultations and attended the various committee hearings and believes that the proposals have been tested rigorously by this process. Everyone who has a view or opinion on the matter has had ample opportunity to express those views.

2.3.19 The Chamber believes that the process thus far has been overtly tortuous and has unfortunately not placed Scotland in the best light either within its own boundaries, nationally within the UK or on the global scene. This opportunity came to the north east because of the many attributes the region has. The development would be a world-class golf and leisure resort with much needed hotel and conference capacity, quality and affordable housing. It would create a 'must visit' proposition unrivalled in Scotland and would allow the region to attract visitors who would not otherwise come. The business community's considered view is that the economic prize is large enough to compensate for the environmental impact.

The case for Councillor J Gifford

2.4.1 Councillor Gifford represents the Mid Formartine Ward and is a member of the Formartine Area Committee and the Policy and Resources Committee of Aberdeenshire Council. He spoke at the inquiry to emphasise the role and decision of the Formartine Area Committee in determining the application.

2.4.2 On 18 September 2007, the Formartine Area Committee deferred a decision on the application to allow a site visit to take place. This was completed on 27 September and was followed by a lengthy public meeting in Balmedie school, when submissions were heard from many interested parties on both sides of the argument. This included the Belhelvie Community Council which had conducted an extensive consultation with local residents. The community council put forward a very balanced assessment of the views it had received but did not make any

judgement on the application one way or another. The community council objected strongly when the initial report to the area committee stated that they had objected to the application when they had actually not stated any opinion.

2.4.3 A Special Meeting of the Formartine Area Committee was held on 20 November 2007. The report to the meeting detailed all aspects of the application and highlighted all of the associated problems. During the debate on the application the committee added several additional conditions that addressed most of these concerns. Many members took the attitude that all of the problems identified could be turned to our advantage. For example, the committee insisted that a new grade separated road junction would service both the resort and the north end of Balmedie village. This would not only have kept traffic away from existing roads but would have given the village a second access junction, which is currently missing from the plans to realign the A90T.

2.4.4 The proposed 500 houses were a major issue. Whilst there are no plans for any housing in this area, at the time of this meeting the council was also discussing the initial stages of the new strategic plan for the area. That plan showed that there is a requirement for upwards of 35,000 houses in Aberdeenshire over the next 25 years. It was suggested during the discussion that this development would go a long way towards that target if it incorporated the kinds of houses that were required. The committee therefore insisted that the housing complex would be subject to a developer brief and that it would be a sustainable, mixed community rather than what was referred to as a *“gated community of executive houses”*.

2.4.5 The committee insisted that sustainability would feature highly in all aspects of the construction work. Conditions included at least 50% of all power produced on-site, all waste management to be executed on-site, higher than current standards for energy efficiency to be included in all buildings, no soil to be removed from site and no sand to be removed from the dunes. The committee stipulated that full public access would be available in accordance with current guidelines and that both golf courses should be completed within the programme of the project, not just the championship course as originally stated. In all 62 planning conditions were attached to the application.

2.4.6 The decision that the committee had to make was a balance between the accepted breaches of many planning policies and guidelines and the potential economic benefit that the development would bring to the area. That balanced judgement meant that the committee accepted the recommendation of the planning officers and approved the application 7 votes to 4. It is interesting to note that the vote matched almost perfectly stated public opinion at the time. Submissions were split 24% to 76% against and for respectively.

2.4.7 Having been approved at area committee, the application was referred to the Infrastructure Services Committee on 27 November. The whole debate was re-visited, during which several conditions were amended and added to those already attached by the area committee. After a split vote, the application was rejected on the casting vote of the Chairman. In Councillor Gifford's personal opinion, this final decision was wrong.

2.4.8 The council's Economic Development Priorities to 2011 were approved by the Infrastructure Services Committee on 12 October 2006. This document states, among other things, that by 2011 Aberdeenshire will *"Have acquired a world-class reputation for recreational tourism and creative industries"*. The final paragraph of the decision of the area committee supports those statements: *"The reason for departing from the Development Plan with regard to the environmental and housing policies as being the extenuating economic circumstances to assist in diversifying the economy and supporting the development of tourism."*

2.4.9 Having already voted to reject the application, the Chairman of the Infrastructure Services Committee had a different role to play. The wider economic implications for the whole area should have been considered. The decision on the application should have been deferred for further discussion. Furthermore, it is accepted practice, as Councillor Gifford has seen on several occasions in other committees, that in a tied vote the Chairman follows the recommendation of the council's officers. For either of these reasons, the casting vote of the Chairman was incorrect.

2.4.10 The judgement between economic development and planning policy guidelines is what the inquiry is all about. Councillor Gifford wanted to emphasise that the most local committee associated with the decision making process made its opinion quite clear and that should not be ignored in the wider picture of the inquiry.

The case for Charles P Skene

2.5.1 Mr Skene is Chairman of Skene Investments (Aberdeen) Ltd, which owns and operates 3 establishments in Aberdeen, serving both the leisure and business tourism market. Nine years ago he concluded that it was not sufficient to offer only accommodation. In order to compete with other destinations, both in the UK and overseas, he had to sell his company product, sell Aberdeen and Aberdeenshire as a destination, and also put 'packages' together. He therefore invests a great deal of time and money attracting overseas visitors, primarily from Scandinavian countries, to come to Aberdeen and Shire. He considers that the proposed development would have an impact on hotel businesses in the north east and considers there may be a detrimental impact on his own business initially. Despite this he supports the development, as eventually the overall market would expand.

2.5.2 These packages include accommodation and tours to whisky distilleries and castles. He also caters for special interest groups and for golfers, for whom tee times on some of the local courses are booked. While Aberdeen and Shire have over 60 golf courses, few if any, are sufficiently renowned throughout the world to attract large numbers of affluent high spending golfers. Royal Aberdeen is suitable for international players, but it is owned by its members and it is not in their interests to encourage non-members to play, as it would reduce the availability of the course for members.

2.5.3 The UK attracts millions of visitors from overseas each year, the vast majority of whom only visit London and its immediate surroundings. A very small percentage come to Scotland, and an even smaller percentage venture north to

come to Aberdeen and north east Scotland. To be realistic, this is because the scenery, castles, whisky distilleries, existing hotels and conference facilities and golf courses are not sufficient to attract large numbers of high spending national or international tourists or conferences.

2.5.4 The Scottish Government has a target to increase tourism revenue by 2015 by 50%. It is estimated that golf tourism is worth more than £90 million and business tourism is worth more than £900 million to Scotland annually. Business and leisure tourism is now the world's largest and fastest growing business. Aberdeen and Shire has to be more pro-active in promoting the region. To do so successfully, a better or different product is needed. An organisation or person who has a proven track record at selling and promoting his product or business worldwide is also needed.

2.5.5 Mr Skene believes Donald Trump, the Trump brand and Trump organisation is exactly what is needed. Donald Trump personally has an international reputation through his books and television appearances. The Trump brand has come to stand for high quality, architecturally exciting buildings and well run businesses. The Trump organisation runs very successful hotels, conference facilities and golf courses. The Trump hotel, conference centre and golf courses at Menie would give Aberdeen and Shire an edge in the attraction of conferences and as a venue for golf and leisure. He also believes that the huge investment required by the Trump organisation would encourage other non-oil related companies to consider investing in this area.

2.5.6 Aberdeen and Shire has been unbelievably fortunate in being the headquarters of North Sea oil and gas for around 40 years. This has brought business, job opportunities and prosperity to this area, which could not have been foreseen in the 1960s and early 70s. Mr Skene was running businesses in Aberdeen well before oil and gas was discovered, and Aberdeen was a small and relatively prosperous city with two shipyards and a number of successful paper mills. There was a small manufacturing base and numerous fish processing houses serving the two largest fishing ports in the UK. Nearly all these businesses have gone. North Sea oil and gas has not yet gone but it is running down and the UK is no longer self-sufficient in gas. The amount of oil and gas being extracted fell by 5% last year to 2.8 million barrels per day, and is projected to fall to 2.4 million barrels per day by 2010. While oil and gas run out golf courses go on and on. Mr Skene supports the application.

Additional written submissions in support of the proposed development

Aberdeen City Council

2.6.1 Aberdeen City Council was asked for its views on the proposed development by Aberdeenshire Council. The application was reported to the City's Planning Committee in August 2007. Council planning officers undertook internal consultations with officers and politicians in the preparation of the report.

2.6.2 The report states that Objective 2 of the structure plan is generally supportive of economic diversity, competitiveness, creating new economic

development opportunities and developing the natural strengths of the area. Policy 6 encourages tourism and related developments if compatible with policies safeguarding the natural and built environment. The proposed housing (apart from the 36 'golf villas') conflicts with structure plan policies 9 and 10, although the council does not object on this basis.

2.6.3 The proposal would involve stabilisation of the dunes, which would cause loss of dynamism which, in turn, is the basis of its natural heritage interest. The loss of dune habitat would have a significant adverse effect on flora and fauna. Because of its adverse impact on the SSSI, the proposal could be said to be contrary to national and structure plan policy: NPPG 13 – Coastal Planning, NPPG 14 – Natural Heritage and NEST policies 19 – Wildlife, landscape and land resources and 29 – Coastal planning. However, if it can be demonstrated that the adverse impacts of the proposal are outweighed by its social and economic benefits, then the proposal could comply with these policies. In this case, because an SSSI is a national designation, the social and economic benefits should be demonstrated to be of national importance.

2.6.4 The project would support a number of objectives of the Local Economic Development Strategy 2003-10, namely to:

- become a city and region of enlightenment, in terms of profile, international events and leisure facilities;
- be a world-class strategic location and the leading region in the north Atlantic and Baltic seaboard;
- be a unique destination for golf, recreation, new market opportunities and world-class facilities; and
- promote sustainable economic growth in key sectors.

2.6.5 The area has a significant shortage of hotel accommodation, which is hindering economic development and reducing the ability to bring conferences and conventions to the city. The proposed hotel, conference centre and spa would enhance the attractiveness of the destination.

2.6.6 Aberdeen City Council is concerned that the already serious peak time traffic congestion in Aberdeen, particularly around Bridge of Don, would be exacerbated by the proposed development. The council considers that the development proposals may have a significant impact on the network, particularly the housing element. The high profile nature of the golf course would also bring special events to the area, which would have to be managed.

2.6.7 Aberdeen City Council Planning Committee resolved as follows:

- the City Council very much welcomes the opportunity the proposal provides to increase the profile of north east Scotland as a destination for high quality leisure, tourism and business facilities, which would greatly assist in diversifying the economy;
- thought is required about possible cross-boundary effects of the proposed housing, particularly in terms of transport;

- given the environmental issues raised in the environmental statement, the national benefits of the proposal need to be more fully assessed in order to address national and structure plan policy requirements; and
- the transportation impacts of the proposal on the city, particularly in the Bridge of Don area, should be investigated and an audit of the transportation assessment carried out on behalf of the City Council to ensure that cross-boundary impacts are addressed adequately and any concerns notified to Aberdeenshire Council.

2.6.8 Subsequently, the City Council submitted the committee report and the minute of the meeting as a written submission to the inquiry. The council advised that the leader of the council had invited members of the public to email her, indicating whether they supported or opposed the proposed development. Of the 396 emails received, 88% supported the development, stating that it would benefit and diversify the economy and provide a golden opportunity to increase the profile of the region and put it on the world map.

2.6.9 The National Planning Framework 2 recognises that tourism and leisure activities have an important contribution to make to the development of the economy. It also suggests there is more scope to attract more tourists to Aberdeen and that the east coast corridor offers many opportunities for leisure, recreation and tourism.

2.6.10 The council stated that this reflects the vision of the North East Scotland Joint Public Sector Group, comprising Aberdeen City, Shire and Moray Councils, NHS Grampian, Scottish Enterprise Grampian, Grampian Police and Grampian Fire and Rescue. The clear number one priority is the economy and the two greatest areas for attention are its diversification away from the heavy reliance on oil and gas and the retention of skilled staff. The Aberdeen City and Shire Economic Forum has a similar vision.

Mr Nigel Dyer, Sandtoft Roof Tiles Ltd

2.7.1 Nigel Dyer is a Member of the Society for the Protection of Ancient Buildings, with over 15 years experience working on some of the UK's most important buildings. He has acted as an advisor to English Heritage, Historic Scotland and the National Trust, helping to conserve and restore some of our most important architectural assets. He is also a Member of the Institute of Roofing, and has given independent advice to numerous companies, institutions, councils, etc on the appropriate design and use of historic roofing products. He is Heritage Service Manager at Sandtoft Roof Tiles, which has been the UK's largest independent roof tile manufacturer for over 100 years.

2.7.2 Mr Dyer considers that the developer has shown great ambition in the aesthetics and choices of finishes for the proposed buildings. Consequently, he supports the proposed development, and its intended design. Clay tiles have a proud and long established place in Scottish vernacular; indeed some of the finest buildings are adorned in clay roof tiles especially along the east coast.

2.7.3 Clay roofs bring heritage and beauty to well designed buildings and sit especially comfortable in natural surroundings as can be seen on a golf development in Dirleton, North Berwick. At the new golf clubhouse and lodge development at The Renaissance Club, Archerfield, North Berwick, the use of natural red clay plain tiles, has helped the natural environment embrace this development.

Representations

2.8.1 As indicated in the Preamble to this report this proposal has generated a large number of representations during its consideration by Aberdeenshire Council, whilst under scrutiny at the public local inquiry, and since the inquiry closed. As made clear when the inquiry was closed, the last are not dealt with in this report and are before Scottish Ministers as post-inquiry correspondence which is the approach provided for by the Inquiries Procedure Rules.

2.8.2 Before the inquiry closed some 2,700 letters or e-mails were received supporting the proposal. The issues raised and that are relevant to land use planning are summarised below.

Representations supporting the development – general issues

- The Aberdeen Evening Express referred us to independent research that they had commissioned from Ideas in Partnership to conduct 782 interviews across the north east of Scotland. The research found, with a confidence level of 95% and a confidence interval of 3.5%, that 80% of the population of the region believed that Mr Trump should be given permission to build his planned golf development at Menie.
- There is substantial local support for the project, but that significant fact seems to have been ignored by local decision makers.
- The development is contrary to planning policy, but it should not be rejected simply for that reason or because it was unforeseen by policy.
- Other developments have been supported in the area that have been far worse or less easily justifiable.
- Local infrastructure would benefit through for example, increased use of airports, harbours, and public transport.
- The style of architecture proposed and the amount of housing is of some concern, so careful assessment of all the social and environmental impacts of each development part is still important, but the principle deserves support.
- The housing would diversify the local market and counterbalance the predominance of high density flats, built by few developers.
- An opportunity exists to push for planning gain elements like the use of sustainable designs, materials, technology, and operational methods, as well as a push towards a carbon neutral development, and investment in much needed local infrastructure like new road bridges across the Dee and the Don and a western by-pass.

Representations supporting the development – the economy

- Aberdeen is already showing signs of economic decline and investment die back.

- The project will bring billions of pounds and thousands of jobs to the area during construction and beyond, and it will help to diversify a local economy that relies too heavily on finite oil and gas resources.
- Rejecting the opportunity is small-minded and backward looking and no other country would pass up this major opportunity.
- It would be a shame to lose the development, especially to another country that would then be perceived as more welcoming of development.
- In the past, objectors have tried to prevent other developments that are now acknowledged major contributors to Scottish life, for example, the Forth Bridge and Aviemore.
- The applicant has a proven track record of delivering high quality developments. He should be trusted to deliver his genuine promises on this one as well, especially when the spin-off from others is known to have benefitted a wide surrounding area.
- The potential benefits of the development outweigh even those associated with the Commonwealth Games, which have received so much public support.

Representations supporting the development – tourism

- VisitScotland has a stated aim of growing tourism in Scotland and the proposal would make a significant contribution towards its achievement.
- Because it would carry the Trump brand, the development would boost Scotland generally and the Grampian area in particular by becoming a top class tourist destination. It would also enhance the tourist facilities already on offer locally and counterbalance the draw of Royal Deeside.
- Scotland is the recognised home of golf and the proposal would enhance that role, improve the standard and range of local sporting opportunities, and provide the nation with an international standard facility.
- Scotland lacks high quality links golf facilities and there is a strong need to attract golf tourists north from St Andrews.
- Aberdeen suffers a critical lack of top quality hotel and conference accommodation, especially on the northern edge, which the proposal would help to offset.
- The proposal would allow Aberdeen and Peterhead harbours to attract cruise vessels because passengers could be offered a wide range of tours, including golf at such a prestigious facility.

Representations supporting the development – the environment

- The area should not be blighted by environmental safeguards, sustainability applies just as much to the local community and economy, as to flora and fauna.
- Conservation needs should be accommodated, but there is no reason to suppose that they would not.
- The applicant is doing as much as can reasonably be expected to be open, environmentally friendly, and sustainable in his approach.
- Through careful management, golf courses worldwide are known to co-exist easily with conservation of the environment and biodiversity, in that they support and provide sanctuary for a spectacular and diverse range of flora and fauna.

- Newburgh links golf course stands as testament to the fact that this type of course does not harm the environment or wildlife, and the council has recently granted an extension there, which affects the same stretch of coastline.
 - The area is already scarred and polluted by landfill, which the council has approved, which context makes it difficult and contradictory to reject the proposal.
 - The same environmental conditions occur elsewhere along the coast, including at St Fergus, where the dunes and the wildlife did not prevent development of the gas terminal. In fact, they have been enhanced by it, and this proposal is just as important to the national economy.
 - As recently as 15 years ago the dunes were fenced off as grazing, which prevented public access and, even now, the area is used and appreciated by only very few people. In contrast, the proposal would support, benefit, and be enjoyed by thousands, without excluding those existing users.
 - The beach is no longer needed for salmon farming, given the prevalence of farming elsewhere.
 - Environments must change, and it would be wrong to prefer wildlife to the social and economic opportunities that the proposal represents.
 - The dunes system is already subject to natural changes, as the topography, wildlife, and plants all ebb and flow.
 - Ultimately, the golf course would help to stabilise the sand dune system, which would stop it from disappearing naturally and preserve it for posterity.
 - The same type of environment can be recreated elsewhere and the area would recover quickly from any damage caused during construction.
 - The prestige, social, economic, and environmental enhancements after construction far outweigh any short-term negative effects.
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CHAPTER 3

The case against the development

The case for Scottish Natural Heritage

3.1.1 The case for SNH was led at the inquiry by Mr Cockburn and Ms Cockburn. Dr Hansom, Mr Angus and Mr Rooney gave evidence on behalf of SNH.

Dr Hansom

3.1.2 Dr Jim Hansom is a Reader in the Department of Geographical and Earth Sciences at the University of Glasgow. His research includes coastal change, erosion and management in response to changes in sediment supply, sea level and storm activity. He has written over 90 peer-reviewed scientific publications and three peer-reviewed books. He has acted as a geomorphological consultant on several coastal developments, including golf developments, gas pipeline and electricity interconnector landfalls, and housing developments, that have involved both loch shores and open coast beaches and dunes. In 2004 he was invited by the previous owner of Menie Estate to advise on a possible golf development, and recommended that any development should avoid the Menie sand sheet and the high dunes at Sandend Burn, and that specialist advice should be sought regarding the avoidance of ecologically important habitats.

3.1.3 Dr Hansom explained that the Foveran Links SSSI covers Foveran Links, Drums Links, which extend south of Foveran Links to the Sandend Burn, and Menie Links to the south of the Sandend Burn. The northern end of Menie Links has two main areas of bare sand: the extensive bare sand area of the Menie sand sheet in the south, and the much smaller bare sand area between the higher Sandend Burn dunes in the north. Southward of the SSSI boundary lies the southern part of Menie Links and Pettens Links, which abuts with Balmedie Links at its southern boundary.

3.1.4 The area covered by the Foveran Links SSSI dune system represents, in Dr Hansom's opinion, an exceptional site for coastal dune geomorphology on account of its remarkable assemblage of wind-blown landforms, some of which are natural and of an extent that is unparalleled in Great Britain (the natural sand sheet and inundated dunes at Menie), while others are more representative of the dune coastline of north east Scotland (the Sandend Burn high dunes and the human modified sand sheet at Foveran). The natural features at the Menie sand sheet contain an unrivalled suite of geomorphological features and deposits that are of considerable national scientific interest. Dr Hansom considered Menie to be the 'jewel in the crown' of SSSIs in this area of Scotland, and in the UK.

3.1.5 Dr Hansom said that the dune processes at Menie have formed a spectrum of dune features ranging from a highly dynamic bare sand sheet and associated vegetated dune features, to relatively more stable vegetated inter-dune hollows (dune slacks). The main sand sheet is highly mobile with large areas of blown bare sand moving during windy conditions. The lack of vegetation on the sand sheet surface indicates a vigorous wind-dominated environment that is (and has been throughout the period of its documented history) hostile to the establishment of vegetation. The sand sheet at Menie constantly self-adjusts to changes in sand supply. Sand eroded in the south is transported northward over the sand sheet surface and deposited in the north. As the sand sheet migrates to bury the dunes in the north, it also systematically re-exposes previously sand-covered surfaces in the south. Deflation of these surfaces continues until a more resistant subsurface (such as beach gravel, glacial till or the underlying water table) is reached and is re-colonised by vegetation, forming dune slacks. This process has resulted in a well documented movement of the entire sand sheet in a northward direction. Dynamism underpins the designation for geomorphological processes and forms a wide range of sand dune habitats that depend upon the geomorphological functioning of the site. Measurements of the sand sheet margins show northward movement of the Menie sand sheet of between 14 m/yr and 5 m/yr since 1949, with the bare sand area ranging from 15 ha in 1949 to 11.4 ha in 2006. Within a Great Britain context this dune movement has created a distinctive and unique set of landforms whose progressive northerly movement has left behind a series of ecological stepping-stones through time.

3.1.6 Dr Hansom explained that the landforms at Menie are interrelated with beach conditions within Aberdeen Bay because the sand sheet is fed by wind erosion of sand from two main sources, upwind blow-outs at the coastal edge, and the flanks of pre-existing dunes that are inundated by the advancing sand sheet. Blow-outs (linear deflation hollows produced by wind erosion of sand) often cut into the dune ridges closest to the beach, so the condition of the beach-dune interface is critical to this supply source. The position and width of these blow-outs has fluctuated so that in some years they are low and wide, with little vegetation growth to impede sand transit inland, and when the blow-outs are narrow, sand movement becomes temporarily impeded by vegetation. This causes alternating phases of instability and enhanced dynamism to pass through the sand sheet. Dr Hansom considered that it is very likely that the widths of the blow-out gaps behind the beach, and the extent and vigour of the sand sheet at Menie, are related to variations in sand supply on the beach at Menie and thus the overall sand supply within Aberdeen Bay. The pattern of coastal dune instability at Menie precedes the period of popular car ownership and associated recreation pressure, with photographic evidence in 1945 showing the sand sheet to be at a maximum at the same time as the blow-out gap to the beach was at its widest.

3.1.7 The northward movement of the sand sheet is such that the position of the northern margin in 1949 barely overlapped the 2006 position of the southern margin, and the active blow-out gap that fed sand inland has also moved northward and narrowed (though in Dr Hansom's opinion, contrary to that of Professor Ritchie, the gap has not yet closed), with the previous blow-out gaps to the south becoming stabilised by vegetation. A new area of instability exists slightly to the north of the present narrowed gap, in an area of high sand dunes. Dr Hansom considered that a

new gap is likely to form in this area, which is close to proposed hole 14. From the data supplied by the applicant, Dr Hansom has calculated that the distance from the dune crest to the transition rough would be 7 metres, and from the crest to the fairway 21 metres. Any blow-out in this area would be likely to extend into the semi-rough, so substantial amounts of sand would come over the ridge onto the golf course. The course managers would have to remove the sand, or intervene on the ridge. The latter would breach the applicant's declared intention not to interfere with the coastal dunes. Dr Hansom has also calculated, from the information supplied by the applicant, that the elevation of the 14th tee would be 7.5 metres above existing ground levels. Smoothing of the fairway would result in removal of up to 2 metres of sand, which would lead to worse sand blow problems in this area.

3.1.8 According to Dr Hansom, the scientific interest of the smaller sand area of the high Sandend Dunes at the northern part of Menie Links is linked to the proximity of the Sandend Burn, which restricts northward movement of substantial amounts of sand. The burn limits the northward dune progression and may contribute to their growth, since the dunes may build higher in situ if sand evacuation is restricted. Scientifically interesting in its own right, this smaller and self-contained section of the SSSI may be operating as a semi-closed sediment system. However, at some time in the future the northward movement of sand could, in Dr Hansom's view, bypass the Sandend Burn. The key to the geomorphological interest at north Menie lies in the ongoing dynamism, unfettered movement and scale of the main sand sheet, and this has resulted in the development of a classic assemblage of landforms and dune habitats that are dependent on this dynamism. The combination of these elements and the relative lack of human interference (unparalleled in mainland Great Britain) make this part of the Foveran SSSI of prime scientific interest.

3.1.9 Dr Hansom said that the partly stabilised sand sheet in the extreme northern part of Foveran Links SSSI (north of the Menie site) is of scientific interest for geomorphology, since the dunes remain representative of the dune features of north east Scotland. Although the sand sheet there now has a much restricted and diminishing sediment supply, it remains of interest precisely because of the dynamics of this change. It has also been affected by human interference. Migrating sand sheets are rare on the coast of Great Britain and there are extremely few locations where large sand sheets migrate consistently along the coast. Of the bare sand areas in Great Britain, Scotland has 656 ha, England 253 ha and Wales 135 ha. Of these, the north east of Scotland hosts the largest areas of bare sand in Great Britain. The dunes between Newburgh and Bridge of Don comprise 80 ha (12.1%) of the bare sand area contained in Scottish sand dune systems (SNH22 & 23). However, the areal extent of this resource is, in Dr Hansom's view, of secondary importance to a scientific interest based on the extent and unmodified dynamism of the inter-related processes, landform and vegetation assemblage at Menie.

3.1.10 Dr Hansom considered that the geomorphological interest is fundamentally based on the unfettered operation of the natural processes of wind blown sand erosion and deposition that result in landform dynamism and mobility of the sand sheet at Menie Links. As a result, the proposal to stabilise most of the bare sand surfaces would serve to remove the key scientific interest. The proposal

acknowledges that the impact on the geomorphology for all 18 holes would be at least 'Minor Adverse', and would be 'Major Adverse' for most of the proposed holes within the SSSI. Almost 11 ha of a total of 14 ha of bare mobile sand in the Menie part of the SSSI is proposed to be stabilised. If the bare sand contained within the Sandend Burn dunes is excluded from the development, and the total bare sand on the Menie sand sheet in 2006 amounts to 11.4 ha, then almost 100% of the sand sheet would be stabilised. This would remove the geomorphological interest of the site. It would be up to SNH to consider whether this part of the SSSI should be denotified.

3.1.11 Proposed holes 1-9 lie to the south of the Menie Links part of Foveran Links SSSI and, in Dr Hansom's view, are of lesser scientific interest than the bare sand and active areas to the north. However, the proposed course design would mean that substantial amounts of cut and fill would be required across a large but spatially distributed area. In addition to this, the green of hole 3 is sited in a low area where the Blairton Burn is actively eroding northward. Since the adjacent eroding dunes are affected by wave activity during stormy high tide conditions, then intervention in the near future is likely to be required. Hole 4 is sited at the northern mobile edge of the Balmedie sand sheet, an area also subject to sand movement northward. This hole would be subject to sand inundation and thus would require stabilisation. It would be difficult for the developer to restrict the amount of sand moving onto the proposed course without also stabilising a substantial part of the northern part of the Balmedie sand sheet, which would also be affected by the second golf course, so this proposal also threatens the integrity of the undesignated bare sand area at Balmedie.

3.1.12 Dr Hansom explained that the net sediment movement in Aberdeen Bay from south to north contributes to long-term erosion in the southern part of Aberdeen Bay and this increasingly extends northwards towards Menie with severe erosion of up to 4 metres as far north as Black Dog Links and erosion noted north of Menie from 1883-1985. In spite of short-term variations, there is a long-term sediment deficit within Aberdeen Bay and the corollary is that propagation of erosion from south to north is, in Dr Hansom's opinion, highly likely to affect the beach at Menie in the future. While this section of coast is currently subject to accretion, Dr Hansom considers it will eventually suffer from erosion. The applicant's declared intention of no interaction with the beach cannot be guaranteed into the future. Any works to protect the golf course would be likely to have knock-on consequences further north.

3.1.13 Dr Hansom concluded by saying that the proposed development of the southern part of the Foveran Links SSSI would require the wholesale stabilisation of the bare sand dune surfaces and arrest of the dynamic processes that give rise to them. This includes the northern part of Menie Links, including the Menie sand sheet. These processes and the resulting landforms are recognised as being of exceptional quality and extent, at a scale of development not seen elsewhere in Great Britain. The proposed development would therefore result in the destruction of the geomorphological interest and substantially impact on the dune landforms both within and outwith the SSSI in terms of stabilisation and topographic smoothing. It would fall far short of the Scottish Golf Environment Group's 'Principles of an Ecological Approach to Golf Course Development', which states: "*The primary*

principle is to work with nature, rather than against it, to produce a viable and environmentally sustainable recreational resource. A golf course should fit into its surroundings and not be imposed on them" (SNH37). The proposed championship course, in Dr Hansom's view, would not fit in. It would require substantial cut and fill operations, entailing the movement of *"biblical volumes of sand"*.

Mr Angus

3.1.14 Mr Stewart Angus is Policy and Advice Manager in SNH, responsible for coastal ecology advice. He has occupied this post since 1997, with involvement in international dune science since 1991. He represents SNH in its role as Lead Agency for the UK Sand Dune Habitat Action Plan. He has published two peer-reviewed books and 14 peer-reviewed scientific papers. He is on the editorial board of the international Journal of Coastal Conservation and is an Honorary Senior Lecturer in the Geography and Environment Department of Aberdeen University.

3.1.15 Mr Angus said that the development affects the southern third of the Foveran Links SSSI, which is an outstanding example of the relationship between processes that shape landscape and the way habitats adapt to changes in these processes. These habitats also have individual value. Ecologically, the main processes involve relationships between climate, sand movement, water within sand, and topography of land beneath sand. The result is a constantly changing landscape. More stable sand is colonised by vegetation, classed as 'mobile', 'semi-fixed' and 'fixed' with increasing stability. The SSSI comprises a complete sequence of stability, from bare mobile sand through to fixed dune.

3.1.16 Mr Angus quoted from the SSSI citation, stating that the site contains extensive areas of mobile foreshore and sand dunes as well as fixed dunes, dune pasture, marshes and heath. The relationship between various plant communities and sand stability is clearly shown and the continuing movement of sand masses allows direct observation of these interactions. Although closely linked, and similar, to the Sands of Forvie and Ythan Estuary National Nature Reserve (NNR) to the north, the site contains several species and communities which are absent from or less well represented in the NNR. The vegetation of the dune hollows and pasture, some of which are grazed, is especially interesting (SNH1).

3.1.17 Mr Angus said that SSSI characteristics are to some extent duplicated in the dunes to the south (referred to as South Menie). Although the movements of sand are less dramatic (except the Balmedie sand sheet), the ecological effects of past sand movement are still evident. Mr Angus considered that South Menie habitat quality is high, adding considerably to the integrity of the unit. The SSSI plus South Menie is, in his view, more valuable than the sum of the parts.

3.1.18 The SSSI and development site form part of a unit stretching from the Ythan to Bridge of Don. Dr Dargie had been commissioned by SNH to carry out a Sand Dune Vegetation Survey of Scotland using the National Vegetation Classification (NVC) (SNH22, 23). This noted that: *"In addition to ... Foveran Links SSSI, much land in this site is of very high nature conservation interest. The mobile dune environments, acidic grasslands and acidic slacks are all notable ... every attempt should be made to keep existing semi-natural conditions in their present*

form and dynamism” (SNH23). At 1083 ha, Newburgh-Bridge of Don is the tenth-largest Scottish sand dune system with 2.16% of Scottish dune extent.

3.1.19 Mr Angus stated that the relationship between habitats and processes is critical to the natural heritage interest of the development site. Annex I of the EU Habitats Directive lists “*Natural habitat types of community interest whose conservation requires the designation of Special Areas of Conservation*” (SAC). Priority habitats are those for which the Community has particular responsibility. The Directive gives Annex I habitats a level of protection outside an SAC. These are:

1. mobile dune including bare sand and marram dune; the latter is Annex I habitat ‘shifting dunes along the shoreline with marram’;
2. fixed acid dune - Annex I habitat ‘fixed dunes with herbaceous vegetation (“grey dunes”)’;
3. dune heath - Annex I ‘decalcified fixed dunes with *Empetrum nigrum*’ (crowberry); and
4. dune slacks, corresponding here to Annex I ‘humid dune slacks’.

From this list, 2 and 3 are priority rated. Overall, the site holds 144.78 ha of Annex I habitat (2006 data), with 88.68 ha priority rated.

3.1.20 Mr Angus explained that vegetation is assigned to Annex I using the NVC, which is a vegetation classification, not a quality assessment, and he stated that the development site unquestionably contains Annex I habitats of very high quality, as confirmed by the ES. Levels of dynamism and process dependency are such that the impacts of the proposals on individual holes are impossible to predict, so that the development would, in Mr Angus’s opinion, damage or destroy much of the Annex I habitat within the wider footprint of the development, as recognised in the ES (7.4).

3.1.21 Mr Angus said that bare sand is not listed in Annex I, but is vital to the functionality of Annex I habitats, affecting not just sand distribution, but indirectly changing water tables and, as the sand sheet progresses, the distribution of dune slacks. The importance of the dynamism of the system to habitat functionality is emphasised by the ES. SNH believes that maintenance of dynamism is critical to the conservation of habitats, and that the planned stabilisation constitutes a severe level of impact on habitats. The Sand Dune Vegetation Survey of Scotland (SNH22, 23) notes that Newburgh-Bridge of Don, with 79.46 ha, has Scotland’s largest bare sand area. It holds 12.1% of Scotland’s 656 ha of bare dune sand, and has the most bare sand of any British dune system (SNH21, 31). The development site holds 27.6 ha of bare sand (4.2% of the entire Scottish resource and 2.6% of the Great Britain resource), of which 13.76 ha is on the SSSI. Processes associated with bare sand depend to varying extents on past, present and future dynamism. Bare sand is extraordinarily extensive here in a British context, as is the extent of the relationship between dynamism and habitat development. No other British sites approach this scale of interaction.

3.1.22 Shifting dunes along the shoreline with marram are often restricted to a narrow coastal fringe, but are more extensive here due to association with dynamic sand sheets. Marram is adapted to high sand deposition, but growth declines when accretion slows. With bare areas extensively stabilised, marram dune would lose extent and functionality. There are 2220 ha in the UK (JNCC web site) and 1134 ha in Scotland (SNH22). A total of 40.44 ha of mobile dune would be affected by the development (13.66 ha within the SSSI), which would thus threaten 3.56% of the Scottish resource and 1.82% of the Great Britain resource.

3.1.23 Dune slacks correspond to the National Vegetation Classification (NVC) types SD13, young slack developing in the wake of retreating sand sheets, and the SD16 creeping willow dune slack that follows it. The importance of the dune slacks is highlighted by the ES:

“A very important feature of the mobile sand sheets is that they expose bare damp sand behind them as they move north and these areas then undergo habitat succession to form ... dune slack. The variety of successional vegetation types present at Menie ... is probably unique in Scotland in terms of its completeness. It has the largest areas of young dune slack, with much bare damp sand, and these are probably the largest extents of this habitat in Scotland and perhaps in Britain....The topographic positions of dune slacks at Menie are unusual ... slacks form at markedly different levels, each with their own water table..” (ES 7.3.2)

This level of variation in dune slacks would only be expected with a very high range of dynamism, so Mr Angus considered it highly likely that the site possesses the best range of slacks in Great Britain in terms of stages of development.

3.1.24 Mr Angus said that the rarest dune slack in Scotland is SD13, young dune slack. The Sand Dune Vegetation Survey of Scotland (SNH22) recorded a Scottish total of 0.17 ha, with 0.12 ha (70.6%) at Newburgh-Bridge of Don, compared with 11.36 ha in England (SNH31) and 13.22 ha in Wales (SNH21). The 2006 survey by Dr Dargie (T50) identified much more young dune slack than had been previously reported for Scotland (SNH22), noting 3.73 ha, with 3.48 ha of this within the SSSI – increasing the known Scottish young dune slack area 20-fold from this site alone. The development area now holds 98.67% of Scotland’s young dune slack, and 13.18% of the adjusted British resource. Slack vegetation is very process-related and Mr Angus considered it extremely unlikely that transplanting could emulate these processes. Young dune slack vegetation, he said, often incorporates a thin algal/microbial skin on the sand surface that is likely to be badly damaged during translocation. Slacks not directly destroyed during construction would be adversely affected by stabilisation, drainage, and fertiliser and/or herbicide. Vegetation of damper slacks would be damaged by clubhead impact, trampling and tracking by buggies, impacts that even at a low level would inhibit the development of any new young dune slack vegetation.

3.1.25 Mr Angus said that the development site also holds 11.83 ha of creeping willow dune slack, of which 4.79 ha is in the SSSI. All of the dune slack vegetation is highly reliant on its relationship with the water table, which would be altered by soil reprofiling and possibly drainage, and by more indirect impacts of

dune stabilisation on soil/plant/atmosphere water relationships. In total, the development site holds 15.66 ha of the Annex I habitat, humid dune slacks, of which 8.27 ha is within the SSSI. The applicant, in table 3 of T4, estimates that 2.91 ha of dune slack would be lost from a total of 11.4 ha, of which 1.68 ha is young dune slack representing 44.3% of the 3.78 ha present. These figures do not, however, take account of indirect effects or of the second golf course.

3.1.26 Turning to dune heath, Mr Angus said that, though the only mapped heath is the priority-rated H11b *Empetrum nigrum* (crowberry) heath, which in the UK only occurs in Scotland, there is more heath on the site, especially in the south, as has been acknowledged in T50 (table 1 gives 15.56 ha in 2008, almost all outside the SSSI). The proposed course cuts through the main H11b area, which is likely to destroy areas of priority-rated European habitat. The development holds 15.56 ha, almost all south of the SSSI, which is 4.6% of the Scottish and UK dune heath resource of 338 ha.

3.1.27 Mr Angus said that priority-rated habitat 2130 fixed dunes with herbaceous vegetation ('grey dunes') represents a wide range of NVC types. Based on 2006 figures, the development site holds 84.92 ha of grey dune (13.75 ha within the SSSI), representing 0.57% of the Scottish resource. The 2008 map (T50) substantially revises grey dune extent. Though SNH had had insufficient time to provide new figures, it was clear from T50 maps and tables that a large proportion of grey dune would be impacted. Excavation and removal of grey dune turf to form fairways would remove large areas of habitat from their natural situation. The course would have a severe impact on the condition of this priority habitat within and outwith the SSSI.

3.1.28 In Mr Angus's opinion, the golf course would fragment and disrupt ecological processes over the course's entire footprint on the dunes. Fairways and paths would interrupt ecological gradients and constitute biogeographical barriers. Habitats that need a regular input of blown sand would be deprived of this, and habitats that need regular exposure of new bare surfaces would die out as sand dome movement is stabilised. Construction, management and the playing of golf would have an adverse impact on Annex I habitats over the whole dune development. Major events held on the course would bring large numbers of visitors and require erection of stands and tents. The impact of these could be substantial, but it is not addressed in the ES.

3.1.29 The adverse impacts would also affect biodiversity of habitats and species. As set out in SNH's written statement, the overriding aim of the Habitats Directive is to achieve Favourable Conservation Status (FCS) for habitats on Annex I and species on Annex II. Article 17 requires habitat reporting based upon range, extent, structure and function, and future prospects. This proposal would adversely affect all but range. Article 17 applies to all habitat, not only designated habitat. The SSSI was in Favourable Condition in 2000 with minor, local problems. If this development proceeded, the impacted part of the SSSI would be permanently Unfavourable. The main impacts on FCS of the four Annex I habitats would be on area, structure and function. T50 reports instances of Unfavourable Condition, but the issues reported (such as grazing and winter feeding) could, according to Mr Angus, be addressed and resolved. Loss of condition associated with the

construction of the proposed golf course would, however, be large-scale and very difficult to reverse.

3.1.30 Mr Angus concluded by saying that stabilisation of bare and mobile sand would have a very serious impact on the condition of dune habitat, within and outwith the SSSI. When the processes are seriously disrupted by this stabilisation, overall biological interest would be very seriously compromised, to the extent that denotification of part of the SSSI would have to be considered. This damage would be compounded by golf course construction and management: reprofiling, drainage, herbicide and fertiliser application, and mowing. Play would also have an adverse impact on more vulnerable habitats, even where these are not part of the rebuilt fairways. Asked about effects outside the development site, Mr Angus thought that there could be some impact from sediment removal, but he did not want to develop that argument.

3.1.31 Mr Angus said that he could not commit SNH to working with the developer on the detailed planning and construction of the golf course or by giving input to MEMAG if outline planning permission was granted. SNH would need to look closely at the value that would be gained by getting involved. He commented that all he was committing SNH to do was to review the situation in regards to its SSSI status should approval be granted. He acknowledged that SNH had accepted the construction of a golf course on a botanical SSSI at Machrihanish. In that case, SNH's initial reaction had been to oppose the development, but the developer had entered into discussions with SNH and agreed a number of compromises which resulted in a design that did not resemble a normal golf course. SNH accepted that development only once all of its demands had been met.

3.1.32 Asked about the ranking of natural heritage interests, Mr Angus said areas rank as:

- (i) The SSSI;
- (ii) Annex 1 priority habitats within SINS;
- (iii) Annex 1 non-priority habitats within SINS;
- (iv) Annex 1 priority habitats outwith SINS;
- (v) Annex 1 habitats outwith SINS.

Mr Rooney

3.1.33 Mr Paul Rooney is a Senior Lecturer at Liverpool Hope University. He specialises in coastal dune management and teaches sustainability and environmental impact assessment. He has wide experience of dune management in Europe, and is the Director of the UK Sand Dune and Shingle Network. Between 1996 and 1999 he was the Project Officer for the Sefton Coast Life Project. This project worked with the seven links golf courses along the Sefton dune coast, including the Royal Birkdale Golf Club. Previously, he was responsible for the restoration of coastal dune sites on the Sefton coast, which had been severely damaged. These were some of the largest dune repair works initiated recently in the UK. Mr Rooney is a Chartered Environmentalist, a member of the Institute of Ecology and Environmental Management, a Chartered Geographer and Fellow of the Royal Geographical Society. He is also a Trustee for the Foundation for Golf and Environment, an independent body which focuses on the environmental and

sustainability aspects of golf at an international level and operates the Golf Environment Europe Programme.

3.1.34 Following his engagement by SNH in March 2008, Mr Rooney visited the proposed development site on 15 May 2008 to consider the nature of the site and the development proposal. He is familiar with the site and the coastal dune features associated with it. While he admitted he had only spent one “*very long day*” on the site in the company of SNH staff, he had previous familiarity with other parts of Foveran Links SSSI and the Ythan estuary dating back to 2004.

3.1.35 Mr Rooney said that coastal dunes are complex, naturally dynamic systems. It is the interaction of changing wind and water conditions resulting in moving sand that keeps the dune system at Menie Links ‘pulsing’ and ‘alive’. These are the key qualities of a dynamic dune system. A long-term, ‘intergenerational’ view is fundamental to the idea of sustainable development. The proposal, said Mr Rooney, fails to take such a view. The scale of the impacts on geomorphological processes and on dune habitats would be considerable. They are of grave concern both regionally and nationally, and the losses should be considered even greater when the second proposed golf course is taken into account.

3.1.36 Mr Rooney considered that the proposal should aim to avoid severe adverse impacts in the first place. Although some efforts to do this were evident in adjusting the proposed course layout, the ES identifies the geomorphological impacts as major adverse and the overall impact on dune habitats are considered severe adverse (sections 6 and 7 of the ES, and T50 section 7.1). Mitigation, or reducing adverse impacts to the point where they are no longer significant, in relation to wetland habitats is, in Mr Rooney’s view, extremely difficult and known to have a low success rate (SNH49a). As experience in mitigation for coastal dune wetland habitats (slacks) is scarce, the success rates are likely to be lower. Dune slacks are particularly difficult environments for which to propose successful mitigation. They are part of a naturally dynamic dune environment (SNH46B and SNH48) and the complex soil and geomorphological conditions found at Menie Links make successful mitigation and compensation measures highly uncertain.

3.1.37 The ES (Section 6, page 43) notes that stabilisation of mobile dunes is contrary to the SSSI citation and would effectively cause the loss of many of the dynamic features of the site, which form the basis of its natural heritage interest. This impact is not mitigated. Stabilisation of the Menie sand sheet and other mobile features would therefore, said Mr Rooney, be a damaging operation, and cannot be regarded as mitigation, whatever the outcome in terms of habitat creation. Section 7.1.2 of T50 outlines a mitigation proposal to establish grey dune and heath on the Menie sand sheet, but Mr Rooney argued that this should not be associated with mitigation and should be discounted from the calculation of mitigated habitat. It would be a damaging operation for the geomorphological interests, and the significance of this damage is not altered by proposals to create habitats on the damaged feature. Mitigation would be best achieved by avoiding the Menie sand sheet, mobile and dynamic dune features altogether and allowing the natural processes to continue to operate and develop. Dune stabilisation is not the favoured approach of dune scientists and conservationists in north west Europe, particularly with respect to the sustainable conservation management of dynamic dunes. The

dynamic approach to dune management is now well established and accepted. Mr Rooney cited Machrihanish as an example of this approach involving a golf course, where the design has been 'future proofed' to enable it to adapt to natural changes.

3.1.38 Mr Rooney said that the scale of translocations proposed by the applicant is very large at 19.4 ha within the SSSI and 35.1 ha for the development area as a whole (T50, section 7.1.2, page 26, paragraph 2). The characteristics of donor sites and receptor sites are not detailed. There is not a sufficient assessment of suitable site condition matches for donor and receptor sites. The proposal does not include an adequate assessment of what habitats currently occur at the proposed receptor sites, and what impacts the translocations would have upon them. The developer recognises that *"it is not certain that such translocation can be done entirely successfully"* (T50, section 7.1.2, page 26, paragraph 5). Translocation of dune habitats, especially wet dune habitats, is not well understood (SNH49a). The established techniques employed on non-dune sites are not proven in terms of success for dunes and would prove difficult. For example, dune soils, sand, gravel and cobbles have a low degree of coherence (SNH49C). T50 recognises a failure in maintaining turves intact, in particular those containing *"a high volume of shingle and cobbles, leading to breakage and stone loss"* (T50, section 7.1.2, p26, third paragraph).

3.1.39 In section 6.10 of the ES the developer recognises that the formation and function of new dune slacks is related to the dynamic dune processes of the Menie sand sheet as it moves northwards leaving deflation surfaces behind. This, said Mr Rooney, is a process that simply cannot be replicated through habitat translocation, and especially not within an essentially stabilised dune landscape that results from golf course development. T50 section 7.1.2 (p26) claims some success for habitat translocation trials. Mr Rooney considered this a bold claim, especially as the translocation trials were understood to be less than one year old. Mr Rooney referred to SNH49C, which identifies that the significance of habitat translocation depends on the value of the site, and that site integrity can be significantly compromised for the highest value sites. Menie Links contain habitats of high quality both within and outwith the SSSI (T50, p25, section 7.1.1 and Mr Angus's evidence). Therefore, if habitat translocation is to be employed, site integrity would certainly be severely compromised.

3.1.40 Referring to T53 (Habitat translocation – a best practice guide), Mr Rooney drew attention to subsection 1.2, which describes translocation for sites of high nature conservation value as *"very much a last resort when all other alternative avenues have been explored and discarded"*, and to section 2 which sets out a 'health warning' and draws attention to the risks involved. In particular, he cited subsection 2.5.2, which states that *"it is rare to be able to be able to match the receptor site adequately to the donor"*. He referred to Dr Dargie's stated intention (p4 of his SNH rebuttal statement) to achieve *"near-matching conditions with the donor site"*. In Mr Rooney's view, 'near-matching' is not the same thing as matching, and this difference is likely to contribute to the failure of translocation. While Dr Dargie had said in his evidence that replication of NVC vegetation type was an indicator of translocation success, Mr Rooney said that this was only one measure, and not necessarily the most important. Habitat is a wider concept than the presence or absence of specific plants. It includes vegetation structure (e.g. plant

heights), invertebrates and vertebrates, and non-living features such as hydrological conditions, and a more holistic measure is necessary.

3.1.41 Mr Rooney considered that the lack of experience and of an evidence base makes it unwise to attempt to predict a percentage success rate for translocation. Mr Rooney did not know of any examples where translocation on this scale had been attempted. Even if plants could be re-established on new sites, this would amount to a 'gardening exercise', with the removal of features from their context reducing their value. Considerable management input would be required in the new location. There would be a cultural and heritage loss through removing them from a naturally functioning dynamic process. In Mr Rooney's opinion, *"it would be akin to putting them in some sort of zoo"*.

3.1.42 On the mechanics of translocating dune slack, Mr Rooney said he was not aware of any literature that would assist. Dune soils are poorly studied and understood. The standard work on dune vegetation by Salisbury (SNH50) devotes only 9 out of 328 pages to this topic, while Ranwell's more recent Ecology of Salt Marshes and Sand Dunes (SNH48) has 5 pages out of 258. If new equipment had to be developed, this would take several seasons over which the success of trials could be monitored. He did not think an approach depending on the development of new machinery and techniques was a safe proposal. Dune slack soils lack cohesiveness and are extremely problematic to move. Techniques might involve the use of several detachable buckets, or a vehicle making many trips. Vehicle movements are, however, highly disturbing to habitats. Mr Rooney would rate the prospects of successful translocation of dune slack as *"less than 'not optimistic'"*. Referring to subsection 3.2.2 of T53, which states that in assessing the impact of habitat loss in an EIA, *"translocation should not be considered as reducing the damage to a site sufficiently for the category of impact to be reduced"*, Mr Rooney said that the applicant's proposals would not avoid the integrity of the SSSI being fundamentally compromised.

3.1.43 The approach of compensation is used to make up for the loss of, or permanent damage to, biological resources through the provision of replacement areas. Mr Rooney considered, however, that any replacement area should be similar to the area replaced or, with appropriate management, have the ability to reproduce the ecological functions and conditions of those biological resources that have been lost or damaged (SNH45, p55). Mr Rooney agreed that if existing habitats were to be disrupted, it would be better to attempt translocation as a last resort than not to do so. Salvaging existing material is likely to give better quality than recreating habitat from scratch. Hydrological conditions are complex on the Menie Links, however, with variations in underlying glacial and marine deposits, combined with a varying and thin sand veneer. Mr Rooney reiterated that under such conditions, the possibilities of success for habitat compensation seem unlikely. It would be possible to create artificial wetlands on the golf course, as had been done elsewhere, using butyl liners (SNH44, p278). The result, however, would resemble a garden pond.

3.1.44 In conclusion, Mr Rooney said that the proposed mitigation does not adequately value the significance of dune dynamics and the associated ecological succession. The mitigation proposed for the geomorphological and ecological

interests does not take a long-term view and therefore does not accord with the principles of sustainability. The development proposal does not propose credible measures to mitigate for the severe adverse impacts on the dynamic dune processes. The proposal for dune stabilisation is particularly damaging, and the proposed mitigation of grey dune and heath habitat establishment associated with the stabilisation of the sand sheet should not be considered as having any relationship with mitigation.

3.1.45 Mr Rooney considered that the naturally dynamic dune processes are of paramount importance for the long-term functioning and values of the site. The proposal would create a major adverse and lasting impact on dune dynamics and geomorphological features. There is a low degree of confidence in being able adequately and successfully to mitigate for the loss of the key dune habitats present on the site. The success rate for translocation of wetland habitats is considered low, and experience of translocation of dune wetland habitats is particularly scarce. These and other factors taken together with the large scale of this operation indicate that there is the potential for failure resulting in considerable loss. This golf course proposal, in Mr Rooney's view, clearly falls short of the requirement to protect the dynamic dune environment and therefore to achieve a sustainable future for Menie Links.

SNH's written submissions

3.1.46 SNH's written submissions include a planning and policy context for its objection based on adverse impacts on the Foveran Links SSSI and on coastal habitats south of the SSSI, Annex I habitats and biodiversity interests. The planning and policy context for the development is set out in Chapter 1 of this report, while the adverse impacts are summarised in the evidence of SNH's witnesses. The written submissions also provide advice on:

- the Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area (SPA);
- European Protected Species (bats and otters);
- badgers; and
- landscape and visual impacts, impacts in respect of recreation and access, and sustainability issues.

A further written statement covers SNH's consideration of conditions and this is included within Appendix 1A.

Written submissions - The Ythan Estuary, Sands of Forvie and Meikle Loch SPA

3.1.47 SNH's advice is that this proposal is likely to have a significant effect on the qualifying interest(s) of the site. However SNH would further advise the Scottish Government, on the basis of the information provided and appraisal carried out, that the proposal would not adversely affect the integrity of the site, if and only if it was undertaken strictly in accordance with conditions, and any legal agreement(s), to achieve the following:

- a) The submission of a goose management scheme to the planning authority for its approval. The scheme should incorporate the measures outlined in section 4.8 of the May 2008 report and be implemented in accordance with that approval. The planning authority should seek further SNH advice on finalising the details of the goose management scheme before approval.
- b) The provision of a detailed public access plan, including details of access on the Menie Estate, the provision of open space within the development and the improvements of and access to semi natural open spaces within the estate. These measures are outlined in section 5.10.1 of the May 2008 report. SNH should be consulted further on the detail of these measures.

3.1.48 The appraisal referred to above considered the impact of the proposals on the following factors:

a) Population (pink footed geese) as a viable component of the site

- The analysis demonstrates that the proposed development area is important periodically to pink footed geese as both a roost and feeding area, based on geese numbers and the proportion of the population of the SPA using the proposed development site. It is also noted that wintering geese in the north east of Scotland are mobile and have a large resource available, including both alternative feeding areas and roosting sites.
- Consideration has been given to the impacts from the development on feeding and roosting of pink footed geese. In respect of feeding, SNH concludes from the data collected from the field visits and additional contextual data including evidence from previous radio tracking studies, that should the development be consented, an adverse effect on integrity could be avoided through the imposition of conditions to implement mitigation and compensation measures.
- With regard to roosting, the appraisal report identifies that a nocturnal goose roost has been established at Menie since at least 1998 and from the field visits it is demonstrated that the use of this roost is not a one-off. This use of Menie as a satellite roosting area has been considered in comparison with the use of the main roost sites within the Ythan Estuary SPA, and also in relation to any potential time-related or conditions-related requirements of the geese. From the evidence presented, the use of this satellite roost does not correlate strongly with night time feeding in the development area nor does it correlate with the availability of feeding during the build up before their spring migration time. The use of the roost appears to be more sporadic and opportunistic for birds flying from the south. There is no evidence to suggest that it has a key function to play during certain conditions at the main roost areas within the SPA. As the satellite roost appears to be additional rather than integral to the essential roosting requirements of geese using the SPA, SNH advises that if the development was to be consented, an adverse effect on integrity of the SPA could be avoided through the use of conditions (as indicated above) to adequately compensate for the disturbance, or possible loss of the roost area.

b) Potential for disturbance of the species

- The Ythan Estuary, Sands of Forvie and Meikle Loch SPA is approximately 3 km north of the proposed development. In its consultative response in 2007, SNH identified that the development of the resort was likely to have a significant effect on the SPA through increased disturbance to the qualifying interests, through an additional number of visitors visiting the SPA.
- Consideration has been given to the methodology for the calculation of these additional visitor numbers and, whilst a number of assumptions have been used, it is SNH's advice that if the development was to be consented, then an adverse effect on integrity could be avoided through the use of conditions covering in detail the necessary mitigation measures.
- Conditions would require the detailed submission and approval of a public access strategy for Menie Estate, including details of open space, and improvements to existing areas of semi-natural ground to increase the capacity for recreational activity within the development area itself.

3.1.49 The Scottish Government is required to undertake an appropriate assessment of the implications of the proposal for the site in view of the site's conservation objectives for its qualifying interest or interests. This assessment may be based on the appraisal by SNH, but Scottish Ministers may wish to carry out further appraisal before completing the appropriate assessment.

Written submissions - protected animal species

3.1.50 Bats and otters are European protected species, while badgers are protected under domestic law. Bats are at risk of disturbance where buildings that contain bat roosts are demolished or altered, or where large trees suitable for bats are felled. The main impact on bats appears to arise with the conversion of Menie Park Steading, where a survey identified 3 bat roosts. SNH advises that any planning consent should contain conditions for the protection of bats.

3.1.51 In its response of 30 May 2007, SNH noted that the ES stated that otters make regular use of 3 watercourses that pass through the development site. No otter holts or couches were found and SNH welcomed the mitigation measures proposed, should permission be given. However, the ES did not provide a map of the watercourses surveyed, nor did the survey include the full extent of the development area, which included the future housing and proposed golf courses and a suitable buffer area around the site. Prior to any permission being granted, SNH advised that the applicant be asked to provide this information. The subsequent otter survey report submitted in July 2007, submitted in the supplementary information, extended over a greater area than the original survey and found that, although there was still evidence that otters occur on Menie Estate, there was no evidence of any resting sites used by otters on the proposed development site.

3.1.52 SNH supports the recommendations in section 6.1 of the additional information, which sets out the intention to, where possible, enhance the wildlife value of burns and provide at least two new holts for otters, and also recommends that it be a condition of any planning consent that a management plan for otters incorporating these recommendations is developed and implemented.

3.1.53 In SNH's formal consultation response of 30 May 2007, SNH noted that the ES identified a main and outlier badger setts within the proposed development site, indicating that the area is used by a social group of badgers. SNH advised there was insufficient information currently available to assess the impact the development may have on badgers. A further badger survey was carried out between 4-6 June 2007. In addition to providing an update of the status of the setts identified in the previous survey, the second survey identified a new annex sett. The distance of this sett from the main sett is approximately 1.2 km, which suggests that more than one badger social group may occupy or utilise Menie Estate.

3.1.54 SNH considers that the proposed development site is sufficiently large to be able to accommodate the badger setts as well as the built development. Aspects of the badger development would result in a loss of foraging ground for badgers, but there are other neighbouring areas that the badgers will have access to for foraging, for example, land to the north. Since this is an application for outline permission, it should be possible to carry out the development in a manner that complies with the Protection of Badgers Act. SNH advises that if the application is consented, a condition should be attached requiring details of a badger protection plan to be submitted as part of the reserved matters application. That badger protection plan should:

- consider impacts to the badgers arising from construction and operation of the development;
- identify how setts would be protected; and
- identify a strategy to maintain and create foraging habitat.

Written submissions - landscape and visual impact

3.1.55 The SNH consultation response of 30 May 2007 identified that landscape and visual impacts were a point of concern. SNH did not object to the proposals on the basis of the landscape and visual impacts, but made a number of comments to assist the determining authorities in their consideration of the development. SNH's comments can be summarised as follows:

- the proposed development would result in a significant loss of distinctive landscape character and quality that is recognised in the designations of Undeveloped Coast and an Area of Landscape Significance;
- the proposed development would have significant adverse impacts on landscape character;
- the adverse significant visual impacts of the development extend outwith the immediate site to the wider study area between Balmedie and Newburgh;
- there is no evidence within the ES of a design philosophy and statement, as recommended in guidance set out in PAN 68 (Design Statements);
- there is no evidence within the ES that an iterative and master planning approach to consider the capacity of the landscape to accommodate different scales of development has been adopted;
- design opportunities, which reflect the landscape character, quality and visual amenity of the area, have not been adequately explored and a

- reduction of adverse landscape and visual impacts has not been addressed to an acceptable level; and
- the appropriateness of the landscape mitigation scheme requires further consideration.

Written submissions - recreation and access

3.1.56 The SNH consultation response of 30 May 2007 identified that recreation and access issues were a point of concern. SNH did not object to the proposals on the basis of potential recreation and access impacts, but made a number of comments to assist the determining authorities in their consideration of the development. SNH's comments can be summarised as follows:

- the development of the future golf area in particular raises several significant issues relating to recreation and access, namely:
 - restriction of access rights, the loss of recreational opportunities, and the loss of a valuable environmental education resource, and
 - adverse effects on the experience of recreational users, especially those seeking the isolation and naturalness of an area of undeveloped coast;
- the ES does not fully assess current use of the proposed development site and how recreational users' experience of the area would change as a result of the proposed development;
- SNH considers that inadequate consideration has been given to measures to mitigate the identified impacts on recreation and access; but
- SNH welcomes some proposals, in particular, the intention to produce an access strategy or plan in order to facilitate safe and responsible public access; if permission is given, this should be produced at an early stage so that it is integrated into the detailed design plans.

Additional matters from closing submissions

3.1.57 Subsequent applications in a multi-stage planning process judged likely to have a significant effect on the environment would themselves now, following the Environmental Impact Assessment (Scotland) Amendment Regulations 2007, require to be subject to environmental assessment but such a procedure at the reserved matters stage is not, in SNH's view, to be encouraged nor is it intended to limit the requirement for an appropriate level of information to accompany outline applications. The grant of an outline consent, particularly for a major high profile project, inevitably raises expectations that the development will be built and renders a subsequent refusal of reserved matters consent by the planning authority with the benefit of full information somewhat difficult to defend.

3.1.58 The absence of information on groundwater and wetlands is of particular concern. Dr Dargie readily acknowledged in cross-examination the importance of groundwater in the dominance of processes set forth on page 139 of SNH47. SNH notes in this respect the objection by SEPA contained in its written statement. If the Reporters reach the conclusion that there is sufficient information to judge the application, it is necessary to adopt a precautionary approach. Elements that have not been considered cannot simply be ignored, and this is

particularly necessary in relation to the ecological impacts. The challenge therefore is to assess properly the likely impacts, including indirect impacts that would flow from such a development and ensure, for example, that the focus at the inquiry on the championship course does not obscure the fact that two courses are planned, even if one remains largely unassessed because information is limited to its likely location.

3.1.59 The information on ground conditions and the groundwater resource is limited to a very preliminary report (T64), which discloses the need for artificial drainage (6.3.1.2). A link between peat and dune slacks is, in SNH's view, entirely possible and no investigation on the presence of peat in the planned receptor areas has been conducted. The possibility of the use of the groundwater resource for irrigation is advanced (T64, section 7.7). On these matters generally, in SNH's submission, the absence of information renders any conclusions about the future of the dune slacks that remain after development, let alone translocation of dune slacks, highly speculative.

3.1.60 No information is available on construction activities, but the huge scale of this development and potential cut and fill operations cannot be denied, nor can the prospect of substantial damage being done. For example, the removal by machinery and vehicles of dune slacks for translocation must make adjacent areas of dune slack susceptible to damage. If the course is to be capable of hosting major events, account needs to be taken of spectator areas, grandstands, hospitality tents, tented villages and all the other paraphernalia of a major golf event. Such items of 'infrastructure' must be placed somewhere and some form of damage, including from general spectator movement, must occur no matter how careful the planning when so much of the ground is sensitive to the impacts that would arise. Parts of the dune slack areas not directly lost would still be part of the golf course and would suffer a degree of play.

3.1.61 SNH contrasts the situation at Menie with the golf course development at Machrihanish, which has recently been consented on the site of an existing SSSI. All applications for planning permission require to be judged, including by SNH, on their individual merits and in cross-examination both Dr Hansom and Mr Angus explained the initial opposition of SNH to the Machrihanish proposal, the detailed negotiations over a substantial period and the very substantial changes made to the proposal. By contrast, at Menie the applicant has rejected all attempts at negotiation over the location of the golf course and in so doing has ignored the advice of its own environmental consultants. Unlike the present proposals, Machrihanish has been 'future-proofed' by the construction at the outset of alternatives to those parts of the course under any possible future threat. In the sense of its ability to change layout, the course is itself mobile. Any proposal to site a golf course on an existing SSSI presents a substantial challenge, but the circumstances at Machrihanish point, in SNH's submission, to SNH's ability to adopt an approach dictated by the precise circumstances before it.

3.1.62 In terms of the test in NPPG 14, the adverse effects on the natural heritage need to be "*clearly outweighed*" by benefits of national importance, and in SNH's view the burden of proof lies with the applicant. SNH submits that the test of national importance is very demanding. No definition of this term appeared before

the inquiry, and SNH considers that neither the applicant nor the council has applied its mind to what constitutes a benefit of national importance. In SNH's submission, regard needs to be paid not only to the current economic well-being of the local area but also to the nature of the development. Irrespective of the economic benefits and the understandable local support, including that from the business community, the development remains a commercial leisure development being cross-funded in part by a proposed residential development. It does not, in SNH's view, need to be located on the SSSI to be of world-class standard. The balancing exercise contained in NPPG 14 is between two elements of 'national importance', but in respect of the SSSI, there is no doubting that its qualification depends on strict designation criteria. By contrast, there is no clear test, and no evidence before the inquiry, for ascertaining whether economic benefits are of national importance, let alone any evidence to prove that such benefits will 'clearly outweigh' the adverse effects.

The case for the Royal Society for the Protection of Birds (RSPB) Scotland; the Scottish Wildlife Trust (SWT); and the Botanical Society of the British Isles (BSBI)

3.2.1 The case for this group of objectors was led at the inquiry by Mr Tyldesley. On days when he was unable to be present, Ms Cockburn represented the group's interests. Mr Hughes and Dr Auld gave evidence on behalf of the group.

The Scottish Wildlife Trust – Mr Hughes

3.2.2 Mr Jonathan Hughes is Head of Policy at the Scottish Wildlife Trust. He has worked in the field of nature conservation for over 16 years after graduating with a Masters degree in Ecology in 1991, and has held positions including policy adviser on ancient woodland to the Forestry Commission in England and wildlife reserve manager for a coastal sand dune complex and estuarine basin in north east Scotland – Loch Fleet in Sutherland. He has also worked as an independent ecological consultant, mainly on specialist invertebrate surveys and vegetation surveys to National Vegetation Classification standards.

3.2.3 The SWT, RSPB and BSBI consider that the likely adverse environmental impacts of this development are unacceptable, irreversible and not outweighed by any over-riding strategic need or national interest. These bodies believe strongly that the damage to the integrity of the Foveran Links SSSI and to biodiversity, over the whole site, would be so severe that that the application should not be permitted. There is a definition of 'integrity' in the Habitats Directive Circular June 2000 (RSB57) which states that "*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*". 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.

3.2.4 Mr Hughes said that there are 13 SSSIs in Scotland located wholly or partly on golf courses, but with two exceptions, the courses pre-dated the

notification, they are not on mobile dunes, and most of the sand dune interest features on these SSSI golf courses are not in favourable condition. Only two golf courses have been built on SSSI: a 9-hole course established in 1988 at Durness which was at the time unauthorised and needed retrospective permission, and the more recent course at Machrihanish, which is on fixed dunes and where the developer worked closely with SNH to satisfy its concerns.

3.2.5 Mr Hughes outlined the need for Scotland to deliver on its commitment to sustainable development as outlined in the current Government's Economic Strategy and Scotland's Sustainable Development Strategy (RSB60). He referred to the stark warnings from the Millennium Ecosystem Assessment which concluded that if unsustainable development continued at current rates then the projected future species extinctions rate would be ten times higher than the current level – which itself is already over 1000 times the background rate. He explained that in Scotland, only a third of UK Biodiversity Action Plan (Core-F5) habitats were in an improving or in a stable condition. This plan and the associated local Biodiversity Action Plan for North East Scotland (Core-F8) were in 2004 given legal underpinning by section 1(2)(b) of the Nature Conservation (Scotland) Act. Within the Coastal Sand Dunes Habitat Action Plan (RSB47) there are commitments to protect the existing UK sand dune resource of around 54,000 ha from *“further losses to anthropogenic factors”*. Allowing this development to proceed as proposed would therefore not only undermine SSSI legislation, but also undermine the whole biodiversity policy process, including the efforts of this and previous administrations to *“halt the loss of biodiversity”* by 2010, a target to which Scotland and the UK have been committed since 2001 (RSB65).

3.2.6 Mr Hughes made the point that it is taxpayers' money which pays for the management and administration of the SSSI network and that loss of part of an SSSI would therefore represent a significant loss of this public investment. He went on to refer to the current Government's central purpose as stated in its Economic Strategy (RSB36), namely to increase 'sustainable economic growth', pointing out that the 'sustainable' part of this phrase is just as important as the 'growth' part. The Economic Strategy states that *“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”*. Mr Hughes concluded that the development as proposed would be unsustainable, and so would not contribute to the Government's central purpose. However, he maintained that it could contribute to this purpose if it was redesigned away from the SSSI, and if the right planning conditions and Section 75 agreement were put in place for the rest of the site. Mr Hughes considered that any adverse effects of the proposed development outside the Menie site would be minimal, though there was some risk of non-native species used in golf course development (e.g. New Zealand fescue) spreading to the northern part of the SSSI.

3.2.7 Mr Hughes considered that the development as proposed contravenes almost every planning policy, environmental policy and government strategy in the national canon, including the sustainability objectives in the National Planning Framework, SPP 1, NPPG 14, the approved North East Scotland Together Structure Plan, and the adopted Aberdeenshire Local Plan. He contended that the

development as proposed would damage Scotland's global reputation by sending a 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.

3.2.8 Mr Hughes emphasised the importance of geomorphology and ecology at Menie Links, including the spectacular and almost unique nature of certain parts of the sand dune system. The north Menie sand dome, measuring around 400 metres by 300 metres, is the most extensive example of this type of dynamic dune in the UK. He quoted Professor John McManus, Emeritus Professor at the School of Geography and Geosciences, University of St Andrews, who believes the Menie dunes contain "*exceptionally interesting characteristics*" which in the Foveran Links SSSI area are very dynamic in nature. Professor McManus had explained that the active sands around the sand dome receive material blown from the beach along access corridors in the south, and that this process is vital to the integrity of the living dune system. Any attempt to interfere with these natural processes, or any efforts to stabilise the dune surfaces with artificial coatings or introduced vegetation, would lead to the loss of the dynamic processes which make the dunes so unique and important. It was not just the destruction of the current geomorphological, and linked ecological, interest which was 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. Mr Hughes referred to a recent geomorphological report commissioned by SNH which also concluded that this area is of international significance for its scientific value and "*relatively unique in a Northwest European context*".

3.2.9 A further key point related to the interdependency of the dynamic nature of the dunes and the nature conservation value of the site. Mr Hughes emphasised 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 dependent. The landforms and ecology of the site are inexorably linked. Any disruption of this dynamism, through for example the proposed stabilisation measures, would 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. He further explained that the individual components of the sand dune system - the species and habitats – although vitally important in their own right are not in themselves as important as the integrity of the whole system, which is of primary concern. He contended that switching off the natural functioning of the system would eventually lead to profound and irreversible changes to the ecology of the site, including the loss of individual habitats and species components. It was 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 could offset the effective functional breakdown of the living system.

3.2.10 Mr Hughes commented on the prospects for translocation. He considered it unlikely that rare species would survive this process, which he described as tantamount to ecological vandalism. Habitats should not be regarded as a series of patches, but as a coherent system where transitions from one type to another are important. Young dune slack (SD13) would be particularly difficult to

move successfully. There are no papers on this. Using an excavator bucket would yield a pile of gravel and sand with a few plants in the middle, so the whole thing would fall apart. New techniques and equipment would have to be developed. The requirements of this habitat type, in terms of landform, ecohydrology and dynamic conditions, are very specific and could not be recreated elsewhere. Even if some translocation of SD13 succeeded, its subsequent transition to SD16 could not be considered a success. There would be a loss of integrity, of the subtle mosaic of habitats and of the interactions between them. The result would be a kind of 'habitat mush' in the wrong places.

3.2.11 Mr Hughes disagreed with the view expressed by Mr Bell, that the proposed development would not, after mitigation, have a significant adverse effect on birds and protected species. The conclusions of RSPB/SWT/BSBI are that significant adverse effects on birds would result, and that there would be a negative impact on the overall bird interest and other biodiversity of the area.

3.2.12 Regarding planning conditions and the legal agreement, Mr Hughes explained that, as they stood when he gave evidence, these would not resolve the concerns of SWT/RSPB/BSBI. He stated that SWT/RSPB/BSBI were open to constructive dialogue with the developer on these issues, but expressed concern that these organisations had not received any draft agreement regarding the proposed MEMAG. He also expressed concern over the efficacy of this group, which in his view would only ever be a monitoring body with little power to prevent avoidable harm to the dunes.

Royal Society for the Protection of Birds Scotland – Dr Auld

3.2.13 Dr Martin Auld holds a BSc Honours degree in Botany from Leeds University and a Doctor of Philosophy degree in Plant Physiology and Upland Grazing systems from Newcastle University. He has been employed by the RSPB as the Regional Director for the East Scotland region since 1995 and is currently responsible for the direction of RSPB Scotland's work in the region.

3.2.14 Dr Auld said that RSPB/SWT/BSBI considered that the applicant had not adequately explored alternative layout solutions within the site that would eliminate or at least reduce the main adverse impacts of the proposal on the natural heritage. TIGLS had stated categorically that the last nine holes could not be relocated, but this led to unnecessary conflict. Dr Auld likened the applicant's approach to proposing that part of a nationally important historic monument such as Dunnottar Castle should be demolished to make way for a leisure development. Such proposals would not be countenanced in that scenario, regardless of claimed economic benefit, and should not be here, as the natural resources are equally irreplaceable.

3.2.15 Dr Auld stated that the nature conservation importance of the landforms and habitats within the application site is clearly of a very high level. In summary, the site holds:

- a) Two mobile sand dune systems which are amongst the largest and best examples in NW Europe. One of these is designated as a SSSI, and it meets the criteria for Geological Conservation Review site designation.
- b) A suite of dune habitats, in particular dune slacks, which is outstanding at a national level. These include five habitat types which are listed in Annex 1 of the Habitats Directive, three of which are considered as priority habitats. At least two of these (CORINE 2130 (NVC: SD 7, 8, 9b, 11, 12, 19); and CORINE 2140 (NVC: H11b)) are under-represented in the UK within the suite of designated sites designed to protect them.
- c) Communities of many animal and plant groups that are of high biodiversity value. The range of birds present is of near-SSSI quality and includes 11 species 'red-listed' as Birds of Conservation Concern. Otter, a European Protected Species, and two species of bat occur on the site and the invertebrate survey data for the area indicates the presence of numerous species of conservation value; at least 13 endangered or vulnerable species are already known to be present. The vegetation communities on the dunes, both higher and lower plants, are already known to be of considerable importance.

3.2.16 Many of these species, said Dr Auld, are nationally important in their own right, but it is the sum total of the species and their supporting habitat - the whole 'ecological community' - that is rare in a Scottish, UK and European context and of high national and international scientific value. The proposed development would compromise the integrity of the whole interconnected system of coastal habitats made up of the suite of nationally and locally protected sites stretching the entire length of the coast from the Don to the Collieston Cliffs. If parts of the system are removed from the centre, this could adversely affect the movement of species over a wider area, and could lead to displacement of mobile species, with effects elsewhere.

3.2.17 Dr Auld referred to the Scottish Government's sustainable development strategy published in 2005 which includes a requirement that economic development be sustainable. It is therefore incumbent upon us to ensure current and future decisions are consistent with this principle. An approach which positively seeks to destroy naturally sustaining environmental capital and replace it with managed non-sustaining urban and leisure capital manifestly fails the test of sustainability. The concept that our environment can always be managed, whenever and wherever we choose to manipulate it, lacks an understanding of such natural processes and of the extremely modest extent of our knowledge of natural systems. Dr Auld acknowledged that he did not have experience in economics, but said there was evidence to support the value of environmental assets. Sustainable development should seek to provide win-win-win solutions for economic, environmental and social sustainability.

3.2.18 Dr Auld questioned whether serious environmental damage and disruption to natural processes is a necessary and inevitable sacrifice to be paid to achieve perceived economic benefits. As far as he could see, the nature and scale of this project had at no time been significantly reduced, modified or moderated to lessen its impact on the environment. It was as though the SSSI and unique dune system with its associated ecology counted for nothing in the design of the master plan, other than as an economic tool. Dr Auld explained that the purpose of all EU

and UK natural environment site designation legislation is to ensure protection of the best remaining examples of environmental assets across the EU and more locally within the UK and Scotland. If this development were permitted as proposed, it would seriously undermine the credibility of the planning system to protect environmental assets recognised as being of national importance. The SSSI notification would have counted for nothing.

3.2.19 In Dr Auld's view, it is not necessary for a major golf, leisure, hotel, conference and residential development to damage a nationally important nature conservation site. He had seen no evidence to show that similar economic benefits could not be achieved by a project (which may be a variation of this one) that did not cause irreparable and severe damage to nationally important environmental assets. With this in mind, RSPB/SWT/BSBI had sought to find out whether an alternative links golf course could be designed which would not impinge upon the SSSI or the southern sand dome, would minimise the effects upon the SINS site and would provide a unique opportunity for links golf. Mike Wood, a respected golf course designer with experience of this type of course design, was asked to do this and had supplied such a design (RSB17B). Dr Auld emphasised that he was not presenting a golf course, but rather showing that it was possible to provide a course design that avoids the SSSI and has less impact on the habitats and species on site than the course proposed by TIGLS. He acknowledged that the alternative design would have nature conservation impacts of its own, which had not been assessed in detail. He was unable to say whether it would displace other elements of the proposed development.

3.2.20 Dr Auld said that TIGLS had asserted in numerous places that mitigation, new habitat creation and management have the capacity to *"significantly reduce the magnitude of 'some' ecological impacts on flora and fauna"*. He disagreed with this, and considered that the TIGLS mitigation suggestions are overplayed; most attempts to mitigate or compensate adverse effects of this significance are either untested, experimental, likely to be small-scale or based on models from elsewhere that have had debatable or poorly monitored results over the long-term. The proposed habitat management on areas of the SSSI not directly affected by development would be trying to maintain a dynamic dune habitat system on a static dune system, with the added complication of the effects of aggressive alien species introduced as part of the golf course construction and management. Other mitigation proposals included integration of design proposals that follow ecological best practice, possible habitat creation or *"if feasible"* the translocation of priority habitats. Given the layout in the site plan (which shows no allocated space for these proposals at any significant size), such measures are, in Dr Auld's opinion, likely to be small-scale, probably ineffectual (especially the proposed translocation) and would almost certainly provide little mitigation or compensation for the overall adverse effects of the development.

3.2.21 Dr Auld referred to his own significant experience in the translocation and restoration of both moorland and heathland. The movement of heathland units is rarely done at a large scale and even where it has been done the resultant habitat, although looking like heathland, is not. A better description would be 'heather land' where the most dominant vegetation survives but the companion species die out due to the loss of the complex interactions of the associated species both plant and

animal. The difficulty of maintaining micro-habitats is generally insurmountable, particularly when they are either not recognised or are too complex to recreate. Such large-scale (35 ha) translocation of sensitive material from dune habitat has never been attempted before. In Dr Auld's experience restoration of large-scale habitat damage has been attempted, and while it is possible to re-vegetate an area, the complex micro interactions are not re-creatable. The extremely fragile and dynamic coastal ecosystems and communities here would, in his opinion, be even less likely to survive translocation.

3.2.22 Dr Auld said that much of the TIGLS text focused on the applicant's intention to review literature. It was easy for the applicant to assert what they intended to do, but they provided little supporting factual information based on successful translocations elsewhere. He regarded the statements presented in the TIGLS document as being optimistic and intended mainly to support the TIGLS case. The emphasis in general is on small-scale modifications to detailed design, rather than addressing the major habitat loss that the development would cause, as fully acknowledged in the original EA. The reality is that there is significant net loss that cannot be mitigated or compensated for. TIGLS has implied that somehow there is a 'balance' between the destruction of the SSSI and the development, and that mitigation makes a significant difference to this choice. In Dr Auld's view, this is not so – it is a straightforward conflict between site protection policies (plus the associated protection of irreplaceable natural assets) and the development of a golf course. Such 'balance' is likely to result in net loss of natural habitat – eroding Aberdeenshire's biodiversity.

3.2.23 Whilst the RSPB, SWT and BSBI consider that planning permission for the proposals, as submitted, should be refused, because of the severe impacts on nature conservation, in the event that outline planning permission is granted by the Scottish Ministers, they recommend that conditions should be imposed. In particular, these should prohibit development in the area of the SSSI and on the southern part of the SINS comprising the mobile dune system and in order to protect the integrity of the Sands of Forvie-Ythan Estuary SPA. RSPB, SWT and BSBI also consider that an exceptional golf experience could be provided on a links course, at Balmedie, without affecting either the SSSI or the southern part of the SINS and that a golf course could be constructed on the remaining part of the SINS and other parts of the estate, with less damaging consequences for the fixed dune systems and associated habitats and species.

Written submissions

3.2.24 RSPB/SWT/BSBI made six written submissions dealing with:

- Geomorphology
- Ecology, habitats and species
- The application of the Habitats Regulations
- The impacts of the proposed development on the birds of Menie Estate
- Planning policy and guidance, and
- Conditions and Section 75 agreement

A number of key points from these submissions are also covered in the evidence of Mr Hughes and Dr Auld summarised above, or are covered elsewhere in this report. This section summarises the remaining main features of these representations.

3.2.25 RSPB/SWT/BSBI consider that important environmental information is missing, including evaluation of the impacts of the second golf course. Insufficient consideration has been given in the ES to long-term habitat change brought about by the processes of dune stabilisation, shaping of tees, greens, bunkers and fairways, watering and drainage, the use of fertilisers and herbicides, the eradication of rabbits, the spread of introduced organisms, trampling, passage of machinery, divot replacement etc. Such change would be additional to direct habitat loss. The bryophyte survey requested by the council at the scoping stage had not been carried out by the start of the inquiry, and it appeared likely that some rare and red-listed species would be found. The absence of data on bryophytes throws doubt on the ability of Scottish Ministers to address all material considerations when reaching their decision. There is also a lack of information on the distribution of the red-listed plant shepherd's cress, whose presence in the development area has been reported. More generally, the ES fails to address the impact upon the whole ecosystem and dynamics of vegetation, rather than upon its constituent components which are considered individually.

3.2.26 The whole championship golf course would lie within the Foveran Links Site of Interest to Natural Science (SINS), a regional nature conservation designation protected by local plan policy Env 3. The SINS site comprises four overlapping SESA (Study of Environmentally Sensitive Area) sites: 2 relating to entomology (amalgamated in the evidence of some witnesses to a single site), and one each to botany and ornithology. Together these are far more extensive than the "*Foveran Botanical SINS*" identified in the applicant's document T50. The latter is in fact the Botany 36 (Foveran Links) SESA, identified for damp dune slacks with particularly interesting flora including unusual ferns and bryophytes. The ES (Core-G3, paragraph 7.3.10) notes that the SINS "*should have been selected as a combined geomorphological and ecological SSSI according to national guidelines (JNCC 1998). Those guidelines give general principles and list 7 selection types of dune habitat, all of which are present*".

3.2.27 The applicant's documents T4 and T50 give details of direct habitat loss to the championship golf course development, but do not include losses from the second golf course or the rest of the outline proposal, and take no account of longer-term and secondary losses. The applicant estimates that these direct habitat losses would total 35.08 ha of key dune habitats, 1.49 ha of moderate interest habitats and 5.13 ha of low interest habitats. Within Foveran Links SSSI, direct losses would be 19.35 ha, 0.02 ha and 2.36 ha respectively. Nearly all the key dune habitats to be lost are Habitats Directive Annex 1 habitats, with 16.53 ha of that loss to Priority Habitats (grey dunes and decalcified fixed dunes). Such losses of internationally, nationally and regionally important habitat would be a flagrant contradiction of the biodiversity planning purpose and process, and are unacceptable where they are unnecessary and avoidable.

3.2.28 The proposed development would have a considerable impact on invertebrates. The direct loss of some dune habitats and the stabilisation of mobile

dunes would adversely affect the integrity of the overall community of invertebrate animals present. It would threaten the open grassland continuity of habitat for the Grayling butterfly and would reduce the extent and connectivity of other dune habitats. The loss of some areas then devalues others nearby, reducing the functioning of the population structure over a wider area.

3.2.29 A number of species of higher plant and fern found at Menie are of very high conservation importance (RSB3). These are:

- Curved sedge (*Carex maritima*) – Endangered;
- Early marsh orchid (*Dactylorhiza incarnata*) – Scarce;
- Rush-leaved fescue (*Festuca arenaria*) – Scarce;
- Heath cudweed (*Gnaphalium sylvaticum*) – Endangered;
- Intermediate wintergreen (*Pyrola media*) – Vulnerable;
- Allseed (*Radiola linoides*);
- Shepherd's cress (*Teesdalia nudicaulis*) – Near Threatened;
- Heath dog-violet (*Viola canina*);
- Field pansy (*Viola tricolor*); and
- Small adder's-tongue (*Ophioglossum azoricum*) – Scarce.

3.2.30 The ES (chapter 7, p116) concedes that there would be losses to at least 50% of the *Carex maritima* and probably 90% of the *Ophioglossum* population. The ES (Appendix 7.6) also lists notable species of lichen, which include one Near Threatened species (*Leptogium palmatum*), 7 Nationally Scarce species, 2 species for which Britain has international responsibility and one species which may be endemic to Britain. The Menie community of fungi supports three species from the 2007 UK Red List, three other species not yet recorded elsewhere in Scotland, and 10 other species that have been found only in 1-9 other sites in Scotland (Fungal Survey part 2, provided by TIGLS on 9 May 2008).

3.2.31 RSPB/SWT/BSBI consider that an appropriate assessment is required in relation to the effects of the proposed development on the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and the Ythan Estuary and Meikle Loch Ramsar Site. They draw attention to the judgment of the European Court of Justice in Case C-127/02, commonly referred to as the *Waddenzee* case, and quote from the judgment:

“Any plan or project not directly connected with or necessary to the management of the site is to be subject to an appropriate assessment of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects.”

3.2.32 On the evidence available, it is the opinion of the RSPB/SWT/BSBI that the proposed development would be likely to have a significant effect on pink-footed geese, because of the reduction in available feeding and roosting areas and increased disturbance of the geese off-site. They consider that Scottish Ministers would not be able to ascertain that the development as proposed would not

adversely affect the integrity of the SPA in the absence of mitigation measures, and that if planning permission is granted, it should be subject to a condition requiring a goose management scheme.

3.2.33 RSPB/SWT/BSBI also consider that, on the evidence available, the proposed development would be likely to have a significant effect on the SPA because of the potential for increased disturbance to feeding, resting, roosting and breeding birds arising from increased visitor pressures associated with the proposed development. This should also be the subject of an appropriate assessment and mitigation measures.

3.2.34 RSPB/SWT/BSBI accept that the baseline bird information about the site is sufficient to allow an informed debate about the ornithological significance of the site and to facilitate the necessary assessment of likely impact. The debate revolves around uncertainty of impact and the likely effectiveness of mitigation measures. The areas of disagreement with the conclusions and statements made by the applicant are as follows.

- a) The proposed Course Environmental Management Plan is likely to be insufficient and ineffective to deal with the scale of impacts that would result from the development. At best any mitigation or benefits would be cosmetic and small scale, relative to the degree of development incursion into existing bird habitats.
- b) RSPB/SWT/BSBI do not agree that long-term positive impacts on birds would occur or (Core-G3: ES, p.110) that the long-term impacts would be likely to be lower.
- c) It is not helpful to distinguish between 'short-term' and 'long-term' negative impacts in this case. The scale of change proposed in this golf resort development is so large, with so much built development proposed both immediately and in later years, that the adverse effects on birds would be wide-scale and permanent, with only small-scale mitigation measures.
- d) RSPB/SWT/BSBI disagree that *"Bird-specific management could raise the bird interest above SSSI qualifying threshold levels"*. The losses would never be recovered and such a level of enhancement is unachievable on the developed site (Core-G6: Breeding Bird Survey 2007, s.5.3.4.1).
- e) RSPB/SWT/BSBI disagree that slight-negligible negative impacts on any bird species are *"within sustainable limits, national, regional and local"* (Core-G6: Breeding Bird Survey; RSB WS/4 Page 8, 2007, s.7.0). The impacts on the site would be considerable and there is no evidence to support the assertion that populations would be sustained.
- f) RSPB/SWT/BSBI disagree that the following action - *"in the short and long-term, ensure that key features such as wetlands, wet slacks and water bodies are given maximum buffer zones"* (Core-G3: ES p. 114) - would have much practical effect. Given the spatial extent of the development footprint and the function of buffer zones, this would be likely to be ineffective in a development of this kind, especially in relation to birds' usage of such areas.

3.2.35 In terms of the mitigation for permanent loss of habitat for birds (ES p.115), RSPB/SWT/BSBI consider these to be inadequate for the following reasons.

- a) Measures such as planting 0.97 ha of gorse scrub and 3.9 ha of wetland creation are small-scale and insufficient to compensate for the high level of habitat loss in a site with a large development footprint and significantly higher disturbance levels.
- b) The proposed future golf and resort development may create habitat but this would be smaller scale and of far less value for birds when compared with the habitat losses brought about by their construction and development footprint.
- c) Almost all the measures proposed are speculative and small-scale and it is not clear to what extent they could be accommodated by the very demanding layout of the rest of the resort development.
- d) In terms of residual impacts (Core-G3: ES table p.120), most measures fail to take account of the context in which they are being proposed. For example, Corn Buntings, if still present, would be unlikely to benefit from boundary features especially bearing in mind the matrix of built development (RSB WS/4 p. 9), the redesigned landscape and the increased level of human disturbance. The extent and location of any proposed compensatory wetland creation would also be likely to be constrained by the demands of the rest of the resort development.
- e) In terms of the measures suggested in the appropriate assessment and wintering bird report 2007 (Core-G4, 8.2), with the possible exception of the retention of flight ponds, none of the measures proposed would mitigate significantly the loss of winter bird habitat.
- f) The creation of new grasslands would be unlikely to be of sufficient scale or appropriate in nature to attract wintering waders due to the matrix within which they would be set and due to the competition for land and amenity from the other developments within the resort.
- g) The creation of any significant new water bodies would not be permitted by the Civil Aviation Authority and positive management of wetland and riparian corridors would be more than offset by their losses.
- h) In terms of the measures suggested in the report to inform the appropriate assessment (T16: (2008) p15), screening and buffering of the roost pool would be unlikely to be possible or effective in retaining roosting pink footed geese and such a proposal does not reflect the species' likely behaviour.

The development proposals therefore not only damage or destroy part of a nationally important SSSI, but also bring about negative impacts on the overall bird interest of the wider estate. This additional negative impact should be taken into account in determining the application.

Additional matters from closing submissions

3.2.36 In terms of the hierarchy of nature conservation designations, RSPB/SWT/BSBI consider that the interest features of the Special Area of Conservation, the Special Protection Area and Ramsar site, the National Nature

Reserve and the SSSI should be given the highest level of protection in the planning system. The requirements of the Habitats Regulations apply as a matter of law to the international sites. The features of the SINS that are agreed to qualify for SSSI notification (see paragraph 3.2.25 above) should be accorded the same ranking. There is European case law to support this approach (Case C – 374/98 *EC v French Republic Basses Corbieres* 7/12/2000, and Case C-117/03, ruling for the Italian Courts in the case of *Dragaggi and others v Italian Ministry of Infrastructure and Transport et al Port of Monfalcone*).

3.2.37 In the absence of explicit guidance to the contrary, it is also logical to accord the same rank in planning decisions at least to EC Annex 1 priority habitats and species outwith internationally designated sites and to European protected species. Whilst not directly equivalent, it is the European protected species which are subject to special measures within the planning system. It follows that, whilst very important, the same weight cannot be attached to EC Annex 1 non-priority habitats and species, other features habitats or species in the SINS, to important habitats in the wider natural heritage, or to protected species other than European protected species. However, that does not mean that they are not important, and critically linked to the higher-ranking interests.

3.2.38 The weight attached to impacts on any of the above features, habitats or species, in any particular case, is a matter for the decision-maker. This will depend on the circumstances of a case. Factors such as the degree of harm, the risk of harm occurring, whether the harm is reversible, long or short term, temporary or permanent, etc will all influence the weight to be attached. It follows that greatest weight should be attached where the certain or near-certain effects of a proposed development would be to destroy, permanently and irreversibly all or a substantial part of a nature conservation interest of national or international importance, whether designated or not. RSPB/SWT/BSBI argue that that is what would apply to the interest features of the Foveran Links SSSI and SINS if this development were to proceed.

3.2.39 Given the terms of paragraph 25 of NPPG 14 if this development were to be permitted it would be necessary for the Scottish Ministers to show that the overall integrity of the SSSI would not be compromised; or there are social or economic benefits of national importance, and those benefits clearly outweigh the significant adverse effects. It is not enough for the social or economic benefits to marginally tip the balance, and they must be of national importance. RSPB/SWT/BSBI submits that it is irrefutable that the overall integrity of the SSSI would be compromised by the development as proposed. The proposed golf course would destroy a unique, dynamic, coastal, geomorphological and ecological system of the highest scientific and nature conservation value.

3.2.40 In applying the test of social or economic benefits of national importance it is appropriate to consider, not the impact on the SSSI against the whole economic benefit of the development, but against any additional economic benefit that using the SSSI would bring. Alternatives have not been explored. The harm to the SSSI would be certain, of the highest level of significance, and permanent. The economic benefits are, in the opinion of RSPB/SWT/BSBI, far from certain, and the project has been described as risky in some respects. At national

level, these benefits cannot be described as of the highest level of significance, and no one could predict whether they would be permanent. The economic benefits of the applicant's proposals cannot therefore "clearly outweigh" the harm to the SSSI, and the tests of NPPG 14 are not met.

3.2.41 RSPB/SWT/BSBI are of the opinion that a grant of outline planning permission may be unsafe in respect of the EIA Regulations / Directive, because the ES failed to report on the assessment of alternatives studied and fails to include any assessment of the second golf course. The Scottish Ministers will need to satisfy themselves that it is legally admissible to impose a condition requiring an ES to be submitted with reserved matter applications, when granting an outline planning permission, knowing that an element of the project permitted has not been, but could and should have been, assessed at outline stage.

The case for the Ramblers' Association Scotland; Aberdeenshire Local Outdoor Access Forum; and Scottish Rights of Way and Access Society

3.3.1 The case for this group of objectors was coordinated, as requested at the pre-inquiry meeting, by the Ramblers' Association and led at the inquiry, depending on availability, by Ms Todd; Mr Morris; Mr Thomson; and Mr Mackay representing these organisations respectively and the interests of the overall group.

The Ramblers' Association – Mr Morris

3.3.2 Mr Dave Morris is the Director of the Ramblers' Association in Scotland and has been responsible for their operations in Scotland since 1989. Before that he worked for the Nature Conservancy Council on scientific and policy issues in Aviemore, being then responsible for the Findhorn SSSI, and later in England. Mr Morris has extensive experience of international conservation and recreation issues, through involvement with the World Conservation Union and the International Mountaineering and Climbing Association.

3.3.3 Scotland is a nation that is recognised world-wide for the value of its scenery and wildlife and the opportunities these offer for outdoor recreation of the highest quality. The coastal section of Menie is amongst the best in Scotland for providing such opportunities and, with its proximity to Aberdeen, provides the additional benefit of easy access to wild coastal land for all sectors of the population. Mr Morris explained that there are no specific land use policy designations designed to protect such "wild land", despite the very large proportion of the population that values it and supports action to protect wild places. Instead wild land values are often, but not exclusively, safeguarded through designations that have been introduced to protect other environmental values, especially those associated with wildlife and landscape. Decisions on specific planning applications are of crucial importance – these are the foundation by which wild land values, from the international to the local, are respected and safeguarded in Scotland. In this instance it was submitted that TIGLS do not have a clear understanding or recognition of the existing recreational value of the site and failed to consult with the Ramblers' Association or others at any time before the opening of the inquiry on the interests which they seek to protect.

3.3.4 Mr Morris thought that the proposed development would be incompatible with the safeguarding of outdoor recreational value at Menie due primarily to its impact on the dune system. Although in answer to questions, he indicated that the Ramblers' opposition to the development was the consequence of the effect on recreational value rather than because the development impinges on the SSSI. The Ramblers' Association considers also that the scale and setting of the proposed larger buildings, as seen from the seaward side, is incompatible with the enjoyment of an unspoiled coastal area. He referred to the developer's description of the prospective hotel as an "*iconic*" building; "*eccentric*" would be more apt for such a large building in a very open landscape.

3.3.5 Mr Morris saw no inherent incompatibility between a golf course development and public access for recreation. He also accepted that golf courses can have high environmental values and extend the range of opportunities for informal outdoor recreation, but at Menie this would be a managed outdoor environment quite different to the dune and beach, even taking account of the existing artificial features, such as fencing, which are on a minor scale. Mr Morris considered that the careful construction of greens, fairways and tees, along with stabilisation of some dunes as well as the associated path structure to enable golfers to travel between the holes would not be an acceptable compromise within the dune system. A high degree of artificiality would be introduced within what should remain a predominantly natural landscape created by mobile dunes. This and the resulting natural landform should remain the dominant feature.

3.3.6 Mr Morris referred also to the issue of access rights, where Mr Mackay was leading for this group of objectors. The main concern of the Ramblers' Association was that it would be difficult to reconcile the land management issues of integrating a leisure development, private housing and the golf courses within dunes where other activities are taking place and where people would not expect to be confined to paths when taking access. This balance is not easily struck where significant levels of public access take place over an area which is also heavily used for golf, with one playing group immediately followed by another.

3.3.7 These statutory access rights run in parallel with any other rights, traditions or customs on which access to land has been taken and thus have to be taken into account. At Menie this would mean that the recreational activity of sledging on snow in winter would still have to be facilitated on the basis that this was a customary activity in Scotland, which is outwith statutory access rights, because statutory access can only be taken across golf courses for passage and not recreation. In practice this would mean that the golf course managers would not be expected to inhibit such activity and perhaps manage it in ways which prevented or minimised any resulting damage, such as by fencing off the greens during times of snow. Similar considerations would apply to the summer activity of picnicking.

3.3.8 Mr Morris referred also to the potential conflict between the development proposals and the requirement to provide environmental protection; each of the 4 areas of conflict that he identified (with the local and national planning policy; the Habitats Directive; the European Landscape Convention; and the Environmental Assessment Regulations) provides grounds for the refusal of outline

planning permission or the imposition of planning conditions that would alter the allocation of land within the site to different uses.

3.3.9 In respect of planning policy, Mr Morris indicated agreement with the views of other parties on the incompatibility of the proposed development with the planning policies contained within the existing Aberdeenshire structure and local plans and planning policy guidance issued by the Scottish Government or its predecessors. He anticipated the argument that this proposal could not have been predicted at the time that these policies were put in place or that the potential economic benefits outweigh the loss of environmental and recreational values that these policies safeguard. The Ramblers' Association rejects such arguments; these would only be valid if Menie was a location where a development of national importance could be accommodated and there were no reasonable alternatives. This cannot be the case with a golf course, leisure and housing development, even where the developer claims that the golf course would be of world-class. Not only is it a reasonable expectation that alternative locations for such a development could be found, there are also clear possibilities of adjusting the proposed development at Menie so that the existing environmental and recreational values are not compromised.

3.3.10 In relation to the Habitats Directive, he agreed with the views of others that priority habitats are present at Menie. These should be safeguarded as part of the UK and Scottish Government's obligations. These are an important component of the qualities of naturalness that characterise the recreational value of the whole coastal section of the Menie Estate.

3.3.11 Mr Morris indicated that the UK Government agreed to implement the provisions of the European Landscape Convention in 2006 and considered that this supportive position is held also by the Scottish Government. The Ramblers' Association agrees with views of others that significant damage would be caused to the geomorphological features that are an integral part of this landscape. This would be in direct conflict with the intentions of the Convention. Similar concerns apply to the scale, height and location of the hotel and apartment blocks, which would fit uncomfortably with the Convention's aims.

3.3.12 Mr Morris claimed that the developer has not given adequate attention under the Environmental Assessment Regulations to the evaluation of alternatives that would be less damaging to the environment, but still provide for a viable development. In addition, it was submitted that the application is being considered without proper information and understanding of the current value of Menie for recreational use. The Environmental Statement makes a brief mention of this, but it is clear that this was not done to assess that recreational use.

3.3.13 Mr Morris drew attention to measures in place in many other European countries to protect the coastal zone against adverse developments and to encourage appropriate provisions for public access (R7). Similar national arrangements are not in place here and the Ramblers' Association has pressed successive governments to improve the situation. Where approvals are given, these should be fully compliant with the need to protect wildlife and landscape resources and their opportunity for enjoyment through outdoor recreation and study. The

Ramblers' Association is not opposed in principle to the development of golf courses and the associated leisure and housing development at the Menie Estate. There could be positive gains for outdoor recreation where golf course development increases biodiversity through new habitat provision and wide open spaces, unencumbered by farm fences and water filled ditches. The application of the access provisions in the Scottish Rural Development Programme would allow for substantial improvements on the land presently in agricultural use. Access arrangements could also be better than those existing with new paths across the golf courses.

3.3.14 However, under the present proposals these positive gains would be heavily outweighed by the damage that would be done to the quality of the recreational experience, largely due to the inappropriate location of the championship golf course. Here the alignment of the fairways would run parallel to the direction in which people wish to take access and this would be exacerbated by undulating ground causing poor sight lines. It would be far better if there was a clear separation between the area developed for golf and the sand dune system. A compromise position acceptable to the Association would remove all of the golf holes along the coastal face of the dune system i.e. 3, 4 and 13-18 inclusive. This would avoid the first line of slacks inside the coastal dunes preserving the back dune path along this route. If there is to be a golf course here it should be moved westwards to the second line of slacks. This would not be precisely the level of protection that exists within a 100 metre coast edge zone in other European countries because the Ramblers' Association is prepared to accept that holes 1 and 2 could remain close to the beach. There have been problems elsewhere from the operation of golf course developments; the Ramblers' Association has no wish to see a repetition at Menie.

3.3.15 As an alternative, the plans for a second course could be abandoned to allow a substantial part of the championship Course to be moved on to it, or the area of land allocated to the leisure and housing development could be reduced to accommodate the proposed second course. The Ramblers' Association believes that this would still allow the essential characteristics of a Scottish links course to be realised.

3.3.16 Mr Morris referred to the major efforts being made by public bodies, including the Ramblers' Association, to increase levels of physical activity massively as part of the precursor to the 2014 Commonwealth Games in Glasgow, the 2012 London Olympics and the 2014 Ryder Cup at Gleneagles. Besides the effects of the policy and these events on stimulating the demand for informal access it is difficult to predict the likely effects of the development, including its visual impact, on informal recreational use of the dunes and beach. But if a "*world-class*" golfing facility is to be built at Menie, along with a massive leisure and housing development, the planning approval needs to anticipate that there may well be a requirement to provide for opportunities for informal recreation, especially walking, on land adjacent or near to the leisure and housing development on a scale that might not be readily recognised today when looking at other similar developments.

3.3.17 Mr Morris explained the Ramblers' Association's overall conclusion that the proposed development cannot be accommodated within the Menie Estate without substantial modification to the allocation of land to the different proposed

purposes, if the permission is to have due regard for the values of this area for its environmental and recreational qualities. Apart from the land being in different ownership, he noted no obvious constraints to the use of land adjacent to the Menie Estate to facilitate golf, leisure or housing development. These options should be examined to fulfil the obligations for consideration of alternative development options under the Environmental Assessment Regulations and to take proper account of the Habitats Directive and the intentions of the European Landscape Convention. All of these options should start from a presumption that planning approval is unlikely to be given for any development at the Menie Estate which involves a significant intrusion into the coastal sand dune system along the whole of its length on the seaward side of the Menie Estate.

Aberdeenshire Local Outdoor Access Forum – Mr Thomson

3.3.18 Mr Kenneth Thomson is the current elected Chair of the Forum, which has about 16 members from four sectors comprising land managers, recreational access users, communities and agencies. The Forum was established by Aberdeenshire Council in 2005 under the Land Reform (Scotland) Act 2003, and acts as an independent body. Aberdeen City and the Cairngorms National Park have their own forums.

3.3.19 In this case the Forum has advised the local authority and any other person or body consulting the Forum on matters having to do with the exercise of access rights. Various such approaches have been made since the proposals became public. The Forum neither supports nor objects to the proposal, but is supportive of the views on public access previously submitted by the council's Planning and Environmental Services Department, and continues its representations to ensure that public access is given due weight in the decision. Mr Thomson's evidence was drafted without the involvement of council officers.

3.3.20 The Forum made its concerns clear in August 2007 based on their assessment of the outline planning application; the Environmental Statement; and the applicant's response to Aberdeenshire Council and statutory consultations. The Forum welcomed the proposed Public Access Plan (T65) but had concerns about Access Routes A, B and C; the visual domination of the proposed buildings without apparent mitigation measures; the proposed upgrading of the existing access road to the car park serving the Balmedie Country Park, because of the potential to generate additional traffic; and the identification of current and potential non-motorised access into and within the site, in particular beach walks and the North Sea Trail. The Forum also requested information on the likely loss of public outdoor access due to permanent or semi-permanent (e.g. all-summer) fencing-off of certain areas and applications to the local council under Section 11 of the Act for temporary or permanent exemption of certain areas from access provisions such as for golf competitions. Finally, consultation was requested with relevant recreational user organisations using the dunes, such as equestrian and orienteering organisations.

3.3.21 Mr Thomson welcomed the applicant's assurance to Aberdeenshire Council that *"full and comprehensive (public) access to the site is provided for, secured by appropriate conditions"*, although he questioned the expression *"full and comprehensive"* because a considerable amount of public access would be lost.

Confirmation was given also that the existing (but presently incomplete) 1.2m high post and wire fence would be retained around the perimeter of the site, that no fencing would be erected around the beach area and that no high security fencing is proposed. Since even a 1.2m fence is a barrier to access by all but the athletic, the Forum considers that it should be provided with gates or, less desirably, stiles.

3.3.22 The Forum welcomed also the council's recommendation that a satisfactory access strategy and plan be prepared (original draft condition 33, now within draft condition 53 of Appendix 1A) coupled with the view of Planning and Environmental Services that more provision is needed for public access from the proposed 500 residential units and, the Forum would add, the 400 units of staff accommodation. Such provision is needed to the beach and back, and also in the area west of the dunes. The strategy and plan should be sufficiently comprehensive to deal with further possible housing development and further possible commercial recreational uses other than golf within or close outside the current development area.

3.3.23 Mr Thomson was concerned that the large scale of the proposed development, both vertically and horizontally, would detract significantly from the natural qualities (landscape, wildlife and remoteness) of current public access within and outwith the development site. He considered that measures to mitigate these effects, or to improve non-motorised public access elsewhere as a form of compensation, had not been adequately considered. Any planning permission granted should be subject to conditions that would minimise the net loss of public access which the proposal would entail. The Forum drew attention to those submitted to the inquiry by ScotWays.

Scottish Rights of Way and Access Society – Mr Mackay

3.3.24 Mr John Mackay is a Board Director of this voluntary organisation, also known as ScotWays. He has more than 30 years experience with the former Countryside Commission for Scotland and its successor body Scottish Natural Heritage, from which he has since retired. Much of that experience was concerned with open-air recreation, including the development of the new access policy enacted in the Land Reform (Scotland) Act 2003. He also led a programme of experimental work on dune management, including trials at Foveran. ScotWays' evidence is focused on the issue of public access rather than the merits of the proposal.

3.3.25 Balmedie Country Park – one of only 2 such parks in Scotland with a mainly coastal focus - is the main access for the public. It has extensive parking and visitor services, ample space behind the dunes for events and informal recreation, a significant role in environmental education, with close to 250,000 visitors each year and a significant year-round pattern of use. Balmedie and Haddo House are the 2 busiest rural visitor sites in Grampian. The level of access to the development site from the A90 to the north of Balmedie is comparatively small. Some of it takes place by car, although turning movements from the trunk road are difficult, but more important is access on foot by local residents. The pattern of use has changed markedly over the years, with reports of up to 100 cars at a time using the Leyton entry in the 1970s.

3.3.26 This long sandy coastline with a special natural, unspoiled and uncrowded character is ideal for walking, with the Menie Burn being a common turning point; beyond the burn the beach is much more lonely in character. The long vista towards Foveran is a most impressive landscape, with the extent of the dune vegetation and the degree of active sand movement adding to the visitor's perception of the natural landscape. Use of the back dune is much lower than the foreshore, but still important for those who frequent it as an access to the beach, in circular walks, for bird watching and horse riding and as a route sheltered from strong or cold winds. There are no asserted rights of way over the Menie Estate but some routes have had long-term use and Mr Mackay considered that these would be candidates, particularly from Pettens down to the fishing station and the Leyton access. Mr Mackay considered that the intrinsic quality of the landscape here, its strong natural character, scale, spacious setting and accessibility all point to this being a place of high value for open air recreation. It is regionally, and perhaps even nationally, a significant recreation site. It was submitted that the developer's evidence of visitor numbers was a narrow snapshot of recreational use prepared as a by-product of a survey of bird life on a weekday and in winter. It was also significant that Mr Dargie for TIGLS had not been asked to take account of the recreational impacts of people who wanted to visit the area.

3.3.27 Mr Mackay set out the implications of the development for access and enjoyment of open-air recreation in the area. These would include the physical loss of land to the golf course, with the public mainly constrained to the beach. There would be loss of customary access and to the quality of their recreational experience for those who live close to, or within, the site. The scale of the development would impose on the setting and its recreational enjoyment where there would be a severe landscape impact diminishing the sense of naturalness and, in part, of remoteness. With many more people around, the resort would significantly change the pattern of use and the ambience of this part of the coast.

3.3.28 Mr Mackay acknowledged the developer's recognition that access rights would apply as provided in law, but reiterated ScotWays' concerns that public access over the whole area should be safeguarded:

- because the development would remove general access rights from a considerable area where there is a high level of existing use, ScotWays see the need for effort by the developer to offer mitigation and provision of alternatives so as to comply with obligations under section 3 of the Act and ALP Env\22; the supplementary access strategy is a start, but needs more effort; the northern-most route is not satisfactory;
- ScotWays is concerned whether accessibility across the site, and not just to the beach, could be sustained to enable the exercise of access rights to be unimpeded; and
- ScotWays sees no case for formal exemptions at this site that could be provided by privacy and exclusion zones, as originally suggested by Aberdeenshire Council in the draft planning conditions (Core-G9F, condition 33) put to the Infrastructure Services Committee, but now dropped from condition 53 as proposed by the council.

3.3.29 Mr Mackay considered that the Public Access Plan (T65) represents an improved approach, but in common with the views of the Local Outdoor Access Forum there is some way yet to go. The routes being offered are not entirely satisfactory with poor parking available at Route A; Route B requiring re-thinking to provide access from the golf resort to the beach; and Route C requiring further consideration at the northern end of the Balmedie Country Park. There has been insufficient discussion about the recreational use of the area by existing users as well as customers of the proposed development, such that the whole picture of what the developer intends cannot be seen. Planning for open-air recreation as an integrated process across all groups is thus frustrated. He was concerned also that the land allocated for future golf would run hard up against the northern, very constrained, boundary of the country park, potentially causing future pressures. There could also be the possibility that the resort might regard the beach as a major asset and want to take commercial opportunity from this attraction, bringing further pressure and potentially affecting wider enjoyment.

3.3.30 Mr Mackay described, in detail, the principles that underpin how the Land Reform (Scotland) Act 2003 was constructed, and how ScotWays thinks that the legislation should apply on the development site. His evidence was judged by Mr Boyd for TIGLS to be a very helpful exposition of the law and its application and operation at Menie. The law embodies a social contract between the public and those who own and manage land. ScotWays envisages that access rights would continue to apply widely at the Menie Estate. The legislation should not be any threat to the development, but it is an unavoidable fact of operating in Scotland.

3.3.31 Mr Mackay emphasised 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 ScotWays' view for any statutory exemptions at the Menie Estate from access rights. The Menie development would have much in common with other similar resorts, some of which are new: Fairmont and Kingsbarns; and others of long-standing: Gleneagles, Turnberry and Crieff. All of these commercial sites, together with the exclusive destination of Skibo, operate without any special access exemptions. Concern about access problems is often led by fears of what might happen rather than objective analysis. The last Open at St Andrews operated without exclusions, although there was an exclusion at the recent Carnoustie Open. Civic society has learned to live with the new access legislation and not to regard it as an undue problem.

3.3.32 National planning policy relevant to access is set out in SPP 11 (paragraphs 20-22) where access rights (and core path plans) are established as material considerations in the determination of planning applications, requiring local authorities to maintain audits and establish strategies. PAN 65 provides guidance. Policy 17 of NEST gives a lead to the protection of outdoor access and ALP Env\22 safeguards existing public access and the requirement for satisfactory alternative provision where access is interrupted. If consent is to be granted then Mr Mackay considered it had to meet the terms of these policies. The main vehicle for delivery should be the proposed access plan and it should be embedded in whatever agreement is in place between the developer and the planning authority over

implementation and management. Although Mr Mackay responded that he was unaware of the council's intentions in respect of core path plans.

3.3.33 Mr Mackay emphasised that, if developed, public access at a busy and long-popular location will be significantly affected, both physically and perceptually. The plan should:

- allow for public access rights to apply unimpeded across the whole site, subject only to the limitations applied under section 6 of the Act, or to the normal restraint that would be expected under the Scottish Outdoor Access Code of persons exercising access rights;
- allow an integrated approach to use of the whole area from the country park to the resort and by all sectors of the public;
- compensate for the loss of general access rights over land allocated to golf by fair and reasonable access provision for the general public, with particular concern for those who are local residents;
- ensure that limitations on accessibility in detailed site design and reserved matters consents do not debar the general public;
- make no provision for recreation on the seaward side of the courses that impinges on or devalues the quality of the experience for those participating in quiet open-air recreation on the coast; and
- facilitate the resolution of problems from the interaction of access rights and the operation of the development, which should be consensual, primarily through Aberdeenshire Council and the Local Access Forum, but involving a wider community of interest at national and local level, as necessary.

3.3.34 Mr Mackay suggested a revised planning condition covering access to replace draft condition 33.

“Prior to the submission of any reserved matters application, a plan will be prepared to the satisfaction of the planning authority, which sets out both the broad approach and the details of how the developer will meet its obligations under section 3 of the Land Reform Act. This plan will ensure that public rights of access are not subject to unreasonable interference over the development area, and it should be prepared with the involvement of the relevant recreational and community interests. In particular, the plan should:

- describe action to compensate for losses arising from conversion of land to golf course use
- integrate provision for access across all sectors of the public who are participating in open-air recreation – those at the resort, the visiting public and local residents;
- show any routes proposed for promoted public access, and provide details on how these routes will be constructed and implemented;
- provide details of how multi-use access (cyclists, horse-riders and all ability use) will be accommodated;
- provide details and specifications for the provision of ancillary facilities such as parking, information boards and way-marking;

- provide details of a maintenance regime for the foregoing, including a mechanism for liaison over access with the local authorities, local community interests and the local access forum, as appropriate;
- describe in general terms how access might be affected by any special events taking place at the resort;
- describe in general how the needs of any community events that impinge on the development area will be accommodated; and
- address how access will be accommodated during the construction phase.

Reason: In order to promote compliance with Part 1 of the Land Reform (Scotland) Act 2003”

3.3.35 This suggested condition is substantially, but not completely, replicated in condition 53 of the set of conditions circulated by the council on 25th June. He suggested a new condition dealing with development potentially affecting the recreational experience available on the coast and this was incorporated by the council as condition 54 of that set.

The case for Councillors Ford, Johnston, Ross and Storr

Councillor Ford

3.4.1 Each of the councillors appeared *“in support of Aberdeenshire Council's decision on 29 November 2007 to refuse outline planning permission”*. Councillor Ford indicated that this decision was taken by an experienced, well-informed and locally based committee of fourteen elected members, the council's Infrastructure Services Committee. This followed the recommendation in favour of granting conditional outline planning permission by the Formartine Area Committee which had held both a hearing and a site visit. Members of the Infrastructure Services Committee were invited to participate in both events and were given the same background reports: the TIGLS Environmental Statement, Economic Impact Assessment and Financial Review and the EKOS economic impact review prepared for the council, plus a comprehensive assessment by the council's planners. It remains Councillor Ford's view that the authority to take the council's final decision lay with the Infrastructure Services Committee, whose members were very well informed about the application. Their decision should thus carry great weight.

3.4.2 The important and relevant issues were debated at the Infrastructure Services Committee and there was a large measure of consensus amongst members. No-one who spoke was opposed in principle to a golf resort on the Menie Estate, but almost everyone who spoke had reservations about or was opposed to elements of the outline application as submitted. The provision of holiday apartments was welcomed, albeit with concerns raised that the number was excessive and the proposed buildings were huge and intrusive. The hotel was welcomed, though there was adverse comment about it being far too large for the setting. Two of the debated issues were the main concerns of those who supported refusal - the inclusion of open market housing in an inappropriate location on land not allocated by the development plan; and the construction of 9 holes of the Championship Course on part of the SSSI. The argument that the housing is a cross-funding mechanism for other elements is not supported by the development

plan. Accepting it would have set a very dangerous precedent. It was not disputed that developing on the SSSI would cause catastrophic damage to the site. The proposal to stabilise the dunes for the purposes of constructing a golf course contravenes environmental policies in the development plan, national planning policy guidelines and would also have set a highly undesirable precedent.

3.4.3 Councillor Ford explained that members at the Infrastructure Services Committee knew that permission could be granted for an application that did not conform with the development plan because material considerations justified setting aside planning policies. However, the economic benefit was not seen as sufficient to justify the extremely damaging consequences of granting permission – the damage to the SSSI was so great and the inclusion of open-market housing in the proposal so inappropriate. Some members also concluded that the claimed economic benefits were exaggerated and there was a significant risk of their non-delivery.

3.4.4 In response to the evidence of Dr Gore for Aberdeenshire Council concerning the council's present position relative to this planning application, Councillor Ford explained that the council had decided to refuse outline planning permission on 29 November 2007. On the 2 occasions referred to by Dr Gore, the council no longer had an application before it for this development and it could not then revisit the decision to refuse permission. The discussion by the council on 12 December had no force in law, as confirmed by the Scottish Parliament's investigation (ISC25); the council's decision to re-confirm on 24 April a decision that had no force in law does not make it more meaningful. The council ignored its own standing orders in considering the application on 12 December and that was made clear at the meeting. With the exception of councillors on the Formartine Area Committee or the Infrastructure Services Committee, those councillors present on 12 December and 14 April did not have all of the information relevant to the application and had not visited the site. At the December meeting there was no introduction by officers, no debate and thus no proper examination of the many issues relevant to the outcome. Councillor Argyle, the new Chair of the Infrastructure Services Committee, told the press in January (ISC24) that he did not have enough information to comment on the application or to decide how he would have voted, despite the council's claim that he supported it on 12 December. For all of these reasons Councillors Ford, Johnston, Ross and Storr disputed Dr Gore's claim that the council supports the proposal.

3.4.5 Councillor Ford recognised that full compliance with the development plan was never likely with a complex and unforeseen proposal on the scale of the TIGLS application. Accordingly, during the Infrastructure Services Committee debate, members tested the TIGLS proposal against broader policy commitments to see whether, even though it did not comply with planning policies, including the development plan, it did fit with the overall approach of the council and Government to achieve sustainable development. The conclusion reached was that it did not.

3.4.6 Both Aberdeenshire Council and the Scottish Government have obligations in respect of protecting the natural environment and conserving biodiversity. Both have identified caring for the natural environment as being of crucial importance. Councillor Ford referred to the scarce and pristine natural environment at Menie and drew attention to the council's commitment in its vision

statement to *"Helping to create and sustain the best quality of life for all through ... our special environment"*. The Sustainability Charter 2004-2007 (ISC23) states that they *"will minimise the use of non-renewable resources"....and "will ensure that long-term and global impacts like greenhouse gases and loss of species have greater weighting than short-term, local effects. Where there is a potential threat to the environment or to communities, the precautionary principle will be given precedence"*.

3.4.7 He drew attention also to the statement on 9 October 2007 by Michael Russell MSP, the Scottish Government Minister for Environment when he opened the UK Biodiversity Partnership Conference in Aviemore. Some of Mr Russell's speech was read out during the Infrastructure Services Committee debate on the TIGLS application. His comments, which amounted to a call to refuse permission, were highly relevant to the decision taken because these constituted a very up-to-date statement of the newly elected Scottish Government's strong commitment to nature conservation. Mr Russell said:

"Scotland is lucky to be blessed with unique biodiversity: inspiring landscapes, exciting wildlife, and opportunities all around us to enjoy them. We should be deeply proud of our fantastic natural environment. It is part of our national identity, and provides the raw materials for all our lives. It is vital that we look after it properly. The Scottish Government is firmly committed to safeguarding Scotland's biodiversity. However, it is clear that our natural environment faces major challenges. Over generations, humans have destroyed habitat, used resources unsustainably, introduced invasive species and have failed to protect wildlife. We are determined to reverse that damage wherever we can."

3.4.8 The councillors submitted that the applicant's claim that the economic benefit from the development is so great that it outweighs planning policies misunderstands the development plan and the basis of its policies. These policies are designed to deliver economic benefit, but as an integral part of sustainable development. Both Aberdeenshire Council and the Scottish Government recognise the need for sustainable development, rather than just development. A duty in respect of sustainability was placed on councils by the Local Government (Scotland) Act 2003. In 'Choosing our future: Scotland's sustainable development strategy' (ISC18) the Scottish Government committed itself to the sustainable development principles that the strategy sets out. Several of these were referred to at the Infrastructure Services Committee debate - *"ensuring a strong, healthy and just society ... promoting personal well-being, social cohesion and inclusion"* which is not consistent with the exclusive nature of the proposed open market housing and with the affordable housing sited elsewhere. Both *"respecting the limits of the planet's environment, resources and biodiversity"*, and *"achieving a sustainable economy ... in which environmental and social costs fall on those who impose them"* would be breached by the destruction of natural habitat and the significant additional air travel generated by the development. Over the long-term, it was argued, an irreplaceable dune system is a more valuable asset than one more golf course. A golf course, moreover, that could be built on a different site where it would not cause the destruction of 33% of an important SSSI. It is that issue that is at the heart of much of the objection to this proposal by members of the public.

3.4.9 Councillor Ford considered that the debate that occurred within the council was to be expected for such a large and complex proposal where further negotiation would be needed to find a solution that protected the public interest and the interests of residents. Members were well aware of the applicant's unusual 'all or nothing' approach to seeking planning permission. Since this was being regularly reported in the media there seemed little point in deferring the application for negotiation. Councillor Ford considered that a refusal would show that the council was serious about wanting changes - a hard negotiating position. When asked whether that was a proper reason for refusing permission he commented that TIGLS had behaved unusually, effectively demanding a surrender of the planning system to their interests. He did not accept that they simply wanted a decision on their outline planning application – they had made it repeatedly clear that compromises would not be entertained. The soft option would have been to grant the application – but that was favoured by only 5 members; the better option was refusal. The decision to refuse gave a clear signal that a grant of outline planning permission was not appropriate as it stood. That remains the case.

Councillor Storr

3.4.10 Councillor Storr stated that she is the only local councillor to have been in place throughout the history of the application and has been a member of both the Formartine Area Committee and the Infrastructure Services Committee since 1999. Her evidence drew on the applicant's environmental assessments and the statement by the council's Head of Planning Policy & Environment (ISC17). Councillor Storr considered that, in terms of the council's policies, there was very little disagreement between her approach and that of Dr Gore. The departure between them was a consequence of the weight placed on material considerations.

3.4.11 A development on a significantly smaller and more modest scale (ISC21) had been outlined to Councillor Storr by the applicant in December 2005. She recognised its potential but then also advised that the site was very sensitive in landscape and environmental terms, and that market housing would be very difficult to support. She described the physical context of the Menie Estate and its environmental attributes which are an important asset for Aberdeenshire and the City and drew attention to the applicant's assessment contained in the Environmental Statement: a moderately adverse landscape impact with medium to high sensitivity for the Undeveloped Coast and high sensitivity for the Area of Landscape Significance; a moderate adverse effect on both the listed Menie House and the associated designed landscape; and a moderate adverse impact from the residential development within its open (medium sensitivity) undulating farmland setting. Dealing with a proposal on this massive scale had not been easy, but the departures from national, regional and local policy and the need to ensure full public involvement in the decision making process required a response through the development plan system. A new structure plan is being drawn up and a new local plan is to follow; this is what PAN 43 (Core-D4) anticipates.

3.4.12 Notwithstanding the agreement reached between the applicant and SNH concerning any potential effects on the nearby SAC and SPA, Councillor Storr considered that it was for the applicant to demonstrate that the development would

not adversely impact these areas. As that impact cannot be mitigated, permission should be refused. On the precautionary principle, any doubt also should lead to a refusal.

3.4.13 The first 18-hole golf course is on a highly sensitive area and has a 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 and retain that interest, said to be unique in the Vanity Fair article (ISC19). She contrasted that view of the dynamic dunes with the comments attributed to Neil Hobday in the same article “*I call it 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*”. Mitigation is proposed, but this amounts to an attempt to reproduce artificially the environment in a different location. ISC17 indicated that the proposed mitigation is unlikely to be successful. The presumptions against development on an SSSI set by NPPG 14 (Core-C11) are made more forceful in ALP Env\2.

3.4.14 The councillors submitted that Dr Gore had conceded that ALP Env\2 requires all 3 tests in the policy to be met, highlighting the importance of the SSSI. Professor Ritchie and Dr Dargie both conceded under cross-examination that the stabilisation would compromise the SSSI. Dr Hansom for SNH confirmed that stabilisation would remove most of the geomorphological scientific interest of the SSSI and Mr Angus, also for SNH, confirmed that SNH would need to consider de-listing if development proceeded. RSPB demonstrated (but did not promote) that it would be possible to develop a golf course avoiding the SSSI and the site visit illustrated the available scope, which the councillors considered to be stunning. Both Professor Ritchie and Dr Dargie for TIGLS had advised the applicant to avoid the SSSI. Dr Dargie was explicit about this and even went so far as to suggest avoiding the dunes at the south. Dr Hawtree for TIGLS confirmed that the brief he was given by the applicant was to develop on the dunes driven by golfing choices, rather than environmental considerations. Little attempt had been made to look at options that avoided the SSSI – plans were drawn up with minimal regard for nature conservation and the fundamental issue of stabilising the mobile dune system could not be mitigated. Dr Dargie accepted that habitat translocation was a last resort, technically difficult and had never before been attempted on the scale proposed here. Whilst Dr Rooney for SNH offered the view that this was highly risky with low likely success rates. The councillors submitted that the trial sites viewed on the site inspection provided no reassurance that large scale translocation of dune vegetation would be successful. Any permission that allows development of land currently host to valuable dune habitats would see much of the vegetation lost and, even if successfully moved, the value of the habitats is diminished amounting to a “*garden*” in contrast to the product of natural processes.

3.4.15 The councillors submitted that little value should be attached to MEMAG as a mitigation measure; its role would be advisory with no power to enforce change and Mr Trump had shown scant regard for the advice of his own environmental experts. The councillors considered ludicrous Mr Trump’s claim in answer to questions “*that he can improve on nature*”.

3.4.16 As 9 golf holes can never be of national importance and as, in Councillor Storr's view, the impact would result in the loss of the SSSI designation, this part of the development has to be refused planning permission to comply with the development plan policy. The remaining 27 holes would be developed on the SINS, designated for botany, entomology and ornithology, with severely adverse effects. ISC17 holds that the Environmental Statement may have underestimated these. Whilst the test set by ALP Env\3 is lower, this area is widely recognised as being of similar quality to the SSSI and an integral part of the long dune system running from Bridge of Don to the Ythan within the Undeveloped Coast and an Area of Landscape Significance. Mitigation measures are unlikely to compensate for this loss. Access over the site for the public would also be reduced if not restricted and discouraged where ALP Env\22 asks that accesses at least as attractive are made available. ISC17 indicates that the applicant's information on access issues is flawed, the access strategy is flimsy. This part of the development also should be refused or radically modified to reduce the impact.

3.4.17 The councillors submitted that the weight given to social, economic and environmental impacts varies with the designation applied to particular parts of the site. They believe that the ranking of environmental designations, and the relevant policies, in order of importance are:

1. SSSI - ALP Env\2 and Obj 5,10,11, NEST Policy 19, NPPG 14, PAN 60
2. *Annex 1 priority habitats* - ALP Env\1, Env\4 Obj 5,10,11, NEST Policy 19, NPPG 14, Habitats and Species Directive.
3. SINS - ALP Env\3 and Obj 5,10,11, NEST Policy 19, NPPG 14.
4. *Area of Landscape Significance* - ALP Env\5B Obj 5,10,11, NEST Policy 19, NPPG 14
5. *Undeveloped Coast* - ALP Env\6 Obj 5,10, 11, NEST Policy 29, NPPG 13, PAN 53.

3.4.18 This ranks national and European Union designations ahead of local designations. The first three of these designations apply to the golf elements, as set out in evidence led by the Council, SNH and the RSPB. The final two designations are not insignificant in their own right and apply to the entirety of the proposal, a view strongly supported in evidence by the Ramblers' Association and ScotWays. The Councillors submitted that the dunes have an economic value for tourism, scientific study and recreation; there is additional value because of their wild character – they can never be replaced. Scottish Ministers are obliged by case law in the European Courts to maintain the integrity of non-designated qualifying areas with Annex 1 priority habitats, such as are found at Menie.

3.4.19 The councillors submitted that Councillor Storr's evidence of major adverse impacts from the development in the Area of Landscape Significance and on the Undeveloped Coast not only went unchallenged - it was reflected in the evidence of many other witnesses including Messrs Morris, Mackay, Thomson, Walton and Dr Gore. Major issues remain here relating to the scale of the development and whether this can be adequately mitigated via master-planning and design if outline permission is granted. The council has proposed conditions that may resolve these issues but these need to be more robust, as outlined by Councillor Johnston.

3.4.20 Councillor Storr considered also the hotel and holiday accommodation. Each of the individual condominium blocks would be 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 and visible, according to the Environmental Statement, from 15 km and beyond. The National Planning Framework encourages tourist development but this must be coupled with the protection of our environmental assets (paragraphs 93 and 94). In this instance the site is very sensitive, lying between a country park and a national nature reserve – it is an area of wild land very close to Aberdeen. Policies at both national and local level (SPP 2; SPP 15; NPPG 14; PAN 43; NEST 6; ALP Emp\9; ALP Emp\3; ALP Gen\1; ALP Gen\2; and ALP Env\6) advocate respect and both protection and enhancement of any environmental assets that are being exploited. Here the asset being exploited is the dune system and the location of the accommodation and the rest of the development is justified in terms of the links location, despite the fact that its scale bears no relation to the local landscape. Their scale needs to be reduced substantially and then designed to complement and enhance rather than dominate this open rolling landscape. Given severe doubts as to whether the scale of this development can be fitted into the landscape, these elements must be restricted or refused.

3.4.21 Councillor Storr considered it inconceivable given the policy context set at national, regional and local level that permission could be granted for 500 units of open market housing here (SPP 3; NPPG 13; PAN 43; NEST Policy 11; NEST Policy 12; ALP Hou\4). The proposal is unconnected with any existing settlement; all are planned as being at the upper end of the market; no affordable element is proposed on-site, compromising the creation of a mixed community and contrary to policy; and there is no local, regional or national policy that supports the development of land purely to fund other commercial development. Permission has been refused for new housebuilding in the countryside in this area, as required by policy, and in contrast to the recommendation made by officers in this case. Despite the promise of a convenience store, most services for the housing and the staff accommodation must be elsewhere. Councillor Storr considered that without the holiday accommodation even the proposed shop would not be sustainable: other facilities – education, library, medical, would not be delivered on-site. Nor would the proposed new settlement be within the accepted 5 minutes “*walkable neighbourhood*” of such services. It is unlikely that residents would be employed on-site and all of this residential development would inevitably be heavily car dependent.

3.4.22 Councillor Storr considered the proposal to house 400 of the 1,180 staff on site within an accommodation block to be unusual given that Aberdeen, Ellon and Peterhead are within easy reach. Thus staff do not need to live on site and the exception in ALP Hou\4 – most frequently used for farming operations involving breeding livestock - does not apply. This element also ought to be refused permission.

3.4.23 PAN 43 sets the context for the consideration of new golf developments. It is sceptical about new developments breaking into the established championship circuit (ISC9; ISC22) and highlights good transport links as an

important consideration. With estimates of 250,000 visitors to an Open Championship this is highly significant, but missing from the applicant's Transport Assessment.

3.4.24 Councillor Storr considered that, were permission to be granted, the scale of this proposal is too important to be left to detailed applications over such a large site. A more appropriate route would be the development of a proper Masterplan and Design Code to cover the entire development. The Urban Design Framework provided by the applicant does not give much comfort.

3.4.25 The raft of duties to protect and enhance our environment (PAN 51 and PAN 60) must be taken seriously. The councillors submitted that this is not a balancing act between competing interests, because sustainability requires social, economic and environmental interests to be considered together, not set against each other. This 3 dimensional concept of sustainability was common to Councillor Robertson and Dr Gore, for the council and Shiona Baird for the Scottish Green Party. The scale of the proposal raises serious issues as to whether this landscape can accommodate it without adversely impacting on the very quality that attracted the applicant to the site. No responsible public authority charged with protecting and enhancing our natural environment, and particularly those areas with national designations, could grant permission for these golf courses. The councillors submitted that this evidence had gone unchallenged.

3.4.26 Councillor Storr considered that a development at Menie was possible. A smaller proposal, closer to that being promoted in 2005, would protect our scarce and internationally-valued natural resources for the benefits of future visitors to Menie, to Balmedie and to Aberdeenshire. It could yield the world profile that the applicant wants and it could deliver much of the on-going economic benefit to the north east of Scotland. That 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.

Councillor Ross

3.4.27 Councillor Ross explained that the applicant's original economic case, which was based on the Economic Impact and Financial Review prepared by Deloitte (of which only the summary was released to the inquiry as DB4), was presented to the Formartine Area Committee in September 2007 (Core-G9A); meanwhile the council had commissioned an independent analysis from EKOS. This was based on estimates provided by the developer and was presented to the council in October 2007. The appraisal of benefit differed significantly, with EKOS adopting a more conservative view, particularly in respect of displacement and leakage. The EKOS paper was discussed briefly in the report to the Formartine Area Committee (Core-G9D). Significantly the subsequent report to the Infrastructure Services Committee (Core-G9F) made no reference to the EKOS report and did not give recognition to those significant differences reported by EKOS.

3.4.28 Councillor Ross concentrated on the new economic impact reports prepared by Fraser of Allander for TIGLS where the more sober analysis produces a revised impact that differs markedly from figures advanced earlier. The Councillors

submitted that this is not, and never has been, a £1 billion development which is, in any case, an irrelevant consideration in land use planning. The 500 open market houses are estimated as having a floor area of 150m² at a build cost of £1,238/m² yielding an estimated unit construction cost of £187,500. Councillor Ross accepted the build cost, but questioned the relatively low floor area when the houses are estimated to sell at up to £1 million each. Similarly, the fully built cost of the hotel is quoted as £235 million, or £522,000 per room, which seemed high even taking account of public areas and regulatory requirements.

3.4.29 Councillor Ross argued that the economic case should be viewed as 4 distinct components:

- employment created by construction;
- employment created by operation of the resort;
- secondary benefits from the local spend by tourists; and
- occasional benefit from sporting events.

3.4.30 The construction phase was originally reported to committee as costing £953 million and with estimated construction employment of 9,970 man years. TIGLS now suggest a construction cost of £720 million with construction employment in the range 4,700 - 7,050 man years. However, Councillor Ross maintained that all development creates construction employment. The 72,000 houses or 3,300 each year that the provisional draft structure plan proposes could amount to an annual capital spend of £462 million and there would be commercial development to add to that. By contrast, and assuming that the main core of the TIGLS development is spread over 3 years with £100 million to spend after that, the average annual spend on the development would amount to around £210 million or about 45% of the annual spend on new housebuilding in the north east.

3.4.31 Councillor Ross stated that other projects worth more than twice the annual construction spend of this proposal do not seek a justification of construction employment because they recognise and respect the Aberdeenshire Local Plan and have no need for specious and exaggerated claims. Many of the existing jobs in construction owe their existence to on-going demand for new houses; in aggregate that demand amounts to a great deal more than this project ever will. The sole justification here is that the buildings are aggregated into one planning application, that is no justification at all. Because the development would compete for resources against other developments it would not create the claimed construction employment. Instead houses built in an inappropriate location would be substituted for houses that could be built in locations agreed through the development plan process. In addition, unemployment in Aberdeenshire is very low and this development would out-compete other construction works, displacing other activity. The resulting competition in the employment market would make it likely that migrant labour would be used, whilst the timing of the project would also be in competition with the London Olympics and the Glasgow Commonwealth Games. There would thus be very significant job leakage and Councillor Ross argued that the allowances in the models should be much higher than assumed – perhaps as high as 50%.

3.4.32 On-site operations are estimated to create up to 1,450 ongoing jobs and Councillor Ross agreed that these are a material consideration. However, the

fact of low local unemployment would reinforce the need for migrant labour creating, in his assessment, significant economic leakage, compounded by seasonality. The proposal for the staff hostel suggested itinerant staff and re-capture of their spending by the operator of the development. The assumption of no leakage is not sustainable and not supportable on the assertion that these factors are taken account of in the multipliers; a fairer assessment could place this as high as 50%, although a lower level of leakage might result dependent on the exact nature of the golf resort operation. Although, in response to questions, he accepted that account could be taken of the economically inactive, (AC4, Page 45, 4.3% of the total) as well as those registered as unemployed, in assessing the possibility that construction workers might be locals.

3.4.33 He accepted that the presence of a tourist facility would bring ancillary spending to the north east and was content that this also would be a material consideration. But the Transport Assessment (T58) details a comparatively low volume of traffic entering and leaving the resort, suggesting that most tourist needs would be met on-site. This raised the question of the extent of any spill-over into the local economy.

3.4.34 Councillor Ross commended the caution in the Fraser of Allander report in declining to speculate on revenue from sporting events. He considered that there was no objective evidence that events would favour this resort; PAN 43 expresses scepticism about the prospects for new ventures. The applicant declined to submit either a Transport Assessment or an Environmental Impact Assessment in respect of major sporting events because the matter was too uncertain. Councillor Ross agreed and highlighted also the extent of advection fog in summer, which would make this a risky location for a major competition. Any economic benefit on this ground is thus entirely speculative.

3.4.35 For these reasons Councillor Ross concluded that the economic case made for the applicant should be restricted to no more than the benefits from on-site operation of the resort, discounting competitions, and secondary off-site activity. The positive economic impact would thus be at a scale much less than claimed and for that reason he disagreed with the witness for Aberdeenshire Council, Ms Donaghy's conclusion that the financial benefits of the development were of national scale and impact. But when questioned he accepted that Ms Donaghy also had discounted any effects from major competitions or events. He thought that the Gross Domestic Product (GDP) of any medium-sized Aberdeenshire village would exceed the alleged economic benefit of this proposal. In aggregate terms he concluded that the economic values are not significant, amounting to 0.05% of the GDP of Scotland and 1.1% of the GDP of Aberdeenshire based on the applicant's best figure of £33.5 million from Fraser of Allander, rather than their lower estimate of £22.3 million (GDP of £12.3 billion and £3.2 billion respectively).

3.4.36 Councillor Ross referred also to hidden assumptions and uncoded externalities, where social costs have not been assessed. The applicant makes no reference to shifts in the global economy, the assumption being that the future would be like the past. Our present "*long-haul*" lifestyle is threatened with airlines applying fuel surcharges because oil now trades at well over \$100 a barrel when a decade ago it languished nearer \$7. Councillor Ross questioned whether the market for

transatlantic holidays would hold up. He also shared the view that a development could be possible here that conformed to the local plan and thus avoided the unacceptable breaches of policy to which others had referred.

3.4.37 The councillors drew attention in submissions to the extent to which others held that the development was entirely dependent on it being undertaken by Mr Trump, even to the extent that the amount of economic displacement was dependent on him as the developer. But in forming a view on the overall consequences of granting outline planning permission only the lesser economic benefit that could be expected regardless of who undertakes the development should be taken into account. If not, the permission must be conditioned to be personal to Mr Trump.

3.4.38 The councillors submitted that any economic benefits, and the evidence demonstrated how fluid these are, would only be known in 7-10 years; by then the environmental damage would be irreversible. The positioning of the golf course and its cost and benefits are a relatively small proportion of the overall development costs and could not of themselves be seen as being of national importance.

Councillor Johnston

3.4.39 Councillor Johnston has been a member of the council since its formation in 1995 and a member since then of both the Formartine Area Committee and the Infrastructure Services Committee. He wished to highlight, without prejudice to the outcome, what might have been brought about by negotiation on conditions. He also covered the conditions that should be imposed in the event of any form of approval, partial or otherwise, to control the development in the public interest as identified both by the councillors at the meeting on 29 November 2007 and by Belhelvie Community Council before it dissolved.

3.4.40 Councillor Johnston referred to SODD Circular 4/1998 "The Use of Conditions in Planning Permissions" and to the 6 tests, requiring planning conditions to be: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. He emphasised that the imposition of planning conditions at the outline stage, where issues of principle might be debated, is to be preferred to the use of planning agreements or to the later imposition of conditions on reserved matters, as it allows fuller consideration of objections and public participation. He took account also of the recommendation in Circular 12/1996 that where matters can be dealt with by condition this is preferable to an agreement being made under section 75 of the Town and Country Planning (Scotland) Act 1997.

3.4.41 Based on these considerations he commended to Scottish Ministers planning conditions concerning the following.

- A master plan for the entire development subject to consultation and to provide clarity about siting design and materials; reserved matters; definitions; ownership; and to adhere to the principles proposed by the Campaign for Dark Skies. Councillor Johnston emphasised that the Urban Design

Framework prepared by the applicant (Core-G10, Appendix 2) is not what is required to meet the council's master plan requirement, but may contribute to it.

- The maximum amount of cut and fill should be determined at the outline stage by Scottish Ministers to provide guidance to this development and then limited by condition with the objective of keeping this to a minimum. Councillor Johnston had hoped to have Dr Gore's guidance on this and thought it necessary to set a maximum limit because of Dr Hansom's comments for SNH concerning "*biblical volumes*" of sand being moved.
- While development should not be allowed on an SSSI, development permitted within the SINS site should respect the 'no species loss' principle and low impact management. Councillor Johnston commented that the golf courses need not be high impact grass monoculture. If these use existing landforms, respect dune movement, allow for dynamism and are low density, then movement of sand as cut and fill could be very low. The sum could be substantially less than that suggested by the applicant.
- Foul and surface water drainage should be left to the reserved matters stage when care should be taken to ensure no residual impact on existing settlements such as through the loss of existing capacity to service land allocated in developments plans.
- The ownership and management of the SUDS scheme should be tied to the operation and ownership of the golf resort.
- If permission is granted for the housing development it should be conditioned that the council is provided with capitalised sums (equivalent to 15 times the estimated annual cost of maintaining public landscaping) to maintain SUDS in private housing areas in perpetuity.
- The process of design review should be informed by a condition restricting the height of the development relative to a datum point on the top of the escarpment so as to resolve public concerns regarding the prominence of the development and the effect on visual amenity in the coastal area.
- The overall height should be restricted to 15m within 200m of the escarpment edge and 25m beyond 200m, i.e. about 4 storeys, so as to avoid having to refuse permission for a higher development later.
- The council's suggested condition concerning ownership of the holiday accommodation would fail to control the development and further clarification and definition of terms is required.
- Ownership and control of the holiday apartments should be retained by TIGLS as part of the resort thus providing more effective control over their use as holiday accommodation and providing other benefits to the management of the development.
- No single period of occupancy agreement should be longer than 6 weeks in order to prevent conversion to residential use.
- The coastal dune edge and access arrangements should be the subject of conditions to secure the public interest.
- The issues arising from golf events, the development's key stated objective and the subject of many objections, need to be resolved requiring the development to provide a grade separated junction to the north of Balmedie and a major events assessment before any detailed approval is granted.

- The development should be bonded to ensure delivery of all of the parts of the development master plan; their continued use for the purpose for which they were developed; and restoration of the dunes habitat in the event of development ceasing.
- A phasing condition should require that all of the elements of public economic benefit be developed first: a condition preventing the construction of the first house until the completion of the holiday apartments, hotel and golf course would be the best option. Councillor Johnston saw the need for this because this would be a development of considerable profit and, additionally, such a condition would allow the impact of the commercial development to be further assessed, and ensure sufficient time for services such as education, health, leisure and road access to be integrated. He also referred to the need to inform the public at the outset of the nature of “*future development*” and its likely timescales. This should be resolved before any permission is granted.
- Any outline planning permission granted by Scottish Ministers should be personal to Mr Trump and to TIGLS. Councillor Johnston recommended this approach, exceptionally, because representations from CBI, SCDI, the Chamber of Commerce and other bodies and individuals in support revolve around Mr Trump’s personal standing and brand. The council’s officials’ case is another reason, it has always been that the economic benefits are such as to outweigh the breaches of development plan and other policy; whilst the applicant has made it clear that only he can deliver this development.

3.4.42 Councillor Johnston referred to a public concern about the handling of matters of principle and detail and the mechanism for public engagement on the latter in conformity with PAN 81 concerning community engagement in the planning process. It would not be desirable to unnecessarily delay the detailed planning stage, with the possibility of objections to reserved matters, when this can be addressed by a condition on the outline approval. The suggested condition 7 (formerly Condition 35) requires consideration by the Formartine Area Committee. He requested that this committee be able to refuse the detailed reserved matters being presented to it by the design review process, master plan or other mechanism. The Scottish Ministers should indicate also whether they are satisfied that this does not require the entire council to deliberate the approval of reserved matters.

3.4.43 Councillor Johnston referred also to the difficulties that had been caused by the late lodging of a set of planning conditions and a paper agreed between the applicant and the council concerning heads of agreement. These were only made available to the inquiry on 25 June, when his main precognition – concerned with the appropriate planning conditions - had to be lodged, in common with others, by 19 May.

3.4.44 The Councillors submitted that the evidence before this inquiry has shown that there is great uncertainty about the economic benefit that would flow from this development while no such doubt applies to the adverse environmental impacts. It is clear that the economic benefits would not be of national importance and that similar economic benefit could potentially be realised from a development that, for example, avoided using the SSSI. Therefore, granting outline planning permission for the application as it stands is not justified. Accordingly, the councillors asked that a grant of outline permission for the application as submitted is not recommended.

3.4.45 A partial grant of planning permission, in particular one that does not involve any development on the SSSI or open market housing, would involve fewer breaches of planning policy. Better still a golf resort could certainly be developed on the Menie Estate that is fully in accordance with the main policies and principles of the development plan and that would bring economic benefit to both the developer and the region. Even at this late stage the councillors encouraged TIGLS to consider this option.

The case for Donald Banks and other objectors

3.5.1 Mr Agnew represented the interests of Mr and Mrs Donald Banks; Mr David Milne; Mr Michael Foote; and Mr Raymond Davidson and called 2 witnesses: Mr Banks spoke for the interests of local residents and Mr Walton dealt with the application of planning policy.

Mr Banks

3.5.2 Mr Banks and his neighbours - a farmer, a teacher, a risk consultant, an HSE manager and the director of a waste management company - live on the edge of the Menie Estate. He has lived there for the last 25 years and enjoyed access to the estate, the surrounding land, the dunes and the beach unhindered for all that time. He had initially supported the proposal, imagining a sensitive development, appropriate to the landscape and with architecture appropriate to the location. But the scale of the current proposal and its adverse impact forms the basis for his objection and that of the others whom he represented.

3.5.3 All of these concerned individuals are members of 'Sustainable Aberdeenshire'; a group of people (living locally and elsewhere in the UK) who felt so strongly that the development should not go ahead that they wrote letters of objection to their MSPs and councillors, signed petitions against the development, raised funds, devoted their time to researching the issues and took part in leafleting and awareness raising.

3.5.4 Mr Banks drew attention to their support for SNH; RSPB; The Ramblers' Association; SWT; and others in their opposition to the proposals because of the potential adverse impacts on the landscape, protected sites and habitats, biodiversity and access. The development would result in the loss of farmland and have an adverse impact on the community. Residents in this area who would be forced into close proximity to the proposed development chose to live in a rural environment rather than in the city or in a suburb. Delfriggs, Pettens, Menie, Hatterseat, Foveran and Mains of Foveran are all small groups of farms and residences with their own histories and their own identities. The rural lifestyle combines the benefits of privacy with the opportunity to be part of a wider community with its own unobtrusive community spirit providing peaceful amenity and space, resulting in a particular sense of place. But residents are now faced with the prospect of losing that tranquil rural lifestyle to become part of a sprawling corridor of urban expansion.

3.5.5 Mr Agnew drew attention in submissions to the judgement in *Collis Radio v SOSE (1975) P&CR390* where Lord Widgery held that *“Planning deals with localities and not individual sites. In all cases it must be of the greatest importance when considering a single planning application to ask oneself what the consequences in the locality will be.”* He submitted that that view was particularly relevant to the concerns of local residents – where the value of the landscape speaks for itself, but would be converted by the development to become completely urban.

3.5.6 There is a network of local paths and tracks, including historic routes such as the old Aberdeen to Ellon route and the Green Ladies’ route from Menie House to Pettens Church. The golf course itself would restrict access, limiting it to predetermined pathways, in the name of safety. Due to the density of the hotel and associated buildings, the areas defined as curtilage would be so substantial that a large area would become ‘no go’ on the grounds of privacy and the large housing estates would remove many tens of acres of land from access by walkers. Mr Banks considered that access to the dunes and beach must be guaranteed and free from all restrictions other than those specified in legislation.

3.5.7 The sand dunes would be partially stabilised, resulting in the destruction of the SSSI to the north and the SINS to the south and within the undeveloped coast defined in the development plan. The complex plant, bird and animal communities they currently support would be adversely affected because the long-established and complex environment would be re-profiled, stabilised, drained, fertilised, manicured and maintained. Thousands of square feet of hotel buildings, clubhouse, conference centre, roads, lights, helipad, and the marching feet and buggy tracks of thousands of visitors would transform into a busy resort a place where you can currently hear insects buzz and hawks call. The development would also have an adverse impact on the landscape character and visual amenity of the area, arising from the scale, height and nature of the proposed buildings. There would be a severe impact on those houses that would be overlooked and both existing residents and those using the beach would be menaced by these looming multi-storey buildings which would dominate the landscape for miles around. Light pollution would transform the star-filled night sky. Whilst the resort and development as a whole would certainly increase reliance on private car use, the dependence on long-haul tourists would undermine Aberdeenshire Council’s Sustainability Charter Action Programme *“to significantly reduce the production of greenhouse gases by 2050”*.

3.5.8 Mr Agnew submitted that this was not consistent with the structure plan vision for the development of a sustainable community in the north east, said to be firmly based on 3 principles: *“responsible management of our natural, built and community resources; fairness in allocation of these resources between competing demands; and the need to benefit both existing and future generations.”*

3.5.9 Mr Banks drew attention to the VisitScotland website which states: *“The coastline of the north east of Scotland is one of the most fascinating, unspoilt and varied stretches of any in Britain”*. Many visitors comment that they are surprised that such remarkable dunes are not better known and Mr Trump said on the TIGLS website *“I have never seen such an unspoilt and dramatic seaside*

landscape". The development seeks to promote golf tourism and does not recognise that wildlife tourism (or ecotourism) rely on an unspoilt landscape. The Review of Wildlife Tourism in Scotland concluded that: *"visitors consistently rank beautiful scenery, wild landscapes, nature and wildlife amongst Scotland's top 5 tourism assets."* Golf tourism is only one of the tourist strategies promoted by VisitScotland and wildlife or ecotourism is recognised as having particular potential. But the proposed development would result in a severe adverse impact on the beach and dunes which are used by residents, horse riders, orienteers, dog walkers, people walking that part of the North Sea Coastal Trail from Newburgh to Balmedie, and by those with specialised interest in and knowledge of bird life, plants, insects and fungi. The dunes are a resource for the future that should be protected and not exploited by one developer for short-term gain. The precautionary principle should apply in this case, additional elements of the tourist development can always be added as needed but once corrupted or destroyed it is not possible to replace the delicate ecosystems on which eco-tourism depends.

3.5.10 Mr Banks referred to the hierarchy of actions in order of diminishing effectiveness in environmental risk management. First and most importantly, is elimination of environmental harm through the design process – adjusting the location and then changing the design as necessary. Only after exhausting these possibilities should the applicant look at harm reduction and mitigation. TIGLS has correctly identified that its plans have harmful effects on the environment. But it has not addressed these through amending or refining the design of the development. Indeed, apart from some untested proposals to relocate parts of the dune vegetation, the only real proposal is the formation of the MEMAG, but that cannot be regarded as a mitigation measure.

3.5.11 Mr Banks considered that the economic advantages of the proposed development are not proven. Kenneth J. Thomson, Emeritus Professor of Agricultural Economics, University of Aberdeen in his letter of 5 June 2007 to Aberdeenshire Council makes telling points about the economics of the TIGLS application: there is no case for the development being required to compensate for any expected dip in the regional economy as *"total non-energy employment is likely to rise by around 1.8% 2003-2011, followed by a 2% fall 2011-2021"*. Unemployment in the area has been persistently low for many years at half the Scottish rate in January 2007, with median gross earnings 10% ahead of the Scottish figure. Similarly, last year the Reed employment web site showed only 55 vacancies in hotel, leisure and recreation. Most of the jobs in the development would go to in-migrants; the jobs would be relatively low-paid and some could be seasonal. This would be coupled with the local shortage of construction labour and an immigrant workforce reducing the benefits to Aberdeenshire of their temporary local employment.

3.5.12 Mr Banks was not in principle against a golf course and resort development, but the development should not go ahead in its current form. The Trump development by its refusal to move from the SSSI is forcing Aberdeenshire and Scottish Ministers to choose between environmental credibility and commitment to golf tourism – a zero sum game. To choose a golf development which insists on damaging a special environment marks us as a country where that environment is for sale to the highest bidder. Menie Estate is large enough to relocate the golf

course off the SSSI and still have sufficient land to build a reasonably large hotel complex without causing irreparable damage to wildlife and the dunes. The golf course must be moved off the SSSI and all measures taken to ensure that the environment is the primary design driver for both the golf course and the associated development. The 500 market houses should not be allowed to cross-fund the rest of the development and should be subject to the development plan process that applies to all other similar developments. The indicative scale and height of the hotel, 950 apartments and accommodation block should be reduced. In addition, ownership of the apartments should be restricted to ensure that these do not transfer to mainstream residential use.

Mr Walton

3.5.13 Mr Walton focused on the proposals for 500 private houses, 950 holiday homes in four blocks and a staff accommodation block. Given the requirement of section 25 of the Act he drew attention to the provisions of NEST and ALP. The 2 sites proposed for the private housing development are within open countryside and cannot be regarded as extensions of any existing settlements. Thus, the proposal amounts to a new settlement likely to accommodate a population of 1,000–1,500 people making it larger than many existing settlements in Aberdeenshire. Nearly 5,000 people would be staying at the golf resort at any one time between April and September. He pointed to SPP 3 and the policy that new settlements should be promoted through the development plan process and sited in a sustainable location accessible by a range of transport modes.

3.5.14 There is no provision in NEST for a new settlement anywhere in Aberdeen or Aberdeenshire; neither is there any provision in ALP. There is no provision within NEST or ALP for any large-scale housing development in the open countryside between Balmedie and Newburgh. It is accepted by both the applicant and the planning authority that the development is contrary to both structure and local plan policy. Mr Agnew emphasised the importance of this major departure, the development plan is up-to-date and the recently adopted local plan was drawn up to conform to the current structure plan. In assessing whether or not to grant outline planning permission, the degree to which the proposals conflict with the development plan and the consequences of the permission must be taken into account in weighing the material considerations. In this case, he submitted that the conflict is beyond what is tolerable or acceptable.

3.5.15 The applicant has argued that the housing development is required to make the whole development economically viable. A financial appraisal was prepared by Deloitte. The applicant has not allowed a copy of the full version of the final report to be placed in the public domain (DB1-DB3). An Executive Summary (DB4) was released and produced for this inquiry. Mr Walton argued that the project would be economically viable both with, and without, the housing element; the project would yield a discounted return of £112 million with the housing and a return of £21 million without 500 houses – a positive net present value (NPV) in both scenarios, judged by Deloitte to be “worthwhile”. That positive NPV was additional to the 10% return on capital that Deloitte had included as a baseline. It was thus surprising that this conclusion was effectively disregarded by the council in briefing the Formartine Area Committee. Mr Agnew submitted that the rate of return on a

profitable development is not a material planning consideration, it is a commercial consideration for all developers. The development of the 500 open market houses simply reduces the risk to the applicant and by allowing the development to take place in an unspoiled location not provided for in the development plan. Inevitably, if built, Menie would be seen as a place to which other new housing development would gravitate. This is not enabling development as there envisaged and permitted. The analysis shows that even without the housing development the resort would be profitable, the addition of the houses makes it even more profitable. Irrespective of the true position it is questionable to what extent the need for cross-funding constitutes a material planning consideration. Mr Walton considered that, arguably, the golf holiday resort would be acceptable, but the residential development is not.

3.5.16 In contrast to the summary Deloitte analysis, the applicant's second financial appraisal (T7) concludes that 500 houses for sale are required to make the project financially viable. Other first class golf courses (Kingsbarns was ranked 5th best in the world by Golf World in 2005) have opened in recent years in Scotland without large supporting housing or commercial developments. The rationale for golf developers selecting links like Menie is because the land is 'ready made' for golf; it does not require any significant and financially costly alteration. The level of attendant development at new links courses at Archerfield in East Lothian and Macrihanish on the Mull of Kintyre is far smaller than proposed here. Mr Walton considered it unnecessary to build a new town to fund the creation of a world-renowned golf course. Mr Walton agreed that the development proposal would inevitably produce positive impacts for the economy and agreed with the applicant's analysis (T6), but those wider economic benefits accrue from the golf resort which was assessed to be viable without 500 market houses. Mr Walton questioned the council's planners' conclusion that the housing development was needed to bring about the wider economic benefits of the development given the Deloitte conclusions. Mr Agnew submitted that the council's position was a fallacy, their recommendation to the Formartine Area Committee was that *"the planning service...is willing to accept a business case for the proposed housing given the size of the development as a whole and the scale of funding required to make it a serious proposition"*. Dr Gore suggested that she was guided towards that recommendation because the applicant might not proceed if the 500 houses were not approved, but there was then no financial evidence to underpin that supportive position. Mr Agnew submitted that it was not the applicant who had demanded the surrender of the planning system by asking for their application to be determined as it stood, it was instead the council who were prepared to surrender proper and prudent development control.

3.5.17 Mr Agnew submitted that, even if the market houses were additional to allocations made through the development plan process, amounting to just 1% of the numbers required, the economic benefit would not be of national significance. The effects on construction employment should be discounted because that activity would occur in any event on land allocated in the development plan and because all development involves construction employment, not just this proposal.

3.5.18 Mr Agnew drew attention also to Mr Webster's evidence for TIGLS where constructions costs, sales revenue, net operating income and residual values are all necessarily forecasts based on assumptions made, again by TIGLS. Whilst

the assessments of NPV are sensitive to small changes in the discount rate, phasing could also affect the timing of income flow. These are necessarily all subject to significant business, economic, political and competitive uncertainty, potentially outwith the control of the applicant.

3.5.19 Mr Walton referred to the emerging provisional draft structure plan which identifies three strategic growth areas as the focus for long-term strategic growth up to 2030. One of these is the A90 Aberdeen–Peterhead corridor. Other developers, landowners, community councillors and the wider public will have the opportunity to make representations on both the scale and the location of new development. The plan does not propose any new settlements as would be required under national planning policy (SPP 3) to justify the scale of development proposed at Menie Estate. The proposal at Menie Estate is thus premature against the terms of the final structure plan and a decision to allow a development on this scale now could prejudice the rights of other interested parties. Mr Walton considered, based on the 2007 housing land audit, that there is more than a 5 year land supply. Thus there is no demonstrable shortage of housing land within the Aberdeen Housing Market Area that could justify granting permission for 500 houses at Menie Estate now.

3.5.20 Mr Walton referred to the principle in *Bernard Wheatcroft Ltd v SOSE [1982] JPL37* which would allow Ministers to refuse planning permission for a component of the development so long as this fell within the original application site and did not differ substantially from the original application. The test to be applied is whether the reduced proposal would be so changed that it would be no longer what was applied for and that to grant permission in those terms would deprive those who should have been consulted of the right to make representations. Mr Walton thought that excision of the market houses would violate neither condition; the focus of the development would still be a golf resort, nobody would have been deprived of their right to object and the development would still function as intended. Mr Agnew submitted that, if outline planning permission is to be granted for the golf resort, then permission should be refused for the 500 market houses.

3.5.21 Mr Walton likened the holiday homes to developments in Benidorm. These and the staff accommodation block are particularly inappropriate in planning and design terms. By their sheer size and mass an unspoilt stretch of coastline characterised by dunes and farmland would be irreversibly disfigured and destroyed. The indicative designs are contrary to criteria in ALP Gen\2; Env\5B; Emp\3; and Emp\9. NEST policy 3 would be contravened because the location is not well integrated with the pattern of land use and NEST policy 6 because these buildings would in no way safeguard and enhance the environment. Much of the undoubted pleasure of playing Scotland's wonderful links courses is the wider environment in which that course is set, but here golfers would see a rather vulgar Disney-style development. It is highly unlikely that these would come to be regarded as iconic structures but would instead be extensively visible, visually intrusive and highly controversial causing irreversible damage to an Area of Landscape Significance. An 'old town' to emulate the backdrop of those other links courses could not be established at the Menie Estate, but it would be possible to build a limited number of modest-sized, low-level houses built in a traditional vernacular style using local

materials, or Scandinavian-style chalets. A genuine commitment to architectural quality could serve as a model for other developers in the north east.

3.5.22 Mr Agnew drew attention to the specific wording consistently used in the council's development plan policies, when a development is suggested to be acceptable "*in principle*" that means, given the terms of the glossary to the local plan (page 343), "*subject to compliance with all other relevant policies...*". He submitted that the test that must be applied in respect of the impact on the SSSI is that in ALP Env\2 and not paragraph 25 of NPPG 14 because here Government guidance has been incorporated into relevant development plan policy. He took the view that whilst there would be economic benefits primarily of local rather than national significance, there would be adverse impacts on the SSSI, potentially of national significance. The responsibility for determining the national interest would lie with the Scottish Government having regard to the advice of the statutory agencies. Where there is doubt about the scientific evidence, the precautionary principle should apply, with permission being refused.

3.5.23 Mr Agnew referred to the contention that Trump is effectively a brand and that, if the Trump brand is not there, things would be substantively different. But he submitted that the identity of the applicant is not a material planning consideration, not least because planning permission normally runs with the land, rather than the applicant.

The case for the Scottish Green Party

3.6.1 Shiona Baird, Vice Convenor of the Scottish Green Party gave evidence on their behalf. The Scottish Green Party is committed to forming a sustainable society as defined in the 1987 Brundtland definition "*development which meets the needs of the present without compromising the ability of future generations to meet their own needs.*" Sustainable development has 3 interconnected parts – economic, social and environmental, likened to the 3 legs of a stool – take any one away and the stool collapses. To suggest that any one or two of these aspects takes precedence over the other, misunderstands the meaning of sustainable development. Both the Scottish Government and Aberdeenshire Council are stated to be committed to this ethical approach. All of us are required to reduce CO₂ emissions, protect the natural environment upon which we all ultimately depend and consume fewer resources.

3.6.2 As part of the UK, Scotland has signed up to the Kyoto Agreement to reduce greenhouse gas emissions. Aberdeenshire has not only taken part in a WWF project to measure the North East Global Footprint but also has signed up to Scotland's Climate Change Declaration which commits the council to "*Ensure that greenhouse gas reduction and climate change adaptation measures are clearly incorporated into our new and existing strategies, plans and programmes, in line with sustainable development principles*". But when these principles are applied to this proposal it is clearly unsustainable and contravenes many of the council's development plan and other policies. Ms Baird confined her comments to those areas that conflict with climate change issues.

3.6.3 In respect of transport, Transport Scotland, has stated that its policy is aimed at: *“ensuring development is sustainably located, encouraging alternative means of travel with less environmental impact and reducing reliance on the private car”*. This development would fulfil none of these aims and Transport Scotland place great emphasis on improving the road network to cope with the expected 5,000 residents and visitors. There is a request for the provision of new or extended bus services but the TIGLS Access Strategy refers to buses requiring transponders before accessing the residential areas of the proposal. Ms Baird doubted a genuine commitment to public transport and the required high priority for sustainable transport is not evident here at all.

3.6.4 Ms Baird noted with concern that phases 3 and 4 will not be allowed to progress *“until after the opening of the new Aberdeen Western Peripheral Route (AWPR) is in place”*. However, the Public Local Inquiry to consider objections to AWPR has not yet taken place, so no presumption can be made of the outcome. If AWPR does not proceed, serious doubt is then placed on both the proposed open market housing and the holiday accommodation, both of which underpin the economic case for the whole proposal which would be undermined without them. To permit phases 1 and 2 to proceed with this degree of uncertainty is unacceptable. To permit the irreversible destruction of an environmentally unique area, with the possibility of the developer walking away claiming the development is subsequently uneconomic, is equally unacceptable. Ms Baird maintained that the precautionary principle must be applied; future generations deserve no less.

3.6.5 The Scottish Green Party is particularly concerned that one of the attractions for TIGLS of this site is the proximity of the airport. Increased aviation traffic is inevitable with all the attendant environmental problems of air and noise pollution, and CO₂ emissions. That factor, coupled with the potential for direct access to the resort by helicopter, compromises any notion that this development complies with sustainable development criteria.

3.6.6 Ms Baird argued that no development should be permitted on an SSSI, all should be justifiably proud of this outstanding area of scenic beauty and its importance as a unique habitat for flora and fauna. The identification of the SINS complements the national designation of this very special area. Replacing much of the dunes with the greens and fairways of 2 golf courses imposes an artificial landscape, causing irreversible damage. Mr Trump recognises the unique attraction of the area and his assertion that *“we are going to make it spectacular but it is already spectacular and the more you do to that land the worse it is”* (Business Bulletin August 2007) could not be more true. Ms Baird questioned how that statement could be justified in the light of Mr Trump's present proposals and unwillingness to negotiate a more acceptable solution. The course could be moved off the SSSI and developed alongside the fragile dune system. That would not compromise Scotland's unique heritage of which Mr Trump is justifiably proud, nor deprive future generations of the opportunity to experience this very special area. Like several other objectors, the Scottish Green Party is not entirely opposed to a golf development, though its size and scale must comply with sustainable development criteria.

3.6.7 Climate change will result in increased extremes of weather, sea level rise will impact on the development over decades but of more immediate concern is encroachment by storm surges. As wind intensity increases major problems of sand blow intensify in these mobile dunes and more severe rain events damage the surface area. The east coast haar would also have an impact on the viability of the courses, particularly as it occurs more commonly in the summer months. Whilst this might be a spectacular site on a clear calm sunny day, serious doubt must be cast on the appropriateness of these courses for substantial year-round golfing use. Compromising this unique area by permitting this development on speculative usage cannot be justified.

3.6.8 The concessions which have recently been made to the north do not reduce the overall harm to the area as the mobile dunes to the south would come under greater pressure. It has the potential also to compromise the access that many take for granted when visiting the Balmedie Country Park. Access to the Blairton dome would be severely restricted. When the Land Reform (Scotland) Bill was being considered by the Scottish Parliament the underlying ethos was to permit responsible access to the land which is part of our heritage. Restriction on access here is singularly unacceptable.

3.6.9 Ms Baird stated that permission for the open market housing development should be refused until there has been full consideration under the new structure plan. To do otherwise would create an undesirable precedent of national application. Ms Baird considered it extremely disappointing that the applicant's architects have been so unwilling to adopt a style of development more appropriate to the immediate location. The suggested style is reminiscent of other golf developments, not the local vernacular. Ms Baird's suggestion, made in good faith, of a development in the style of the renowned American architect Frank Lloyd Wright, did not receive a response. To build in harmony with the land would surely receive a more positive response than the enormous hotel complex proposed for the highest part of the dune system, a development which would dominate the landscape for miles in either direction.

3.6.10 From a relatively modest proposal initially, the present proposal is unprecedented in its size and implications for the surrounding area. The carbon footprint which it now represents, would compromise the already unacceptable position of the north east in having a higher than average footprint for Scotland. Scotland is open for business, but only if it is sustainable – we all must accept that we have to live on just this one planet. The reporters and, in turn, Scottish Ministers have a duty to ensure that sustainability is properly considered in its entirety. Ms Baird considered that there are no acceptable factors of national significance which justify departure from the development plan. The involvement of key politicians, albeit in an indirect way, has given this application less chance of being treated as objectively as it requires and the size of the proposal merits a very carefully considered response without undue pressure to hasten final determination. Despite the very minimal concessions made by the applicant, Ms Baird urged rejection of the application as it stands.

The case for Dyce and Stoneywood Community Council

3.7.1 Dr William Harrison represented the interests of Dyce and Stoneywood Community Council. He considered the applicant's Transport Assessment and Environmental Statement to be incomplete and misleading because, based on correspondence with Aberdeen Airport's Customer Service Director, he stated that the applicant plans to use helicopters to ferry guests from Aberdeen Airport to Menie. Mr Harrison considered, based on the stated capacity of the resort, that more than 150 flights per day might be involved, assuming that two-thirds of all guests would use this means of transfer. That forecast would make a mockery of any claims for 'sustainability' or a green travel plan. Such flights, which are beyond planning controls, are already a proliferating feature of 'luxury' golf tourism. Mr Harrison was unaware that, even though the Trump organisation operates many resorts similar to this proposal and which have the capacity for helicopter landings at or near them, their experience is that a high level of such use involves only 1 flight in a week. Even so, he considered that even 10 helicopter landings a day would have a significant negative effect.

3.7.2 Noise and air pollution from helicopter operations would have a potentially catastrophic effect on the fragile ecosystem of the SSSI at Menie. Residents in the vicinity of Aberdeen Airport would also be seriously affected by a huge increase in helicopter activity at the airport. Mr Harrison stated that helicopter activity can, in planning law, be classed as "incidental or ancillary" to the main purpose of a development and therefore no planning permission is needed and no environmental controls can be enforced. This would mean that the planning conditions 30 and 31 suggested to the Formartine Area Committee (Core-G9D) would be unenforceable in terms of helicopter noise. Should planning permission for the resort be recommended for approval and eventually granted by Scottish Ministers, an agreement should be struck under section 75 of the Act to ban all helicopter landings at the Menie Estate so as to protect the integrity of the SSSI and to maintain the amenity and safety of residents in the vicinity of Aberdeen Airport, Balmedie and the surrounding communities.

Additional written submissions made against the proposed development

Mr Ellis Thorpe

3.8.1 Mr Thorpe considers that the applicant and the council have not demonstrated that a golf resort on the north east coast of Aberdeenshire is of such national economic importance as to override the national designation of the SSSI. While Mr Thorpe acknowledges that an investment of £1 billion over 7-10 years would be a substantial boost to the local economy, within a Scottish perspective the proposed golf resort can be seen to be very much less significant than the electronics industry (55,000 jobs at its peak), which in turn is less than construction or hotels and restaurants. Oil and gas, according to Mr Thorpe, employs around 140,000 in the Grampian area and is a major contributor of tax revenue to the Treasury. Mr Thorpe considers such revenue is one test of national importance, and questions whether any figures for the tax contribution of the proposed development have been provided. Compared with the (now much declined) electronics industry

and the oil and gas industry, Mr Thorpe considers that it cannot be shown that one golf resort is of such national economic importance as to justify building on the nationally protected SSSI. Neither has any economic case been shown for the championship course to be located on the SSSI, or what would be the financial detriment to Trump International of moving the back nine holes off the SSSI. Planning permission should therefore be refused.

3.8.2 Mr Thorpe argues that the applicant and the council have not justified the need for planning permission for 500 houses, and possibly the sale of some or all of the 950 holiday apartments. He regards this as the council 'underwriting' the risk of the investment, when it should be borne by the investors. Planning permission should not be given to underwrite a private investment, even at the risk of the applicant taking the investment elsewhere. He questions the justification for a radical departure from the development plan's housing and land use policies.

3.8.3 Mr Thorpe considers that all the reports on behalf of the applicant and the council rest on unwarranted economic assumptions, which use statistical models that cannot deal with 'real' economic behaviour reflecting risk and uncertainty. The labour market in Aberdeenshire is tight, with unemployment below 1% and not much above in Aberdeen City. The project would compete for construction workers with the M74, the Forth crossing, the Commonwealth and Olympic Games, London cross-rail and the Scottish Government's affordable housing plans. Jobs in the resort would be likely to be low-wage and there would be some reliance on migrant workers. The golf course market is becoming highly competitive, with growing numbers of courses in the north east, Scotland, UK and Europe. There are already over 70 courses in and around Aberdeenshire, and about 600 in Scotland including five links championship courses.

3.8.4 The proposed resort would depend on international golf tourists, but with an uncertain global financial situation and rising oil prices and travel costs, reliance on long-distance travel would, in Mr Thorpe's view, be unduly optimistic. These uncertainties also affect business visitors. Last year, according to Mr Thorpe, 2.86 million business trips were made to Scotland, generating nearly £1 billion for the economy, while Offshore Europe attracted 8,000 delegates and generated £40 million. However, a recent study showed that 90% of major businesses are planning to use video links instead of flights. Scottish Enterprise is promoting 'sustainable tourism', with a low impact on the environment and local culture. Mr Thorpe questions how this vision fits with building part of a golf course on an SSSI. It has been assumed that the proposed resort hotel would meet a shortfall in high-class hotel accommodation. However, Mr Thorpe drew attention to 11 new hotel developments approved for Aberdeen City which, with what is in the pipeline, would increase supply by 25% by 2009. Given all these uncertainties, the forecasts of Trump golf resort numbers appear precarious. In Mr Thorpe's view the economic evidence is overwhelmingly against building on the SSSI and allowing a departure from the development plan to build the proposed houses.

Representations

3.9.1 As indicated in the Preamble to this report this proposal has generated a large number of representations during its consideration by Aberdeenshire Council,

whilst under scrutiny at the public local inquiry, and since the inquiry closed. As made clear when the inquiry was closed, the last are not dealt with in this report and are before Scottish Ministers as post-inquiry correspondence which is the approach provided for by the Inquiries Procedure Rules.

3.9.2 Before the inquiry closed some 2,084 letters or e-mails were received objecting to the proposal. The issues raised and that are relevant to land use planning are summarised below.

Representations objecting to the development – general issues

- There is no reason why the applicant should be exempt from the normally applied planning laws, policies, and procedures, especially as the public and other celebrities have all been expected to comply on an equal basis.
- The applicant should work with the planners not against them, to achieve the best development for the site and for the greater good of Scotland. He should not be allowed to disregard so comprehensively, policies that, for good reason, are designed to protect the environment, especially when those policies are accepted by everyone else and have been democratically derived.
- The applicant has made no attempt to negotiate and to take the natural designations into account. Instead, he is trying to ride roughshod over the well-established and generally liked and supported Scottish planning system.
- No effort has been made to consider alternative locations for the development that might be of more benefit to Scotland and Aberdeenshire, or to modify the design to take the particular nature and character of the location into account.
- The proposal has not been the subject of full and objective consultation with local residents.
- The applicant has not been open and honest about his development intentions.
- The applicant's respect for any planning conditions imposed and willingness to comply must be doubtful.
- If the development is successful, the applicant will undoubtedly seek expansion. But if it begins to fail, the council will be left with a ruined environment and pressure to prop it up by developing yet more housing.

Representations objecting to the development- policy

- The SNP manifesto pledges to protect valuable green spaces and to pursue high design and sustainability standards. The proposal conflicts with each.
- The proposal is contrary to various laws and planning policy at all levels, i.e. the full range of European, national, and development planning policy, which all seek to safeguard the countryside generally and valuable Sites of Special Scientific Interest in particular, along with the endangered species that it supports.
- The proposal has not been shown to be of national importance, nor is it in the wider public interest, especially in comparison to other schemes like the Lewis wind farm, which has not been called-in for the Scottish Ministers to determine. Therefore, no policy exception can be justified.
- The area is allocated in the development plan as undeveloped coast and as an area of landscape significance, both of which are to be protected. It is specifically not zoned for housing.

- The proposal is effectively a new town. Such a major housing land release should only be promoted through due development plan process.
- The proposal would create a ribbon of continuous development between Ellon and Aberdeen, i.e. the whole Newburgh to Denmore corridor, which area is already heavily developed and under pressure for more. The result will remove and urbanise the remaining countryside gap that separates the coastal settlements of Balmedie and Newburgh.
- Allowing the proposal will create pressure for more housing in the countryside and it will establish a dangerous precedent, making that pressure hard to resist.
- Aberdeenshire Council's recent success in overturning an appeal decision for housing on the edge of Newburgh, which was contrary to the development plan, makes it difficult to understand how so much more development could be acceptable at this site.
- The exclusivity of the development is the opposite of the Scottish policy approach of inclusion, diversity, and the provision of much needed affordable housing in Scotland's highest price housing market area. Affordable housing is central to council policy and other planning permissions have been refused for the lack of it.
- Even if the proposal did include affordable housing, the location is wrong because it is too far from supporting services and has no easy or affordable linkages to these services.
- The infrastructure and services are not available to support such a major new community. For example, the proposal includes none of the schools, shops, health, or other community facilities that will be needed to support so many new houses, nor does it indicate how the extra pressure caused on existing services will be absorbed.
- The applicant has not offered any of the planning gains that are normally associated with development in Aberdeenshire, to cover the extra cost of pressure on existing services.
- Granting so much new housing in one unplanned location, in contravention of the development plan system, prejudices other developments that have arisen through that due process, skews the local housing market to an unacceptable degree, and would amount to an over supply in one narrow sector of the market.
- The proposal will encourage more car travel, which is contrary to planning policy at all levels.

Representations objecting to the development – the economy

- The proposal will result in the loss of productive agricultural land, which is increasingly necessary for food production.
- The proposal amounts to a development of luxury second homes, to which clients will fly for only short visits, during which it is unlikely that they will stray from the resort confines. Given that, the development will not benefit local services and businesses and it will not be sustainable in the widest sense.
- The site will be so self contained, that maximum profit will be kept on site and will attribute to the applicant, i.e. outwith Scotland, instead of being spread throughout the local area.
- The economic benefits for the applicant far outweigh any that might result for the existing local community.

- It would be wrong to approve the proposal based on economic considerations when so much of that supporting information has not been released into the public domain for scrutiny.
- The evidence that is available does not show economic benefits of sufficient certainty or significance to offset the certain, permanent, and substantial harm to the environment.
- The economic claims made in the council's supporting committee report overstate the potential benefits and are not based on evidence or fact.
- The local housing market is already overheated and the proposed luxury housing can only make that worse.
- Other comparable international standard golf courses have not boosted the related local economy, e.g. Turnberry, which is beside Girvan, which is an extremely depressed town. There is no evidence to show why this proposal would do otherwise.
- Golf clubs and associated resorts are failing world-wide, especially given the current economic downturn, so another cannot be justified, unless it is simply a device to get permission for housing.
- Other new golf courses of world-renown, e.g. Loch Lomond and Kingsbarns, have not needed housing development for cross funding, so that if the houses are needed for this development, then the golf course must be regarded as at best precarious.
- No evidence has been provided to show that the new houses will produce essential funding for the remainder of the development, so the cross-subsidy argument should not be treated as a favourable material consideration.
- Aberdeen does not suffer high unemployment, rates are about half the Scottish average, so arguably, the proposal would better serve Scotland if it were to be located elsewhere.
- Oil was predicted to run out by 1995, but it is still flowing.
- The proposal will generate low-skilled and low-paid jobs, on a temporary and possibly seasonal basis. These will not replace any oil related losses and they are not a realistic substitute for the highly paid and highly skilled oil related jobs to which Aberdeen has become accustomed.
- Low paid jobs in Aberdeen are already staffed by immigrant workers, and the proposal will only add more.
- The proposed 400 bed staff accommodation unit confirms that the majority of workers will not be locally sourced.
- The new golf course endangers the existing livelihoods of those already providing the various established golf courses and facilities.

Representations objecting to the development – tourism

- VisitScotland's figures reveal that in 2006, golf tourism accounted for only 3% of all Scottish tourism, whereas outdoor activities of the kind associated with the dunes at the site accounted for a major 73%. The proposal would prejudice that largest figure for very little gain.
- Scotland's exceptional landscape and wilderness areas are a strong attraction for large numbers of visitors and the proposal will remove a significant part.
- The proposal represents the opposite of the kind of eco and sustainable tourism that VisitScotland is trying to promote, and which is beneficial to the environment.

- The proposal will make the area less attractive to valuable, sustainable tourism.
- Neither Scotland nor Aberdeenshire needs more golf courses. The area boasts a number already, at least 5 of which within 10 miles of the site are coastal.
- For historic reasons, golf tourists tend to focus on St Andrews and the proposal will not change that. In addition, golf tourism is inherently volatile and fickle. For both of these reasons, it would be naïve to grant this whole development on an expectation that the golf course would become a permanent and successful feature.
- Unrestricted public access as provided for by the Land Reform (Scotland) Act 2003 should be maintained to the beach and the dune system, but there is every suggestion from the submissions that the applicant would prevent this.

Representations objecting to the development – traffic

- Traffic congestion is already intolerable on the local road network, but especially on the A92 from Aberdeen to Ellon, on the approaches to the Bridge of Don. The extra traffic associated with the proposal, from construction through to operation, including commuting, will add significantly to the already high degree of congestion suffered on the road network.
- If a golf championship is held at the site, the road network would be even less able to cope, thereby causing more considerable disruption for local residents and impediment to through traffic, which the network should aim to ease.
- The site is so large that internal transport is an issue that seems not to have been addressed, including by way of a green transport plan.
- The proposal will increase the already high level of air traffic activity at Aberdeen Airport and the frequency of helicopter trips from there to the site.
- All of these traffic implications are unsustainable and will worsen global warming.

Representations objecting to the development – the environment

- It is unwise and contrary to policy to build such a major development so close to the shore, where it might soon be inundated as a result of global warming and rising sea levels.
- The dunes area is an accessible, well used, and much loved green space close to the highly urban Aberdeen city, and it adds much to the physical and mental health of residents.
- The area is used extensively as an educational resource by schools and Aberdeen University, and there is no equivalent within easy reach. For example, Beachwatch takes place every year.
- The coastal sand dune landscape affected by the proposal is a Site of Special Scientific Interest and the wider environment is protected by Scottish and European law, as well as by policy of all levels, including the local biodiversity action plan.
- The coastline is a valuable and irreplaceable, dynamic and constantly evolving natural environment.
- The Don-Ythan coastline of mobile dunes is one of few remaining such areas, so that it is of at least national importance for the dunes, but also for the rich variety of flora and fauna that they are known to support.

- The succession of habitats from bare sand and mobile dunes, through to dune slacks and fixed dunes, to dune heath, provides habitats for geese, oystercatchers, curlews, redshanks, lapwings, skylarks, short-eared owls, tawny owls, barn owls, bat colonies, otters, and badgers, as well as fungi, ferns, and mosses dating back 4000 years. Many of these species are in sharp decline, so that the dunes are priority habitats as designated at national and local level. Such a huge development would destroy the whole of this very delicate ecosystem for future generations.
- The sand dunes in the north part of the site are in a designated Site of Special Scientific Interest and they must be fed by wind blown sand to survive, i.e. the essence of this environment is its mobility. But the whole coastal system interacts, and it is probably the best Scottish example of this type of environment.
- This kind of fragile, wild place must be left undeveloped for posterity and the integrity of the planet.
- It is simply not possible for humans to understand and thereby recreate such a complex natural environment.
- Stabilising the dunes as proposed, will stop further young dune slack from developing and the habitats will diminish. Therefore, the proposed fixing of this priceless national asset that was formed over thousands of years is equal to the destruction of the rain forest, and it should not be traded for perceived short-term economic benefits.
- The submitted ecological and environmental assessment information is incomplete and inadequate, and it contains so many inaccuracies, unsubstantiated statements, and contradictions, that it is a wholly unreliable basis for any development approval. For example, it does not refer to the impact of the development on invertebrates, or to the impact of an influx of huge crowds to a championship event.
- The sheer scale of the proposed works prevents the golf course being formed with minimal engineering work and disturbance, but the impact of CO₂ emissions, traffic congestion, and pollution of importing so much soil to form the golf course has not been assessed. Alternatively, the impact of obtaining the fill material from on-site has also not been assessed.
- The engineering work associated with the whole development will alter the local water table, which poses a threat to private supplies, sports, and fishing in the area, and might even cause pollution.
- The local microclimate has not been taken into account and it is so severe, that it will discourage holiday use. In addition, the lack of daylight in winter, frequent winter storms, and summer sea fogs will vastly reduce the amount of playable time on the golf course. Both threaten the viability of the whole development.
- Golf and the natural environment do not co-exist. For example, a large colony of *Carex Maritima* existed at St Andrews golf course. Despite attempts to manage it, the colony has been in long-term decline and recently disappeared altogether.
- Golf courses are not environmentally sensitive because they are such a heavily managed environment. In particular, run-off from the regular use of fertilisers, pesticides, and weed killers in managing them causes extensive pollution and environmental damage. The whole process of management also adds to global warming by increasing CO₂ levels.
- The amount of additional vehicular and air traffic that a proposal of this size will generate will further increase greenhouse gas emissions, especially as public

transport links are poor and luxury clients are not likely to find them an attractive option anyway.

- The lifestyle associated with this kind of luxury golf resort is inherently unsustainable and not carbon neutral.
- The impact of so many holiday village occupants accessing the remaining dunes and coastline continually throughout the year will further erode them and prejudice their preservation.
- The increased human activity associated with the whole proposal will drive wildlife away and destroy natural habitats, and it will attract litter, which in turn attracts scavengers like the seagulls that are already such a problem for Aberdeen.
- The plans do not propose any use of green energy, grey water treatment or recycling. Instead, the applicant has declared his specific opposition to green energy proposals, which is contrary to planning policy at all levels, as well as to the stated SNP of aim of increasing this energy sector and making Aberdeen a world-leader in the field.
- For all these reasons, the environmental damage that the proposal will cause will be far worse than the applicant predicts, and it will breach the Council's own Environmental Charter.
- Modifying the proposal could avoid harming the Site of Special Scientific Interest, and the environment is so special that to do otherwise is unjustified, yet the applicant has singularly failed to negotiate or to address this issue.
- The MEMAG advisory group will have little influence in practice unless it has real powers to prevent allowing the golf course to encroach into the Site of Special Scientific Interest.

Representations objecting to the development – design and scale

- The plans show no easy relationship with or connection to existing settlements.
- The size of the new town will be the same as Balmedie and Newburgh combined.
- The holiday apartments would be strung along the coast for some 1.5 kilometres.
- The photomontages supplied with the plans are not reliable.
- There are few, if any, other buildings of this design and scale in the whole of Aberdeenshire.
- The hotel will be some 11 storeys high, it will be as long as Union Street in Aberdeen, it will be larger than Pittodrie stadium, it will be 3 times longer than Peterhead Power Station's main building, and it will cover an area bigger than 4 football pitches.
- Design devices like towers, spires, and flagpoles are all included to maximise the visual impact of the buildings.
- No evidence has been provided to show that the buildings will comply with sustainable building guidelines.
- Existing established local buildings like Menie House will be completely dominated and overwhelmed by a development of this size.
- The development would appear as a highly visible and intrusive monolith in this very low and subtle landscape. The visual impact and harm that this will cause will be immense.

- Such high buildings situated so close to the coastline will increase the prominence of the development and jut into the skyline in an inappropriate and unsympathetic manner.
- The design and scale of the proposed new buildings is inappropriate to the Scottish character of the setting.
- The design of the proposed buildings does not respect Scottish vernacular and it amounts to no more than poor quality pastiche. As a result, the buildings will look entirely out of place.
- All other local developments in the area have been required by planning policy to maintain a low profile and this proposal should be treated no differently.

Representations objecting to the development - amenity

- The residents of Balmedie, Foveran, and Newburgh bought their homes for the peace and quiet of the location, the nature of the established communities, and on the basis of the protective planning policies that are in place. They have a moral and legislative right to expect that those policies will be upheld and that their position will be preserved.
- The proposed new build will be so close to existing housing and of such a different and dominating scale, that it will remove privacy and amenity to a significant degree.
- The major amount of extra activity that the proposal will generate day and night, will further erode the environment, as well as the residential and general amenity of the vicinity.
- The extra lighting associated with a development of this scale will cause light pollution, which will add to global warming and further erode the residential and general amenity of the vicinity.

Petitions

3.9.3 Four petitions were referred to us:

- An e-petition, which closed on 1 March 2008, submitted by Cathy Lewis, containing 8658 signatures - *"We the undersigned petition the Prime Minister to back SNH and stop Donald Trump from building a golf course in Aberdeenshire that will damage an SSSI and on one of the top 5 dune sites in the UK."*
- An e-petition, submitted to the Aberdeenshire Council area office on 8 November 2007 by Cathy Lewis, containing 1167 signatures. Terms exactly as above.
- An e-petition submitted to Aberdeenshire Council on 7 November 2007 by Allan Fyfe on behalf of sustainable Aberdeenshire and containing 560 signatures. The petition states: *"We, the undersigned, wish to object to the application on the following grounds. The development will take a serious toll on the natural environment, if it goes ahead. Scottish Natural Heritage has concerns about the proposed destruction of the site of special scientific interest (SSSI). Although we are not against progress, this development seems to ignore all that we have learned in the last few years about the acceleration of global warming. Democracy is at risk. The proposal is in breach of planning principles and resolutions that have been in place for many years. These may be pushed aside in order to satisfy the demands of the Trump Organisation."* In addition, those

signing the petition have added comments and these encompass the same broad issues as those raised in the individual letters of objection summarised above.

- A petition by David Milne to the Scottish Parliament *“calling on the Scottish Parliament to urge the Scottish Government to (a) ensure that all relevant planning policies and guidance are adhered to and (b) consider the circumstances under which Scottish Ministers instruct local inquiries, when planning applications such as that for a housing and golf development at Balmedie are being considered.*
 - A petition containing 28 signatures received by Aberdeenshire Council on 22 and 23 January 2007. The petition is logged under the name D Firmin and states: *“We the undersigned call upon those considering the application for the development of a golf course and the associated buildings at Menie Estate, Balmedie, to reject these proposals. We encourage you to act with leadership, responsibility, and foresight with regard to the impacts of such developments in contributing toward climate change; and with due regard for the immediate environmental impacts on the coastline that any such human interference would bring about.”*
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CHAPTER 4

Findings of fact and related conclusions

4.1 We make the following findings and related conclusions, the test being that on the balance of probability the outcome would be as stated.

Background

4.2 The Preamble and Chapter 1 of this report are incorporated for their terms. These refer to the handling arrangements for the inquiry made with parties; the consultations undertaken by Aberdeenshire Council as planning authority; the representations and petitions; the physical nature of the application site; the terms of the development proposed; the policy that applies as contained in the development plan and in statements of national policy; and the environmental information that we have taken into account.

The development proposal and environmental information

4.3 The planning application is in outline. The detail of all proposals shown in supporting drawings has only indicative status. Consequently, it is only the principle of development that is now to be determined by Scottish Ministers.

4.4 If outline planning permission is granted then all other matters, including the design and detail of the development, would be reserved for the subsequent consideration of Aberdeenshire Council and for their determination as planning authority. Drawings T2 & T2(A-B) do not form part of the application for outline planning permission but show the disposition of the elements of this mixed development as currently proposed, particularly the Hawtree layout for the championship golf course, together with the diagrammatic extent of the SSSI within the application site. The council proposed a planning condition to require that the championship golf course be constructed *“generally in accordance with plan T2”*. The applicant does not object to that condition.

4.5 The applicant submitted an environmental statement (ES); a transport impact assessment; a drainage impact assessment; a sustainable urban drainage proposal; an economic impact assessment; and a report to inform an appropriate assessment. These were refined by further submissions and in the evidence of individual witnesses to the inquiry. In addition, a series of further documents were lodged as additional environmental information culminating in the new layout for the championship golf course and documents describing its environmental effects. The last were advertised by DPEA under Article 6 of the Environmental Impact Assessment Directive 85/337/EEC.

4.6 We note the submissions made by several parties concerning the alleged inadequacies of the environmental statement and environmental information before the inquiry. These include:

- inadequate attention to the evaluation of alternatives that would be less damaging to the environment, but still provide for a viable development;
- the effects of the “future”, or second, golf course;
- long-term habitat change brought about by the processes of dune stabilisation, shaping of tees, greens, bunkers and fairways, watering and drainage, the use of fertilisers and herbicides, the eradication of rabbits, the spread of introduced organisms, trampling, passage of machinery, divot replacement etc;
- the need for a bryophyte survey where it appears likely to SNH that some rare and red-listed species would be found;
- a lack of information on the distribution of the red-listed plant shepherd’s cress, whose presence in the development area has been reported; and
- that the ES fails to address the impact upon the whole ecosystem and dynamics of vegetation, rather than upon its constituent components which are considered individually.

It was argued that the absence of data on these issues throws doubt on the ability of Scottish Ministers to address all material considerations when reaching their decision.

4.7 However, we find that this is a large and complex proposal. The developer currently seeks confirmation only that the principle of development is acceptable. We are satisfied that, when account is taken of the provisions contained in the Environmental Impact Assessment (Scotland) Amendment Regulations 2007 allowing for environmental assessments in a multi-stage planning process, that the currently available information is sufficient to enable the outline planning application to be determined. Specifically, we do not find compelling grounds to conclude that the environmental statement and supplementary information, including the material intended to inform an appropriate assessment, is defective or that it does not comply with the regulations or that the appropriate procedures for publicity were not followed. We have taken account in this report of all the environmental information that was provided.

4.8 Questions of the identity of the councillors to be involved in the consideration of any applications for reserved matters, or detailed planning permissions, and which council committees may decide the applications, are properly for Aberdeenshire Council as planning authority.

Tests to be applied

Town and Country Planning (Scotland) Act 1997

4.9 The law requires that the decision in respect of this outline planning application is made in accordance with section 25 of the Town and Country Planning (Scotland) Act 1997, thus the determination shall be made in accordance with the development plan *i.e. the policies in North East Scotland Together, the Aberdeen and Aberdeenshire Structure Plan 2001-2016 (NEST) and the Aberdeenshire Local Plan 2006 (ALP)*, unless material considerations indicate otherwise.

4.10 We find that some development plan policies support the development proposed in the outline planning application, whilst others do not. In overall terms the proposed development amounts to a significant departure from the development plan.

4.11 The national policy contained at paragraph 25 of NPPG 14 (see paragraph 4.19 below) is further developed in the development plan as ALP Env\2 (paragraph 1.35 of this report). However, we find that the reasoned justification contained in ALP does not indicate why a different and arguably higher level of protection is considered necessary at local level in Aberdeenshire than is provided by either the national policy or the structure plan as NEST Policy 19. We note that the council's application of the policy in this case is consistent with the wording in NPPG 14 and their structure plan, despite the wording in Env\2.

Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

4.12 As the category B listed Menie House is located within the development site, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The Conservation (Natural Habitats etc) Regulations 1994

4.13 Regulation 3(4) states that every competent authority in the exercise of any of their functions shall have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

4.14 Regulation 10 explains that a European site includes an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive (known as a Special Protection Area (SPA)). The Ythan Estuary, Sands of Forvie and Meikle Loch Special Protection Area lies to the north of the application site.

4.15 Regulation 48(1) requires a competent authority to make an appropriate assessment of the implications for a European site of a proposed development which is likely to have a significant effect on that site and which is not necessary to the management of the site.

4.16 Regulation 48(6) states that, in considering whether a project will adversely affect the integrity of a European site, regard is to be had to any conditions subject to which a permission should be given.

4.17 Regulation 54(3) states that a competent authority may, if they consider that any adverse effects of the project on the integrity of the site would be avoided if the planning permission were subject to conditions, take action which results in planning permission being granted subject to those conditions.

The Nature Conservation (Scotland) Act 2004

4.18 Section 1(1) states that it is the duty of every public body and office-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions. Section 1(2) states that in complying with the duty imposed by subsection (1) a body or office-holder must have regard to, amongst other things, the Scottish Biodiversity Strategy.

NPPG 14 – Natural Heritage

4.19 NPPG 14 sets the national planning policy applying to the country's natural heritage. Paragraph 25 states that:

25. The presence of a national natural heritage designation is an important material planning consideration. This does not mean that development is precluded by the presence of such a designation. Proposals require to be assessed for their effects on the interests which the designation is designed to protect. **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 site 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.** (emboldened in the national policy)

Consideration by Aberdeenshire Council as planning authority

4.20 The consideration given to this outline planning application by the Formartine Area Committee and then the Infrastructure Services Committee is fully documented. Core-9F indicates the range of information to which Members of the Infrastructure Services Committee had access; this included the TIGLS Environmental Statement; Economic Impact Assessment and Financial Review and the EKOS economic impact review prepared for the council, plus the comprehensive assessment prepared by the council's planners. This information is the same as that which was considered by the Formartine Area Committee.

4.21 The council had not concluded an appropriate assessment before the Infrastructure Services Committee meeting, despite the recommendation for approval in the report by the Director of Planning and Environmental Services. We find that such an assessment would have been a necessary precursor to a decision to grant outline planning permission.

4.22 We agree with Councillor Robertson that the views of the council are evidenced by their support for the proposal at the meetings in December 2007 and April 2008. The judgement then reached was based on the Fazio layout and not the more recent Hawtree proposal for the championship course. It is dependent on the balance struck between the accepted breaches of many planning policies and guidelines and the potential economic benefit that the development would bring to the area.

4.23 The issue of whether the council had any locus to reach such views has no bearing on our consideration and recommendation; that is a matter for the council. The matter of whether the call-in of this outline planning application was competent has been considered by the Scottish Parliament. We remain under instruction to hold the inquiry and to make a recommendation to Scottish Ministers concerning the planning merits of the proposed development to inform their decision.

4.24 The council has more knowledge of Mr Trump and this development than any other party. Its belief is that his commitment to the delivery of the golf resort is genuine. We find that the council's approach in considering the proposal was broadly consistent with the policy outlined at paragraph 74 of NPPG 14 and the test at paragraph 25 where, having sought (and failed) to avoid adverse effects on the natural heritage the council reached the conclusion, which it maintains, that other material considerations clearly outweighed any potential damage to the development plan and to natural heritage. That support for the proposal is not conditional on significant mitigation or enhancement, but the council considers that there is a very real prospect that significant and material mitigation would take place.

Siting and design of the championship golf course

4.25 The championship golf course incorporates a part of the SSSI because there the scale of the dune topography and landscape is varied, striking and spectacular. That variation and drama increase significantly in the SSSI and the topographical playing interest of the holes is held by TIGLS to be equal to the best of other world-class links courses. We find that these features are significantly more intense and dramatic within the SSSI.

4.26 TIGLS maintain that, if the course did not enter the SSSI, the consequence would be a weaker, less visually striking championship course and a second course which would be the poor brother of the main course and might well not function correctly as a reserve, being in part on non-links land.

4.27 There would be no cart or golf buggy tracks between the holes; no provision has been made for golf buggies and the provisional tracks shown would not be able to accommodate them. A condition could be imposed to ensure that no golf buggies could be used on the site, to prevent damage to habitats.

4.28 The density of the holes would be least within the SSSI allowing the holes to be more widely spaced than is usual on links courses. This offers the possibility that the natural surroundings play a larger part in the experience of playing the course.

4.29 Within the SSSI the design objective of TIGLS is to retain areas of mobile sand at hole 15, south of hole 13 and between 12 and 17. The remainder of the dome would be stabilised into grey dune, in time producing its own variety of plant material and wildlife.

The Foveran Links Site of Special Scientific Interest - geomorphology

4.30 Of the bare sand areas in Britain, Scotland has 656 ha; England 253 ha; and Wales 135 ha – with the largest areas of bare sand in Great Britain being in the north east of Scotland. The dunes between Newburgh and Bridge of Don comprise 80 ha, or 12.1%, of the bare sand in Scottish dune systems. The massive inland bare sand features found at Balmedie, Menie, Foveran and Sands of Forvie are almost unknown elsewhere in Scotland and, coupled with the relative lack of human interference, contain an unrivalled and classic suite of geomorphological features and deposits that are of considerable national scientific interest.

4.31 The sand sheet at Menie Links constantly self-adjusts to wind-driven changes in sand supply and the vigorous wind-dominated environment is (and has been since first documented) hostile to the establishment of vegetation. Dynamism, which encompasses alternating phases of instability and enhanced dynamism, underpins the designation for geomorphological processes. A wide range of dune habitats that depend on the geomorphological functioning of the dune site have formed.

4.32 We find that, apart from a diffuse boundary with agriculture where run-off and manure enrichment has compromised that part of the SSSI – a minor local problem in SNH's view – the boundary of the designated area is appropriate and defines land with considerable geomorphological interest for both its physical form and the creative processes involved. It is in favourable condition and meets the criteria for designation as a Geological Conservation Review site.

4.33 About one third of the total area of the SSSI lies within the development site; the golf course footprint within the SSSI amounts to 10.7% of the whole SSSI. The remaining 89% of the SSSI contains similar dune landforms and similar formative processes of sand movement, but at different stages of development. It would be unaffected by the championship course.

4.34 The northward movement of the sand sheet is such that the position of its northern edge in 1949 barely overlapped the 2006 position of the southern edge. There is the possibility that, at some time in the future and in the absence of this development, the northward movement of sand could by-pass the Sandend Burn which is the northern limit of the application site. In this context we note Dr Dargie's opinion, which was not shared by other experts, that much of the present dune dynamism in North Menie will disappear before the end of this century.

4.35 The gap in the coastal dunes to the south east of the dome, and which had an effect on its dynamics through feeding sand inland, has narrowed. In 1978 it was almost 200 metres wide. The experts disagree as to whether it has now closed and they consider that the exact consequence and permanence of this change requires further study.

4.36 We note Dr Hansom's opinion that there is a long-term sediment deficit in Aberdeen Bay and that propagation from south to north is highly likely to affect this area at some point in the future. However, the beach at Menie is presently subject to accretion. We find no reason to doubt SEPA's assessment in 2007 that there is no

flood risk to this coastline and thus to the development site. A need to protect the site from coastal erosion is unlikely on present information.

4.37 We agree with Professor Ritchie that issues of possible sea level change are wholly independent variables that will occur whether or not the development proceeds.

The SSSI - effect of the championship course

4.38 There are 13 SSSI in Scotland wholly or partly located on golf courses. With 2 exceptions those courses pre-dated SSSI notification. Of the exceptions, one was unauthorised; the other, at Macrihanish, was authorised recently but only after SNH concerns were accommodated.

4.39 We agree with the conclusion reached in the ES that, discounting those areas outside the footprint where the golf course development would have no direct effect, the majority of the holes (12, 13, 17 and 18) within the SSSI would have a major adverse impact through stabilisation; the provision of vegetation cover; and topographic modification because, although some dynamic processes would continue at hole 15, south of hole 13 and between 12 and 17, these would largely cease within the affected area. SNH estimate that this would affect 11 ha of the 14 ha of bare mobile sand in the Menie part of the SSSI.

4.40 The dune system would continue to exist but in a modified and, in part, stabilised form. We find that stabilisation is a damaging operation that runs counter to the SSSI citation. Much, though not all, of the geomorphological interest in the North Menie part of the SSSI would be removed. Thus, within the terms set by NPPG 14 and ALP Env\2, we find that the objectives of designating the North Menie component of the SSSI would be compromised, as would its overall integrity. We can reach no finding now on whether sufficient geomorphological interest would remain to continue to justify the appellation of SSSI within the development site. Dr Hansom's assessment was that the geomorphological interest of the site would be removed and it would be up to SNH to decide whether this part of the SSSI should be denotified. Those advising TIGLS consider that sufficient interest would remain after stabilisation and Mr Trump wishes the designation to remain in place.

4.41 We do not find that these adverse effects would extend to the balance of the SSSI; thus the scientific interest in the 66% that lies outwith the development site should be unchanged. More than 20% of the land designated as SSSI and within North Menie, but not directly impacted, would retain some interest but would be diminished by its relationships with adjoining stabilised land forms and altered habitats.

4.42 We agree with Professor Ritchie, Scottish Natural Heritage and others that the beach / dune interface must not be utilised in any way to facilitate the development of the golf course. We find that the indicative design maintains this principle. The fairway and tees of hole 14 are the most critical in this respect, where the indicative drawings suggest that the tees may be 7.5 metres higher and the fairway 2 metres lower than existing, with the transition rough some 7 metres from the dune crest and the fairway 21 metres. We note Dr Hansom's speculation that a

new area of instability with the potential to form a new gap or blow-out could occur here, requiring removal of sand from the course or intervention on the ridge.

4.43 We find that for most tees, greens and fairways the Hawtree layout represents an improvement in geomorphological and topographical terms over the Fazio layout, which it superseded. We note that the Hawtree layout is held to have the potential for reduced cut and fill. However, this is an outline planning application where we have neither the information nor the locus to consider the scale of cut and fill or whether hole 14 would require the movement of *“biblical volumes of sand”*. But given that the transition zone that would be closest to the beach interface is a soft edge and given also that the exact location of the hole, fairway and tees would be determined by a detailed planning application pegged out on site, we consider that this issue is adequately safeguarded in considering the principle of development.

4.44 We find that there is potential for refinements of the golf course layout to be discussed and acted on in the consideration either of reserved matters or any subsequent detailed planning permissions. This could encompass the exact locations of tees, greens, and fairways to minimise habitat and dune disturbance.

The Foveran Links Site of Interest to Natural Science (SINS)

4.45 The whole championship golf course would lie within the Foveran Links Site of Interest to Natural Science (SINS), a regional nature conservation designation protected by local plan policy Env\3. The balance of the application site within the dune system is also within the SINS.

4.46 The SINS site comprises 4 overlapping SESA (Study of Environmentally Sensitive Area) sites, as shown on T31C. In the evidence of some witnesses 2 of these sites are amalgamated into one, thus producing a total of 3. The ES (Core-G3, paragraph 7.3.10) notes that the assessor considered that the SINS *“should have been selected as a combined geomorphological and ecological SSSI according to national guidelines (JNCC 1998). Those guidelines give general principles and list 7 selection types of dune habitat, all of which are present”*. However, we find that, notwithstanding this assertion, the SINS area has not been designated as an SSSI.

4.47 We find a clear visual and physical distinction between the dune system within the SSSI and the dunes to the south (and within the SINS) where there is a buffer zone of recolonised, stable deflation and slack surfaces between the two. The land to the south, where the front 9 holes are proposed, has less geomorphological interest than is evident within the SSSI.

4.48 However, we find that characteristics evident in the SSSI are to some extent duplicated in the dunes to the south, where the ecological effects of past sand movement remain evident. This includes the development of young dune slack, which was referred to in evidence by Dr Dargie and demonstrated to parties at the site inspection close to hole 4 and within an area of relative sand stability. The effect of dynamism on habitat is thus a feature of the entire dune system, not just the SSSI.

4.49 SNH take the view that the SSSI plus South Menie is more valuable than the sum of the components alone.

4.50 RSPB/SWT/BSBI submitted, based on the *EC v French Republic Basses Corbières* (C-374/988 7/12/200) and *Dragaggi and others v Italian Ministry of Infrastructure and Transport et al Port of Monfalcone* cases (C-117/03 13/1/2005) (both with Mr Tyldesley's closing submission in RSB 78) that where it is agreed that areas qualify for designation, but have not been designated, these areas should be accorded the same rank in the hierarchy as a designated site. Therefore they consider that the SINS should be treated as an SSSI. That was disputed by TIGLS because the SSSI is a domestic notification, a subjective discretionary procedure, compared with that under the European Directive for the mandatory designation of a European site, which is what the cases referred to by Mr Tyldesley relate to. Ultimately the interpretation of the law is a matter for the Courts and, in the context of this development and their decision, the Scottish Ministers. In the context of this case we find that the policy position is clear and that it is not changed as the result of these judgements; we are bound to apply the test in paragraph 25 of NPPG 14, together with development plan policy.

Effects of the development on habitats

4.51 We find that ground of high nature conservation interest is very extensive, forming a near-continuous block on the seaward side of the development site. We find that the relationship between habitats and processes is critical to the nature conservation interest.

4.52 The site contains a number of habitats which are classified as Annex 1 habitats in the EC Habitats Directive. In the context of the vegetation seen at Menie, these Annex 1 habitats are:

- shifting dunes along the shoreline with *Ammophila arenaria* or marram;
- fixed dunes with herbaceous vegetation or 'grey dunes' (priority);
- decalcified fixed dunes with *Epetrum nigrum* or crowberry (priority); and
- humid dune slacks.

4.53 The site contains 40.44 ha of shifting dunes, of which 13.66 ha lies within the SSSI; 15.66 ha of dune slacks, 8.27 ha of which lie within the SSSI; 15.67 ha of decalcified fixed dune (priority habitat), almost all lying outside the SSSI; and 84.92 ha of grey dune (priority habitat), 13.75 hectares lying within the SSSI. Overall the site holds 144.78 ha of Annex 1 habitat, of which 88.68 ha is priority rated.

4.54 The variety of successional vegetation types present at Menie may be unique in Scotland in terms of its completeness, with the largest areas of young dune slack (the rarest of the habitats on the site) and probably the largest extent of this habitat in Scotland. We find that the overall suite of dune habitats, in particular dune slacks, is outstanding at a national level. The 2006 survey by Dr Dargie (T50) identified much more young dune slack here than had been previously reported for

Scotland, noting 3.73 ha (3.79 ha as corrected in 2008*) with 3.48 ha within the SSSI. The development site holds almost 99% of Scotland's documented resource and 13% at the level of Britain as a whole. We note that young dune slack is not listed as a priority habitat within the Habitats Directive.

4.55 We have found that for most tees, greens and fairways the Hawtree layout represents an improvement in geomorphological and topographical terms over the Fazio layout, which it superseded. This is because the adverse impact on the dune topography is generally lower through avoiding dynamic dune zones, however the extent of dune slack lost would be increased by 0.7 ha. This use of more of the dune slack areas entails a greater loss of this valuable habitat and is partly caused by the Hawtree layout's introduction of a semi-rough border around fairways and a soft transition zone to link golf course grasses with natural habitats.

4.56 None of the development site lies within a Special Area of Conservation. However, Article 10 of the Habitats Directive (transposed into UK legislation by regulation 37 of The Conservation (Natural Habitats etc) Regulations 1994, as amended,) requires that planning policies should be prepared for areas of major importance for wild flora and fauna. We consider that local plan policies Env\2 – National Nature Conservation Sites and Env\3 – Other Recognised Nature Conservation Sites are such policies. Annex 1 habitats within the SSSI are considered in relation to local plan policy Env\2 and Annex 1 habitats outwith the SSSI and within the SINS are considered in relation to local plan policy Env\3.

4.57 The applicant's documents T4 and T50 give details of direct habitat loss amounting to 35.08 ha of key dune habitats. Within Foveran Links SSSI, direct losses would be 19.35 ha. Nearly all the key dune habitats to be lost would be Habitats Directive Annex 1 habitats, with 16.53 ha of that loss from priority habitats (grey dunes and decalcified fixed dunes).

4.58 We find that losses measured against the NVC categories listed in Annex 1 of the EC Habitats Directive would amount to 18.3 ha, after making allowance for the existence of 9.8 ha of already bare sand within the championship course footprint and on the assumption that transition rough around fairways would be managed as dune habitat and thus modified, but not lost (7 ha). This amounts to loss of 10% of Annex 1 habitats within the development site; 90% would thus be unaffected. The impact on Annex 1 habitats within the SSSI would be 6.35 ha, which amounts to 8% of the Annex 1 habitats it contains; 92% would therefore be unaffected.

4.59 A number of species of higher plants and fern found at Menie are considered to be of very high conservation importance. The ES (chapter 7, p116) concedes that there would be losses to at least 50% of the *Carex maritima*, which is Endangered, and probably 90% of the *Ophioglossum* population, which is Scarce. Other affected species range from Vulnerable (1), through Scarce (2), Near Threatened (1) to Endangered (1). The ES (Appendix 7.6) also lists notable species of lichen, which include one Near Threatened species (*Leptogium*

* See table 1 of T50 where the extent of SD13 is corrected from 3.73 ha as measured in 2006 to 3.79 ha (rounded) in 2008

palmatum), 7 Nationally Scarce species, 2 species for which Britain has international responsibility and 1 species which may be endemic to Britain. The Menie community of fungi supports 3 species from the 2007 UK Red List, 3 other species not yet recorded elsewhere in Scotland, and 10 other species that have been found only in 1-9 other sites in Scotland (Fungal Survey part 2, provided by TIGLS on 9 May 2008).

4.60 The significance of these conclusions has to be set against the commitment which has been in place since 2001 to *“halt the loss of biodiversity”* by 2010, whilst in Scotland only a third of UK Biodiversity Action Plan habitats are in an improving or stable condition.

4.61 We find that these are major adverse effects likely to impact on integrity through the effect on the coherence of the ecological structure and function of the impacted areas. *“Integrity”* is defined in the Scottish Executive Circular of June 2000 (RSB57) covering the Habitats Directive as *“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”*.

4.62 We note that the habitat within a small part of the SSSI is in an Unfavourable condition due to the direct effects of agriculture. We find that there is a reasonable prospect of these areas being restored, and thus enhanced, to Favourable status as the consequence of development.

4.63 SNH do not see that sufficient habitat interest would remain in the SSSI should the development go ahead, because, in their view, the condition of the impacted part of the SSSI would be permanently Unfavourable. The responsibility to advise Scottish Ministers on this matter is theirs.

Translocation, mitigation and habitats

4.64 Besides a sensitive approach to the management of transition rough, TIGLS’ approach to mitigation is based on design, where a substantial part of the dune and slack backdrop to the course would remain untouched; habitat management and enhancement; and habitat translocation. The last involves 35.1 ha for the site as a whole, with 19.4 ha of that proposed for translocation within the SSSI. Dr Dargie has responsibility for advice on this aspect to TIGLS. His peers accept that no-one has more knowledge of the vegetation of dune habitats than Dr Dargie; he was retained 8 years ago by SNH to survey the vegetation of sand dunes in Scotland. His initial advice to TIGLS in this case was that the development should avoid the SSSI and the sand dome to the south. He now considers that, after development and with mitigation, habitat conditions would be better overall than at present.

4.65 Standing the fact that translocation is not an acceptable alternative to maintained conservation within SSSI boundaries, we are heavily influenced by parties’ significant reservations concerning the prospects for translocating such sensitive plant material, requiring the maintenance and re-establishment of micro habitats and on such a large scale. Indeed, it is apparent that the area which would

be translocated would be much larger than any other that has been attempted before anywhere in the UK. Experience is largely experimental and new techniques and equipment would have to be developed, particularly if young dune slack is to be moved successfully. In itself this would require exact matches for donor and receptor sites in terms of geomorphology and ground water conditions and not “near-matching” as suggested by Dr Dargie. Even were plants to be successfully re-established, the removal of features from their natural context would reduce value. Dr Dargie agreed that the re-established vegetation would not be natural and a partly artificial dune landscape would be created.

4.66 In respect of translocation, we find in overall terms that the likely prospects of success are speculative, being largely untested. We therefore question Dr Dargie’s robust view of the likely success rate, which is “near-100%” in the 5-25 year period.

4.67 We find that apart from mitigation through design, thus avoiding adverse effects, the balance of TIGLS’ mitigation proposal would be better described as compensation, because the loss of dynamism in the SSSI cannot be mitigated. However, the possibility of creating good quality dune habitats should not be discounted since the alternative would, for example, be to use conventional hydro-seeding in stabilising the dome with the additional risk posed by aggressive alien species such as New Zealand fescue. This would create a wholly artificial landscape within a small part of a much larger landform retaining its natural habitats and ignore the commitment from experts of renown to achieve of their best in implementing the development.

4.68 We note the advice contained in The Highways Agency’s Best Practice Guide (T53 – which is itself based on the advice of the former Department of the Environment Transport and the Regions) that, in assessing the impact of habitat loss in an assessment of environmental impact, translocation should not be considered as reducing the damage to a site sufficiently for the category of impact to be reduced. Given the dependence on translocation here there is thus no mitigative effect to be weighed in the balance.

4.69 We find that for that reason the overall assessment of the effects on habitats must remain as major adverse within the impacted areas and thus out of accord with the development plan in terms of NEST Policy 19, ALP Env\3 and Env\4 and also with the first criterion of paragraph 25 of NPPG 14. However, we note the potential for the residual effects on habitats to be reduced by the proposed management and enhancement. We note the TIGLS objective to reduce these effects to slight but consider as a matter of fact and degree that the outcome would be likely to be closer to moderate, but with the potential for further improvement.

4.70 We find, if the decision is taken for other reasons that habitats are to be disrupted, that it is better to attempt translocation as a last resort than not to do so because salvaged existing material is likely to give better results than an attempt to recreate habitat from scratch.

Effects of the development on animals

4.71 Site-specific surveys agreed in advance with SNH have been undertaken for water vole, great-crested newts, badger and otter. Neither water vole nor such newts were recorded. On the basis of these surveys and mitigation proposed in the ES, SNH withdrew objections in respect of both otter and badger dependent on an Otter Management Plan and a Badger Protection Plan. Both can appropriately be required by planning condition.

4.72 Bats were also surveyed and the conclusion reached that the golf course development would not pose a risk of significance to them. Recommendations were made to improve the connectivity of their habitats and foraging value. Similarly, SNH recommended that any planning permission should contain planning conditions for the protection of bats.

4.73 Surveys for TIGLS also found that the development would have potentially negative effects on 56 species of invertebrate. These surveys would inform mitigation when the Course Environmental Management Plan (CEMP) is prepared. There would be an additional impact on the community of invertebrates through direct loss of dune habitat, through stabilisation of mobile dunes and through effects on the extent and connectivity of other dune and grassland habitats, which would impact on the functioning of the population structure over a wider area.

4.74 The wider inter-fairway spaces proposed at Menie for the championship course within the SSSI should allow an equal or greater amount of wildlife than that found at other links courses. This feature, coupled with successful implementation of these management plans, offers the potential for an increase in numbers of some of the observed species over those existing on the site at present.

Effects of the development on birds within the SPA

4.75 Amongst wintering birds recorded on the site, the key species was the pink footed goose with a peak count of 3,500 birds roosting on land to the south of Menie House (outwith the SSSI) and likely to form a part of the flock using the nearby Ythan Estuary, Sands of Forvie and Meikle Loch SPA. A full report (Core-G4, supplemented by T16 and the TIGLS written statement) has been prepared to inform the appropriate assessment by Scottish Ministers as the competent authority should they be minded to grant outline planning permission.

4.76 RSPB/SWT/BSBI question several of the measures suggested in the appropriate assessment report dated October 2007(Core-G4, 8.2). With the possible exception of the retention of flight ponds, none of the measures proposed would mitigate significantly the loss of winter bird habitat. The creation of new grasslands would be unlikely to be of sufficient scale or appropriate in nature to attract wintering waders due to the matrix within which they would be set and due to the competition for land and amenity from the other developments within the resort. Positive management of wetland and riparian corridors would be more than offset by their losses. Screening and buffering of the roost pool (T16: (2008) p15) would be unlikely to be possible or effective in retaining roosting pink-footed geese and such a proposal does not reflect the species' likely behaviour. The creation of any

significant new water bodies would not be permitted for air transport safety reasons, although any such concerns should be considered by Aberdeenshire Council against detailed proposals.

4.77 We note the concerns expressed by RSPB/SWT/BSBI but find that the material prepared in consultation with SNH (and which is subject to their qualified agreement) to inform the appropriate assessment indicates that the integrity of the SPA would be maintained. The residual impact on qualifying species for the SPA would be slight. The proposed development would not be a threat to the Conservation Objectives of the SPA, as all populations would be sustained, albeit with a local reduction in numbers at Menie, with no likely change to the population in the north east of Scotland or at European sites. As its integrity would be maintained, its Conservation Objectives would be sustained. The SNH position is dependent on the submission of an acceptable goose management scheme and a detailed public access plan to manage the potential for species disturbance. We do not find reason to dissent; both can be appropriately covered by planning condition.

Effects of the development on birds within the site

4.78 We note the assessment that the range of birds present is near SSSI quality and includes 11 species red-listed as Birds of Conservation Concern. However, the views held by the respective experts concerning the consequences of the development are at opposite poles.

4.79 RSPB/SWT/BSBI consider that the adverse effects on birds would be wide-scale and permanent, with only small-scale mitigation measures. The losses in bird species would never be recovered and enhancement of “*bird interest above SSSI qualifying threshold levels*” on the developed site would be unachievable. They disagree that slight-negligible negative impacts on any bird species are “*within sustainable limits, national, regional and local*” because the impacts on the site would be considerable, with no evidence to support the assertion that populations would be sustained (all references to Core-G6: Breeding Bird Survey; and RSB written statement 4). Given the spatial extent of the development footprint and the function of “*buffer zones*”, they consider that these would be likely to be ineffective in a development of this kind, especially in relation to birds’ usage of such areas (Core-G3: ES p. 114).

4.80 In terms of the mitigation for permanent loss of habitat for birds, RSPB/SWT/BSBI acknowledge that the resort development may create habitat but consider that the proposals fail to take account of context. The mitigation measures would be in competition with a demanding layout and would be speculative, small in scale and of far less value for birds when compared with the habitat losses brought about by construction and by the development footprint. RSPB/SWT/BSBI do not consider that long-term positive impacts on birds would occur.

4.81 We note that SNH has not objected to the development on the grounds of its impact on birds on the development site. We attach great importance to this lack of objection, as SNH is the agency responsible for advising central and local government on all aspects of Scotland’s natural heritage (NPPG 14, paragraph 8). Therefore, on balance, and as a matter of both fact and degree, we prefer the

evidence of TIGLS. The use of this land as a shooting estate has only recently been halted following Mr Trump's acquisition. We find that the key species and habitat in bird conservation terms are sky lark and sand dune. Sky lark showed a clear preference for semi-fixed dune, heath and dune grassland. The areas lost to these habitats in the Hawtree layout are reduced by 3.34 ha over the Fazio proposal. However, the development would still cause a short-term reduction in sky lark numbers. Recovery in the medium to long term would be dependent on the success of dune habitat mitigation or compensation and actions directed at red list bird species in the CEMP.

The Course Environmental Management Plan (CEMP)

4.82 We find that the CEMP has the potential to retain and possibly enhance interest through both management and monitoring creating new opportunities for wildlife, thus underpinning national and local biodiversity priorities. We find that, after mitigation or compensation which itself is dependent on the CEMP, the development would not have a significant adverse impact for birds and protected animal species and that ornithological interest within the championship course could be increased by the habitat formed by the stabilisation of the dunes.

Alternative locations for the championship course

4.83 RSPB/SWT/BSBI sought to establish whether an alternative links course (RSB17B) could be designed that would have fewer impacts on habitats and species; that would not impinge on the SSSI or the southern sand dome; would minimise the effect on the SINS and yet provide a unique opportunity for links golf. We find that that alternative would have nature conservation impacts of its own that have not been assessed, as Dr Auld acknowledged. We find no assurance that, in the chosen location, it would not cause effects within the SSSI given the extremely close relationship between it and the tees and fairway of hole 17 and the tee of 18.

4.84 We find that RSPB's indicative alternative design could also have a severe adverse effect on dune habitats and the potential for a major adverse effect on the Blairton Ponds, burns and dune heath. Each is avoided by the Fazio and Hawtree designs. Whilst the Blairton sand dome would be avoided, it is notable that RSB17B would also involve a significant level of development within the SINS, where objectors otherwise allege that the TIGLS proposal would have severely adverse effects on botany, ornithology and entomology. It could thus adversely affect the movement of species over a wider area, leading to displacement within the interconnected suite of coastal habitats, in common with objectors' criticism of the development proposal.

Menie (Links) Environmental Management Advisory Group (MEMAG)

4.85 Mr Angus was unprepared to commit SNH to working with the developer on the detailed planning and construction of the golf course, including by giving input to MEMAG, should outline planning permission be granted. SNH's involvement would be dependent on the value to be gained. All he was prepared to commit SNH to do was to review the SSSI status of the land if outline planning permission is granted by Scottish Ministers.

4.86 MEMAG would have no power to prevent avoidable harm. Whilst giving MEMAG a power of veto appears superficially attractive the legal responsibility for actions taken within the site is, and must remain, the responsibility of the developer acting under the regulatory authority of SNH, SEPA and Aberdeenshire Council. We support the formation of MEMAG which, amongst other benefits, would act as a vehicle for the development and dissemination of best practice if the development is authorised and built.

Championships at Menie Links

4.87 We find that there would be a large influx of people if the course was used for a championship event. The best routes for crowd movement and facilities would, if practice elsewhere in the UK is followed, be calculated well in advance. Elsewhere courses have completely recovered within 9 months of a championship event.

4.88 However, the impacts at the Menie Estate have not been examined; the need for such examination would be a matter to be considered by the planning authority in considering the detail of the development. At this stage we do not find evidence to suggest that championships cannot successfully be held on golf courses located on, or close to, environmentally sensitive sites.

Landscape impact, visual impact and the effect on Menie House

4.89 We note and, based on our accompanied and unaccompanied site inspections, agree with the assessment of the landscape and visual impact contained in the Environmental Statement. This suggests that there would be a moderate adverse landscape impact with medium to high sensitivity for the Undeveloped Coast and high sensitivity for the Area of Landscape Significance; a moderate adverse effect on both the listed Menie House and the associated designed landscape; and a moderate adverse impact from the residential development within its open (medium sensitivity) undulating farmland setting. A development with the elements envisaged in the application for outline planning permission would thus have a significant visual impact and over a wide zone of influence within this relatively flat landscape on the coastal plain.

4.90 We have considerable sympathy with the views of Mr Banks and others who live locally and who object to the development, although we note that there are others in a similar position who do not share that point of view. Those strongly held views were known to Aberdeenshire Council when the Formartine Area Committee resolved to grant outline planning permission and, even after the consideration given to the matter by the Infrastructure Services Committee, it remains the opinion of the council as planning authority that outline planning permission should be granted, notwithstanding that opposition from some members of the community. If outline planning permission is granted, the means of achieving satisfactory local mitigation is for the council as planning authority. We share the council's view concerning the compliance of the proposal with ALP Env\5B. In the context of ALP Env\6, we consider that compliance falls to be considered with respect to the development's

social and economic benefits and we have applied this criteria-based policy in exactly the same manner as the council in their consideration of the matter.

4.91 It is notable that there is no objection from Historic Scotland in respect of the listed building and designed landscape. Based also on our site inspections and the cross-section supplied by TIGLS to the council we understand, and agree with, the council's response to this outline planning application. We find as a matter of fact and degree that the potential effect does not amount to a reason for the refusal of outline planning permission.

4.92 If the principle of development is authorised the design submitted for the further consideration of Aberdeenshire Council must reflect the landscape character, quality and visual amenity of the area together with the relationship of these elements with existing land uses in the area. The objective, which we believe is shared by Dr Gore and the council, should be to achieve better integration between a design philosophy that is genuinely iconic and the landscape, thus achieving a reduction in adverse landscape and visual impacts and better integration with existing land uses.

4.93 In this context we agree with Ms Baird of the Scottish Green Party. If outline planning permission is granted, an architect with international standing should be appointed to master-plan the development and to devise both design codes and the detail of these proposals, with the involvement of Architecture and Design Scotland.

Sustainability

4.94 The view is widely held amongst those opposed to this development that approval as proposed would damage Scotland's global reputation by sending the message that the nation wantonly disregards its most precious environmental assets and is prepared to undermine the credibility of the planning system by setting aside democratically agreed policy as long as the economic carrot is sufficiently large.

4.95 That viewpoint ignores the fact that elements of this proposal are underwritten by democratically agreed policy, specifically the objective at national, regional and local level to diversify and grow the economy, including by golf tourism, so as to secure economic and social benefits. However, policies such as those concerned to promote sustainable development set aspirational standards that are both exacting and, to some objectors, mutually exclusive of the objectives set in the economic field at national and local level. The fact is that a balanced judgement has to be reached.

4.96 The Government's Economic Strategy states that *"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."* That, and other related points, were made in the Minister for Environment's speech at the UK Biodiversity Partnership Conference in Aviemore in October 2007. RSPB/SWT/BSBI urge that this development would only become

sustainable in that context were the golf course moved from the SSSI and the right conditions and agreements put in place to regulate the development on the balance of the site. Others seek not only that, but also an alteration from a development directed at the upper-end golf tourism market.

4.97 The council's Sustainability Charter (ISC23) indicates that where there is a "*potential*" threat to the environment or to communities, the precautionary principle will be given precedence. This goes significantly further than the normal application of the precautionary principle in land use planning policy, where the principle is to be applied, and permission refused, where there is doubt about the scientific evidence. In approaching the matter in this way expectations are raised that simply cannot be delivered if other policy objectives supported by the council are to be met.

4.98 In this case there is no doubt about the scientific evidence – there is the reasonable probability that the adverse environmental effects assessed earlier in this report would occur. This is not therefore a situation where the precautionary principle should be applied. It is not, for example, the case that further scientific analysis would remove uncertainty. Instead the social, economic and environmental interests have to be considered together as 3 interconnected elements by Scottish Ministers in deciding whether to grant outline planning permission. An approach that focuses on any one of these criteria, whether this be environmental, social or economic to the exclusion of others would not be the appropriate means of assessing this important issue.

The economic and social case

4.99 In relation to the construction costs, TIGLS' primary evidence was externally validated and compared to British construction industry statistics. The hotel operation was compared to similar hotels, although there are none similar of this size in Scotland. The economic impact estimates allow for displacement; leakage; and multiplier effects. The membership fees assumed were compared with similar golf courses, such as Gleneagles and St Andrews, and with an assumption of 25,000 rounds per year in the early years; with a potential for 40,000 rounds per year². The second course would support the same number of rounds.

4.100 Mr Trump would not borrow money to construct the golf course. Once constructed its equity value would be used as collateral for the next stages of the development. The TIGLS financial evaluation for the inquiry discounts cash flows to their net present value (NPV) using a discount rate of 10%, being a weighted average based on an assumption that the financing for the resort would be a mixture of about 90% debt and 10% equity.

4.101 The NPVs are projected as £56.257 million for the residential development alone; £35.536 million for the entire resort *with* the residential development; and £-20.72 million for the resort, but *without* residential development. We find, allowing for the 10% target return, that the negative NPV confirms that the

² In designing the course Dr Hawtree estimated that there would be 150-160 rounds of golf per day and a maximum of around 20,000 rounds per year.

golf resort on its own would be unlikely to generate sufficient return on investment to be attractive to investors and lenders. The inclusion of the residential development would provide the project with income from the profit on sales reducing the net capital outlay for the whole development.

4.102 The difference in the conclusions on economic impact reached for TIGLS and Aberdeenshire Council is the result of different data sources, different methods of estimation and the interpretation of economic appraisal measures, such as additionality, displacement, leakage and multipliers. In the EKOS analysis for the council the effects of major competitions and events are entirely discounted and the gross impacts of the proposed residential development have been reduced by half in recognition of the likelihood of these houses being developed anyway, with or without the Menie resort. We consider this to be the correct approach even though the effect on jobs and gross value added (GVA) at both national and local levels is negligible.

4.103 The view that the development of the 500 open market houses simply reduces the risk to the applicant is held to be based on the terms of the full Deloitte report. That report was client confidential and was not disclosed to the inquiry, and we are therefore unable to make any findings concerning the basis for the conclusions reached. However, we note that the Director of Planning and Environmental Services was aware of Deloitte's qualifications regarding the economic case in favour of the housing development but still advised the council that *"the planning service...is willing to accept a business case for the proposed housing given the size of the development as a whole and the scale of funding required to make it a serious proposition"*. That was clearly on the basis that the development might not proceed without the residential development.

4.104 We are impressed by Ms Donaghy's wholly independent assessment for the council of the potential economic impacts, which is based on industry standards. The table below compares that analysis with the assessment undertaken for TIGLS. We find in overall terms that the projections reached independently are broadly similar and thus confirmatory, albeit with the projection for the council of a significantly larger economic impact both nationally and locally from resort operation. We are unaware of the detail of the economic impact assessment prepared by Deloitte having seen only the summary (DB4). The material contained in that summary, including the apparently different assessment of the contribution to NPV of the private housing development, does not lead us to question Ms Donaghy's conclusions where the additionality of this element is appropriately considered.

| Comparative economic impact assessments | | | | | |
|---|----------|-------------|------------------|-----------------------|------------------|
| | | TIGLS | | Aberdeenshire Council | |
| | | FTE jobs | GVA £ million | FTE jobs | GVA £ million |
| Resort construction | Scotland | 4,694 | £266.6 | 4,050 | £190 |
| | Local | 1,443 | £80.5 | 1,900 | £92 |
| Resort operation | Scotland | 1,237 | £32.8 | 1,200 | £56.6 |
| | Local | 945 | £22.3 | 1,400 | £64.1 |

4.105 We note the suggestions to the contrary, but the proposed development would have a nominal construction cost expected to exceed £1 billion phased over 7 years. The resort elements of the project are on a scale not previously seen in the UK – components like an hotel of this size do not presently exist in Scotland. When considered in economic and social terms it is the overall package of effects that is significant: from construction through to operation; with social benefits flowing from increased economic activity; and through the bespoke opportunities for local training and development and staff recruitment.

4.106 If developed, we find that the economic and social benefits could only be audited in 7-10 years whilst the adverse environmental effects would build from the start of construction. There are, in addition, other factors that would affect the robustness of a decision to invest on this scale here. The resort would be dependent on international golf tourists, but with an uncertain global financial situation reliance on long-haul travel may be optimistic. Unemployment in the north east is low, but there are a significant number of people classed as economically inactive, many of whom would wish a job. Even so the tight labour market could lead to the jobs going to in-migrants, whether in construction or operation and, for the latter, these could be low-paid and seasonal. In addition the construction workforce could be in competition with the M74, the Forth Crossing, the Commonwealth and Olympic Games, London cross-rail and house building elsewhere in Scotland. To the extent that this competition bids up wage rates, there would be some benefit in higher spending in the local economy, but with other less desirable consequences.

4.107 Based on evidence before the inquiry we find, as a matter of both fact and degree, that the likely economic impact is nationally significant. We find that there would be a significant contribution to achieving the Government's overarching purpose set by the Economic Strategy. That policy envisages *“creating a more successful country with opportunities for all of Scotland to flourish, through increasing sustainable economic growth – by building a dynamic and growing economy that will provide prosperity and opportunities for all, whilst ensuring that future generations can enjoy a better quality of life too”*.

4.108 The level of job creation could attract grant aid were the development otherwise eligible. At local level a development on this scale and with these characteristics would promote and enhance the reputation of Aberdeenshire on the wider national and international stage, assisting in sustaining and diversifying the

economy with significant direct economic benefit. We find that it would contribute to delivery of the objectives set in the Council's Economic Development Priorities to 2011 (AC2). It is also consistent with the Aberdeen City and Shire Economic Forum's vision for Aberdeen as a major tourist destination. Aberdeenshire Council and Aberdeen City's determination to diversify the economy meets the objective of national policy, as described in the National Planning Framework.

4.109 We find also that the development would assist in meeting the key target of the national policy for tourism, which is to increase revenue growth from tourism by 50% by 2015 where emphasis is placed on quality, short breaks, business tourism, special interest and special experience trips, including active holidays, of which golf is the most important. Golf tourism is a key opportunity for the region. At present it is worth £96 million to the national economy and whilst there are highly regarded courses in the north east, none yet constructed is a signature course pitched at the top end of the market.

4.110 Business tourism is worth around £960 million to Scotland, with £150 million spent in the Aberdeen city and the shire. Yet there is significant under-supply of quality hotel space in the region, which we find that this development would redress. We note that this is supported by Mr Skene, a local hotelier, even at the expense of a detrimental impact on his own business. This deficiency was identified by delegates to Offshore Europe in 2007; the Aberdeen Convention Bureau estimates loss of conference bookings to the area worth £11.5 million for the same reason.

4.111 Aberdeen City Council believes that the project would support a number of the objectives in the Local Economic Development Strategy 2003-10 as articulated above whilst also promoting sustainable economic growth in key sectors. We note also that, when assessed independently, the project has the support of 80% of the public sampled in the opinion survey commissioned by the Aberdeen Evening Express.

4.112 We find good reason to support the assessment of the business community which was persuasively articulated to the inquiry by Mr Runcie. He represented the interests of more than 2,500 companies and organisations who believe that the development has the potential to benefit Scotland as a whole. Their assessment is that the economic prize is large enough to compensate for the environmental impact.

The residential development

4.113 Mr Trump has applied for permission to build 500 houses to help fund the development and to address the shortage of good quality housing in the area. We note his assessment that golf courses alone do not make a fair return on investment. His intention is to use his own money to build the course and hope that economic conditions improve so that the housing market comes good, perhaps after a wait. We find that current conditions in the housing market are not necessarily a guide to the future and the economic evidence to the inquiry was that market conditions could be expected to improve in step with this long-term project.

4.114 We find that the housing element of the proposal garners no support from the development plan as currently approved and adopted. It would not be consistent with NEST policies 11 & 12, or with ALP Hou4. Similarly at national level, SPP 3, NPPG 13 and PAN 43 provide no comfort in the form of positive material considerations.

4.115 We note Dr Gore's assessment that, as far as the council is concerned, 500 houses here would be characterised as a windfall. We also note that, in terms of emerging strategic planning policy, a residential development here – even on this scale – would be unlikely to be out of step with the future pattern of development. We are also struck by the council's confidence that, through the application of development plan policy in the consideration of a detailed planning application, the 500 houses proposed in this location have the potential to be a demonstration of best practice in sustainable development.

4.116 As matters presently stand there is no suggestion that the proposed housing would be justified by a lack of available land within the market area. However, we note the business community's assessment that there needs to be a step-change in both the release of land and in investment from developers and house builders if the objectives of the emerging structure plan are to be met against the traditionally tight land supply that has previously existed. The matter therefore comes down to the extent to which allowing this component of the development would be an acceptable price to pay to secure the wider social and economic benefits at national, regional and local level. A balance has to be struck. In its consideration of the matter the council found in respect of this development that its unique circumstances would not establish a precedent. We agree.

4.117 We note that there is no advice at national level that assists in deciding whether the need for the housing element to make the development profitable is a material consideration. We consider that this matter is related to the development and use of land and clearly is fairly and reasonably related to the application in question. On that basis we find that it is a material consideration. That also appears to have been the assessment of officials when they recommended to the council that the business case for the proposed housing should be accepted. In this context we were referred to the case of *Wain v SoS [1989] JPL 190* (Closing Submission for Aberdeenshire Council AC20).

Severability

4.118 Mr Trump has developed a number of golf resort developments, all incorporate championship courses. We have no reason to doubt that were permission to be refused to develop on the SSSI, Mr Trump would withdraw from this development because it would not, and could not, fulfil his vision of doing something outstanding – specifically the construction of the greatest course anywhere in the world capable of hosting a major championship.

4.119 Several objectors argue that elements of the development for which outline planning permission is sought should either be excised (the private housing) or displaced to another part of the site (that part of the championship golf course proposed within the SSSI). It is clear from submissions made by TIGLS that they do

not regard the development as severable and wish the determination of whether outline planning permission should be granted to relate to the development that was before Aberdeenshire Council as planning authority. Specifically, the applicant wishes Scottish Ministers to refuse outline planning permission rather than to grant consent subject to a condition preventing development on the SSSI.

4.120 We note the terms of the case to which we were referred in this context – *Bernard Wheatcroft v SOSE [1982] JPL37* (Mr Agnew’s Closing Submission DB5). Ultimately the interpretation of the law is a matter for the Courts and, in the context of this development and their decision, the Scottish Ministers. However, we take the view that the judgement in *Wheatcroft* sets a 2 part test: whether the reduced proposal would be so changed; and whether also that change would deprive those with an interest of the right to make representations. In respect of the first part we find that excision of the private housing development and displacement of the back 9 of the championship course would be such as to change the development from that envisaged in the permission that was sought. The proposition therefore fails against that test and, accordingly, there is no need to consider the second part. We find that the development is not severable in this way; the proposal stands or falls in terms of the outline planning application called-in by the Scottish Ministers.

Public access

4.121 We find that recreational activities in the Balmedie Country Park, which we acknowledge to be a significant visitor attraction, would not be directly affected. As informal recreational activity spills over from the park to land to the north there would be some effect within the development site in the area allocated for future golf.

4.122 We note, but do not share, the concern that the alignment of the fairways in the championship course would run parallel to the direction in which people wish to take access. We find that there would be some loss of customary access and there would be a change in the recreational experience for those walking in the area. But, the fact is that, as assessed by ScotWays, the use of the back dune is much lower than the foreshore. This point is borne out by the applicant’s (admittedly limited) survey and by the observations that we have made at the site inspections that we have undertaken at different times of the year, in different weather conditions and different periods of the week. It is also clear that patterns of use have changed markedly over the years with, apparently, far fewer recreational trips now made by car to Menie Links (such as at Leyton) than were commonplace in the 1970s.

4.123 A draft access strategy has been prepared, albeit subject to qualified comments concerning the details of routes A, B and C as currently proposed. We find this general approach to be an acceptable means of ensuring the protection and delivery of access rights in advance of the consideration of detailed planning applications, or submissions for the approval of reserved matters. The rights of access available to the public would be those set within the Land Reform (Scotland) Act 2003. We find no distinction between this case and other golfing developments, where rights of public access are also exercised. The preparation of a detailed access strategy can be required by planning condition.

Traffic and transport

4.124 Many within the community are concerned about the traffic and air transport impacts of the development.

4.125 At national level Transport Scotland is charged with the delivery of a sustainable, integrated transport network which provides a genuine choice of alternative travel modes, consistent with Government policy. Its view is that the development would make a strong contribution to the economic objective such that a new access to the existing trunk road would be allowed.

4.126 The council proposes that the development is served from a grade-separated junction with the planned new dual carriageway section of the trunk road from Balmedie to Tippetty, and considers that this should be the subject of a planning condition. Councillor Gifford explained how this, in common with other matters regarded by some as problems, was identified as something that could be turned to the advantage of the community. A new grade-separated road junction would thus serve both the resort and the north end of Balmedie village, keeping traffic (cars, buses and other vehicles servicing the resort site) away from existing roads and giving the village a second access junction that is currently missing from the plans to realign the A90T. The feasibility of this proposed new junction has not, however, been assessed by Transport Scotland. Transport Scotland is prepared to discuss the principle of the additional junction once, and if, outline planning permission is granted.

4.127 If the Aberdeen Western Peripheral Road does not proceed, there could be consequences for this development that would require consideration by Aberdeenshire Council as planning authority, whether against applications for the approval of reserved matters or detailed planning permissions.

4.128 The scope for attracting more tourists and expanding the local service sector is recognised in the National Planning Framework, along with a need to improve public transport access to Aberdeen airport. The safeguarding of land for a runway extension at the airport is supported. In this respect we find that the development proposal relies on democratically determined policy.

4.129 The likely use of helicopters to deliver guests to the development has been overstated by a significant margin in the submissions of objectors. We find that the likelihood is that this mode of travel would be exceptional, rather than commonplace.

Water environment and related issues

4.130 Studies have been made of the likely effect on groundwater as referred to in the Environmental Statement, but the full effect of the development on the water environment within the SSSI cannot be established without undertaking on-site investigations under licence from SNH. No such licence has been granted. The assessment of those environmental effects is necessary, not least to consider the

effect of ground water abstraction should this be proposed. There is no such proposal before the inquiry.

4.131 As matters stand, planning conditions are proposed by the planning authority and agreed by the developer requiring the preparation and submission of a habitat management plan; a sustainable turf management plan; a course environmental management plan; and in respect of ground water impacts and water management. Given that such conditions would be imposed on a grant of outline planning permission, should that be the outcome, there could be no question of development commencing until reserved matters had been authorised and these conditions protecting the interests of SEPA, and others, had been purified. We find that this approach is consistent with the multi-stage planning process which is provided for by the Environmental Impact Assessment (Scotland) Amendment Regulations 2007. We therefore find that there are adequate safeguards of SEPA's regulatory position, there is thus no need for a suspensive condition..

4.132 We note the legal submission made by SEPA in their written submission and referred to at paragraphs 1.188-1.190 of this report. The case(s) to which SEPA refer are not specified, but the Agency's concern is that a grant of outline planning permission now would be in conflict with the Water Framework Directive and the Water Environment and Water Services (Scotland) Act 2003. We recognise that ultimately the interpretation of the law is a matter for the Courts and, in the context of this development and their decision, the Scottish Ministers. Our Findings at 4.5-4.7 deal with the adequacy of the environmental information as the basis for reaching a decision in this case. In respect of the Water Framework Directive, we consider that its requirements should be delivered by SEPA consenting (or not) under the Water Environment (Controlled Activities)(Scotland) Regulations 2005 and taking account of the environmental information then required and available; compliance with the Directive can therefore be left to the Controlled Activities Regulations as operated by SEPA.

Policy and other considerations

4.133 We agree with Councillor Ford that full compliance with the development plan was never likely with a complex and unforeseen proposal on the scale of this application for outline planning permission. We note too Councillor Storr's assessment that, between some of those who object to the development and those who support it, there is very little disagreement concerning development plan policy and its application and relevance; the departure between the two is generally characterised by differences in the weight placed on material considerations.

4.134 We agree with Dr Gore and find that the proposal represents a significant departure, as indicated above, from both development plan and national policy in respect of its environmental impact, landscape impact and as the consequence of the proposed residential development. The judgement of whether or not outline planning permission is to be granted is therefore dependent on the assessment of material considerations.

4.135 We note SNH's submission that there is no clear test and no evidence before the inquiry for ascertaining whether economic benefits are of national

importance, let alone any evidence to prove that such benefits would “*clearly outweigh*” the adverse effects. We also note the argument that, in considering whether social or economic benefits are of national importance it is appropriate to consider any additional economic benefit that using the SSSI would bring and not the impact on the SSSI against the whole economic benefit of the development. Whilst we understand why the suggestion is made, we do not consider that this approach is either appropriate in terms of our conclusions concerning severability or with the balanced assessment of the overall proposal, and its impacts, that is required to determine sustainability.

4.136 In this instance these adverse effects fall upon land designated in recognition of its geomorphological importance at national level; upon habitats and species that are similarly protected; and a landscape and coastline that is protected in the development plan. As the consequence of the law and policy that is applied to these designations the national interest is invoked in deciding whether or not to authorise the principle of the development. In terms of democratic accountability, that properly is a matter for Ministers.

4.137 However, we find that the economic and social advantages at national, regional and local level are such as to justify, uniquely, the adverse environmental consequences caused by a development on this scale and in this location. We therefore find that the grant of conditional outline planning permission is justified for the planning application as submitted to Aberdeenshire Council subject first to the execution of an agreement under section 75 of the Act as already agreed between the applicant and the planning authority. And included within Appendix 2 of this report.

CHAPTER 5

Reasoning and recommendation

Reasoning

5.1 This is a large and complex proposal. However, the issue before Scottish Ministers is whether or not outline planning permission should be granted, it is thus only the principle of the development that has to be determined. All of the descriptive detail of the development that has been produced to assist in the consideration of its potential effects is indicative. If outline planning permission is granted then all other matters, including the design and detail of the golf resort, would be reserved for the subsequent consideration of Aberdeenshire Council and their determination as planning authority.

5.2 We consider that the environmental information that has been submitted is sufficient to enable the outline planning application to be determined. In reaching that conclusion we recognise that consideration of further submissions made to the planning authority will have to be subject to additional environmental assessment as part of a multi-stage planning process.

Determining issues

5.3 The decision as to whether or not outline planning permission is to be granted for this golf resort development has to be made in accordance with section 25 of the Town and Country Planning (Scotland) Act 1997, thus the determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. And, as the category B listed Menie House is located within the site covered by the outline planning application, section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.4 Based on the evidence we heard at the inquiry, the written submissions including the representations and our site inspections, we consider that the issues to be determined are whether:

- the proposal is consistent with the relevant provisions of the development plan, in this case North East Scotland Together – The Aberdeen and Aberdeenshire Structure Plan 2001-2016 and the Aberdeenshire Local Plan 2001; and, if not
- an exception to these provisions is justified by other material considerations which include the conservation of the environment, of protected land and of biodiversity; the economic and social effect of the development; the need for the residential development; and national policy, in particular the

Government's Economic Strategy, the National Planning Framework and NPPG 14 – Natural Heritage; and, if so

- whether the proposed development would preserve the setting of the category B listed Menie House.

5.5 In reaching our recommendation concerning these determining issues we rely on all of the Findings contained in Chapter 4 of this report.

5.6 Full compliance with the development plan was never likely with a complex and unforeseen proposal on the sale of this development. Some development plan policies support the proposal, notably those concerned with the delivery of economic development, whilst others do not. Our findings show that the proposal amounts to a significant departure in respect of environmental impact, landscape impact and as the consequence of the proposed residential development. That assessment has been the consistent view of the council throughout its consideration of the proposal. The issue of whether or not outline planning permission is to be granted thus falls to be made by an assessment of material considerations. It is the weight attached to these considerations that separates many of those who support the proposal from those who do not.

5.7 Of the material considerations assessed in our findings the test set by paragraph 25 of NPPG 14 is of overarching importance being the national policy applying to the country's natural heritage. It is set out at Finding 4.19. In our view it must be applied as suggested in that national policy and not as contained in policy Env\2 of the Aberdeenshire Local Plan, and restated in other contexts elsewhere in the plan. We note that the council relied on the wording of the NPPG, and not the local plan, in its consideration of this important matter.

The environmental impact of the development

5.8 Parts of the development site are designated for their national importance, whether as an SSSI for geomorphological reasons or as habitat. This is not a situation where there is a level of unresolved scientific uncertainty as to the likely outcome of the development. Here the dynamism that underpins the designation of the SSSI for geomorphological processes would, for the majority of the holes in the back 9 of the championship course, be halted by stabilisation, re-vegetation and topographic modification. The scientific interest in 66% of the SSSI outwith the development site would be unchanged; and a further 23% of the SSSI within North Menie unaffected by the championship course would retain some, but diminished, interest. Although the golf course footprint occupies only 10.7% of the whole, much, though not all, of the geomorphological interest in that affected part of the SSSI would be compromised, as would its overall integrity.

5.9 The loss of dynamism in the SSSI cannot be mitigated against; the proposals for mitigation would thus be better described as compensation, albeit with the possibility of creating good quality dune habitats. The council's support for the development is not conditional on significant mitigation or enhancement, but it sees very real prospects of significant and material mitigation taking place and it would have the responsibility for ensuring that this is so as planning authority with responsibility for enforcement. In that role it would be assisted by the

comprehensive range of planning conditions that have been agreed with the applicant; the prospective agreement under section 75 of the Act; and the establishment of Menie (Links) Environmental Management Advisory Group.

5.10 However, the loss of 10% of the Annex 1 habitat within the development site would be a major adverse effect likely to impact on integrity through the effect on the coherence of the ecological structure and function of the impacted areas. These habitats support birds, animals, invertebrates and plants of high nature conservation importance and these would be likely to be affected to the extents indicated in our findings. Ministers will wish to set the significance of these conclusions against the commitment within the UK Biodiversity Action Plan to halt the loss of biodiversity by 2010. Thus, and to the extents referred to in our findings, the objectives of both designation and overall integrity would be compromised.

5.11 The issue of whether outline planning permission is to be granted therefore falls to be considered against the second element of the test set by NPPG 14, specifically, whether 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.

The economic and social impact of the development

5.12 We are in no doubt, based on the independently generated conclusions of EKOS who appeared at the inquiry for the council, that the economic impact of the development would be nationally significant. It could thus make a significant contribution to achieving the Government's overarching purpose set by the Economic Strategy. Additionally the development would also contribute to delivery against the strategy contained in the National Planning Framework and other national, regional and local policies directed at the same objectives. These principally are aimed at diversification of the economy to achieve wider social benefits as well as the encouragement of tourism, including golf tourism. There is thus a major focus in the policies of the City and Shire on diversification of the economy; on increased local employment; and a wider range of training and development opportunities to benefit local people. The development has the potential to deliver major benefits against each of these economic and social objectives.

The residential development

5.13 Whilst the development plan does not envisage "enabling" development in these circumstances, that clearly is the role of the residential element of the proposal in economic or business terms. We are unaware of the reasoning that was made available earlier to the council and that was suggested by some to indicate that the development would be profitable without the associated residential development. In terms of emerging strategic planning policy a residential development here would be unlikely to be out of step with the future pattern of development. It is a material consideration that a housing development is needed on this scale to realise the economic and social benefits of the overall project; that also appears to have been the assessment of the council.

The effect on the landscape and existing land uses

5.14 We find that the development would be likely to have a significant visual impact within a wide zone of influence and this effect is understandably the cause of considerable concern to some, but not all, who live in the vicinity. However, the design of the golf resort would be for the further consideration of Aberdeenshire Council. We believe, based on what we were told at the inquiry, that the council's objective is to achieve better integration between a design philosophy that is genuinely iconic and the landscape, thus achieving a reduction in adverse landscape and visual impacts and a better relationship with existing land uses than is shown on the indicative sketch designs.

5.15 There is no question of the present proposals having any direct effect on the listed Menie House, rather it is the potential effect on its setting that is at issue. Historic Scotland, which has the responsibility for advising Scottish Ministers on the protection of Scotland's built heritage does not object to the proposal. Whilst we have found that there would be a moderate adverse effect on the setting of the listed house we do not consider that this is such as to justify the refusal of outline planning permission. The scope exists to ensure that the setting is preserved in the development of detailed designs and their subsequent consideration by Aberdeenshire Council.

Appropriate assessment

5.16 As the consequence of Regulation 48(1) of The Conservation (Natural Habitats etc) Regulations 1994, before deciding to give any permission for a project which is likely to have a significant effect on a European site, in this case the Ythan Estuary, Sands of Forvie and Meikle Loch SPA, and which is not directly connected with or necessary to the management of the site, Scottish Ministers shall make an appropriate assessment of the implications for the site in view of that site's Conservation Objectives. Regulation 48(2) requires consultation with Scottish Natural Heritage and for the Scottish Ministers to have regard to SNH's representations.

5.17 The applicant has submitted sufficient information in relation to the likely impact of the proposed development to enable SNH to conclude that the proposed development would not have a significant impact on the SPA, providing certain conditions are attached to an outline planning permission. The information provided by the applicant has been prepared by professionally qualified ecologists and assessed by similarly qualified professionals for SNH, the agency responsible for advising Government on the natural heritage. We have no reason to disagree with the conclusions of the applicant's advisors and SNH in this matter.

Overall assessment

5.18 Our findings contain our conclusions on a number of other important considerations that are material. None affects our overall conclusion that the economic and social advantages of this prospective development at national, regional and local level are such as to justify, uniquely, the adverse environmental consequences caused by a development on this scale and in this location. In

reaching that assessment we recognise, given the effect on environmental attributes protected for their national importance, that the national interest is invoked. That properly is a matter for Ministers; our conclusions and recommendation are offered to assist with that assessment.

Recommendation

5.19 We recommend that outline planning permission is granted for application reference APP/2006/4605, dated 27 November 2006, for a golf course and resort development at Menie Estate as called-in from Aberdeenshire Council on 4 December 2007, subject to the planning conditions listed in Appendix 1B of this report and provided a legal agreement has been executed to deliver the suggested heads of agreement contained in Appendix 2.

Michael Cunliffe
Reporter

Karen Heywood
Principal Reporter

James McCulloch
Chief Reporter and Director, DPEA

10 October 2008

APPENDIX 1A

Planning conditions circulated at the inquiry

Planning conditions circulated on 25 June 2008

General

1. That application for approval of reserved matters shall be made to the Planning Authority within 3 years beginning with the date of this outline planning permission.

Reason: Pursuant to Sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

2. That the development hereby granted shall be begun on or before whichever is the latest of the following two dates:
 - (a) The expiration of five years beginning with the date of the outline planning permission; or
 - (b) The expiration of two years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason: Pursuant to Sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

3. That no works in connection with the development hereby approved shall take place unless full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the "Reserved Matters") have been submitted to and approved in writing by the Planning Authority. The Reserved Matters shall include:
 - (a) A masterplan for the whole development
 - (b) Details of all cut and fill operations in the construction of the golf courses;
 - (c) A detailed levels survey of the site and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development relative to existing ground levels and a fixed datum point
 - (d) Full details of the proposed means of disposal of foul and surface water from the development;
 - (e) A phasing plan incorporating the construction of the area of future golf for the proposed development;

- (f) The siting design and external materials of all buildings or structures;
- (g) The details of all roads, footpaths and cycleways throughout the development;
- (h) Details of any screen walls/fencing to be provided;
- (i) Measures to maximise micro-climate improvements through design, orientation and planting or any other means;
- (j) Details of all landscaping, planting and screening associated with the development.

Reason: Permission for the development has been granted in principle only and subsequent approval is required for the Reserved Matters in accordance with Sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

4. (New Condition)

The masterplan to be submitted under the terms of condition 3 shall include all elements of the proposed development and in addition shall

- a) Include the provision of appropriate community facilities, such as general store, nursery/crèche, etc.
- b) Identify and safeguard the favoured foraging routes and areas for badgers and connections to their setts.
- c) Safeguard the sites identified for artificial otter holts together with otter foraging routes and areas, and resting places.

Reason: To ensure that proper provision is made within the development to accommodate these requirements.

5. (Formerly Condition 10)

Prior to the submission of the Reserved Matters application for the second golf course, an Environmental Impact Assessment shall be prepared to be submitted along with such an application.

Reason: In the interest of protecting the environmental sensitivity of the site.

6. (Formerly Condition 34)

That notwithstanding the details on the indicative masterplan and contained in the Environmental Statement and prior to the commencement of any works in connection with the development hereby approved, apart from the formation of the Championship golf course, a development brief incorporating detailed design and materials information for all buildings within the development site incorporating the outcome of the Design Review process, excluding the private residential dwellings, shall be prepared for the further approval of the Formartine Area Committee and once agreed all development shall be carried out in accordance with the brief. The brief shall specify:

- the height and appearance of all new structures;
- the use of appropriate external materials including walls, fences and other boundary enclosures;
- the surfacing of all new roads, parking areas and footpaths;

- the lighting of all streets and footpaths; and
- the maintenance of all open space and treed areas.

Reason: In order to give further consideration to those details which have still to be submitted.

7. (Formerly Condition 35)

That notwithstanding the details on the indicative masterplan and contained in the Environmental Statement and prior to the commencement of construction of any private residential dwelling, a development brief incorporating detailed design and materials information incorporating detailed design and materials information incorporating the outcome of the Design Review process shall be prepared for the further approval of the Formartine Area Committee and once agreed all development shall be carried out in accordance with the brief. The brief shall specify:

- the height and appearance of all new structures;
- the use of appropriate external materials including walls, fences and other boundary enclosures;
- the surfacing of all new roads, parking areas and footpaths;
- the lighting of all streets and footpaths; and
- the maintenance of all open space and treed areas not included in private house plots.

Reason: In order to give further consideration to those details which have still to be submitted.

8. (Formerly Condition 36)

That prior to the commencement of any works in connection with the development hereby approved, apart from the formation of the Championship golf course, to allow for an appropriate design framework, the developer shall enter into a Design Review process with the Planning Authority and Architecture and Design Scotland to the satisfaction of the Planning Authority, and once agreed all development shall be carried out in accordance with the design thus arrived at.

Reason: In order to ensure a responsive and robust design framework is created for the site.

9. (Formerly Condition 37)

That prior to the commencement of any works in relation to the hotel and holiday apartment buildings, full details of the height and shall be submitted for the further approval of the Planning Authority in consultation with Defence Estates and Architecture and Design Scotland and thereafter complied with.

Reason: In the interests of the visual amenity of the area.

10. (Formerly Condition 38)

That prior to the commencement of any works in connection with the development hereby approved, apart from the formation of the Championship

golf course, the developer shall carry out an Index 21 Assessment of the built elements of the development to the satisfaction of the Planning Authority.

Reason: In the interests of sustainability.

11. (New Condition)
That the detailed design and construction methods for the built elements of the development shall implement the advice of Scottish Natural Heritage in relation to provisions for bats and for barn owls.

Reason: In the interests of protecting the environmental sensitivity of the site and safeguarding the habitat of protected species.

Phasing

12. (Formerly Condition 39)
That no private residential dwelling in connection with the development shall comment to be built until such time as the first phase (Phase 1) of development is complete (championship golf course, maintenance building, clubhouse, starters hut, caddy shack, practice facilities and driving range, hotel, 36 golf villas and staff accommodation) to the satisfaction of the Planning Authority.

Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.

13. (Formerly Condition 40)
That one of the blocks of holiday apartments shall be completed to the satisfaction of the Planning Authority prior to work commencing on the construction of the private residential dwellings. (Phase 2)

Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.

14. (Formerly Condition 41)
That the construction of the second block of holiday apartments shall commence prior to the completion of the 101st private residential dwelling and in line with an agreed construction programme to be submitted and agreed in writing by the Planning Authority.

Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.

15. (Formerly Condition 42)
That the second block of holiday apartments shall be completed to the satisfaction of the Planning Authority prior to work commencing on the construction of the 151st private residential dwelling.

Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.

16. (Formerly Condition 43)
That the construction of the third block of holiday apartments shall commence prior to the completion of the 201st private residential dwelling.
- Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.*
17. (Formerly Condition 44)
That the third block of holiday apartments shall be completed to the satisfaction of the Planning Authority prior to work commencing on the construction of the 251st private residential dwelling.
- Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.*
18. (Formerly Condition 45)
That the construction of the fourth block of holiday apartments shall commence prior to the completion of the 301st private residential dwelling.
- Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.*
19. (Formerly Condition 46)
That the fourth block of holiday apartments shall be completed to the satisfaction of the Planning Authority prior to work commencing on the construction of the 401st private residential dwelling.
- Reason: In order to ensure the implementation and completion of the non-residential components of the proposal.*

Environmental Issues

20. (Formerly Condition 55)
That prior to the commencement of any works on site a bryophyte survey and mitigation plan(s) shall be submitted to and approved in writing by the Planning Authority following consultation with Scottish Natural Heritage, and the mitigation plan(s) shall thereafter be complied with.
- Reason: In order to give adequate protection to bryophytes.*
21. (Formerly Condition 58)
That prior to the receipt of any application for Reserved Matters for any of the buildings, the applicant shall seek a screening opinion from the Planning Authority to determine whether an Environmental Impact Assessment is required.
- Reason: In the interest of protecting the environmental sensitivity of the site.*

Provision of Bonds

22. (Formerly Condition 66)

That no works in connection with the development hereby approved shall take place until such time as a bond in such terms and of sufficient value to ensure that the landscaping works the subject of condition [] can be completed in full, has been concluded to the satisfaction of and lodged with the Planning Authority, that value to be determined following approval of the landscaping works under the terms of condition [].

Reason: to ensure the completion of the agreed landscaping scheme in the interests of the visual amenity of the area.

23. (Formerly Condition 67)

That no works in connection with the development hereby approved shall take place until such time as a bond has been concluded to the satisfaction of and lodged with the Planning Authority in such terms and of sufficient value to ensure that any land upon which works have been undertaken to construct the championship golf course can be restored in accordance with a scheme to be agreed by the Planning Authority in consultation with Scottish Natural Heritage, the value of such bond to also be determined by the Planning Authority in consultation with Scottish Natural Heritage.

Reason: to ensure that, in the event of the championship golf course not being completed, the site can be restored appropriately to a natural state.

Championship Golf Course Details

24. New Condition

That the Championship golf course hereby permitted shall be constructed generally in accordance with plan T2.

Reason: To safeguard the environmental sensitivity of the site.

25. (Formerly Condition 11)

That as part of any application related to the formation of the Championship golf course, a full topographical survey including all engineering works, site levelling etc required for the formation of the course shall be carried out and details of the proposed levels shall be submitted for the further written approval of the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interest of protecting the environmental sensitivity of the site.

26. That prior to any works commencing in relation to either golf courses, an Environmental Management Plan prepared to an industry-recognised standard shall be submitted to and approved in writing by the Planning Authority following consultation with Scottish Natural Heritage. The Plan shall relate to both the construction and operational phases of the development and shall include full details of:

Construction:

- a) Methods and areas of stabilisation areas within the dune systems.
- b) Routing of the course including reference to tracks, paths and any other ancillary requirements.
- c) Specification of grass types, vegetation and seed mixes to be used and identification of planting areas.
- d) Compliance with best practice standards in relation to soil and turf stripping and storage and provision of details on areas for storage
- e) Identification of areas and methods for translocation of habitats.
- f) A phasing plan, specifying timings and durations of construction aspects in relation to each course.

Operation

- a) A turf management plan including full details of fertilizers, herbicides and pesticides including type, rates of application, duration and method.
- b) Management of areas of fairway, greens, tees, transition rough and rough, including mowing/grazing regimes. This should include details on disposal of mown clippings.
- c) Water irrigation and abstraction rates for each hole.
- d) Identification of the proposed number of rounds per annum, by an agreed date per annum for the first 10 years of operation of each course.

The development of each golf course shall thereafter be undertaken in accordance with the approved Environmental Management Plan, which shall also include a formal reporting and review process.

Reason: In order to protect the environmental sensitivity of the site.

27. (New Condition)

That prior to the commencement of any works in connection with the development hereby approved the developer shall appoint and thereafter maintain the appointment of a suitably qualified Ecological Clerk of Works (to be funded by the developer) who thereafter shall act in accordance with terms of reference that shall be submitted to and approved in writing by the Planning Authority following consultation with Scottish Natural Heritage.

Reason: In order to ensure that all works relating to the ecological interests of the site are undertaken in the appropriate and agreed manner.

Protection of Specified Areas

28. (Formerly Condition 9)

The coastal dune ridge, the extent of which shall be defined on a plan to be submitted to and agreed in writing by the Planning Authority in consultation with Scottish Natural Heritage prior to the commencement of any works in connection with the development hereby permitted, shall be protected from all

works associated with the creation of the golf courses, and their future management, and shall remain as such in perpetuity to the satisfaction of the Planning Authority.

Reason: In the interest of protecting the environmental sensitivity of the site.

[NB no agreement has been reached by parties as to the need for or extent of, a buffer zone in relation to the coastal dune ridge]

29. (Formerly Condition 15)

Prior to the commencement of any works in connection with the development hereby approved, excluding the construction of the Championship golf course, a tree survey shall be carried out identifying existing tree species, an estimation of their height and spread of branches, and their location within the site accurately plotted to the satisfaction of the Planning Authority. Those trees which it is proposed to retain or to fell or remove shall be separately identified.

Reason: In the interests of visual amenity and to safeguard as many trees as possible on the site.

30. (Formerly Condition 16)

That no works in connection with the permission hereby approved, with the exception of the Championship golf course, shall take place unless the trees to be retained pursuant to condition [] above have been protected by suitable fencing in accordance with BS5837 2005 (Trees in Relation to Construction), the details of which shall be first submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: In order to ensure adequate protection for the trees on the site during the construction of development, in the interests of the visual amenity of the area.

31. (Formerly Condition 17)

Prior to the commencement of any works in connection with the development hereby permitted and notwithstanding the details on the approved plans, a plan showing the extent of a buffer zone to be created around the area of ancient woodland shall be submitted to and approved in writing by the Planning Authority and thereafter no development shall take place within the area so defined .

Reason: To ensure the retention of important landscape features and preserve the character of the area.

32. (Formerly Condition 19)

That prior to commencement of any works on site a plan showing the location of pond PN8 and a 20 metre wide protection zone around it shall be submitted to and approved in writing by the Planning Authority and thereafter no development shall take place within the area specified.

Reason: In the interest of protecting the environmental sensitivity of the site.

Species Management Plans, Mitigation and Compensation

33. (Formerly Condition 20)

Prior to the commencement of any works on site, an otter management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of safeguarding the habitat of a protected species.

34. (Formerly Condition 21)

Prior to the commencement of any works on site, a badger management plan shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of safeguarding the habitat of a protected species.

35. (Formerly Condition 22)

Prior to the commencement of any works on site a habitat management and enhancement plan incorporating mitigation and compensatory measures for birds shall be submitted for the further written approval of the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of protecting the environmental sensitivity of the site and habitat enhancement.

36. (Formerly Condition 23)

Prior to the commencement of any works on site, including the felling of any trees which shall first be surveyed for the presence of bats, a habitat management and enhancement plan incorporating mitigation and compensatory measures for bats shall be submitted for the further written approval of the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of protecting the environmental sensitivity of the site and habitat enhancement.

37. (Formerly Condition 24)

Prior to the commencement of development, a detailed habitat and plant mitigation and management plan shall be submitted for the further approval of the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of protecting the environmental sensitivity of the site and habitat enhancement.

38. (New Condition)

Prior to the commencement of any development on the site details of a goose management scheme for Pink-footed Geese shall be submitted to and approved in writing by the planning authority following consultation with Scottish Natural Heritage. The approved scheme shall be implemented in its entirety in accordance with the approved detail.

Reason: To ensure that there will not be an adverse effect on the integrity of the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and the Ythan Estuary and Meikle Loch Ramsar site.

39. (Formerly Condition 60)

Prior to the commencement of any works on site, a habitat management plan incorporating mitigation measures for invertebrates shall be submitted for the further written approval of the Planning Authority in consultation with Scottish Natural Heritage and thereafter complied with.

Reason: In the interests of protecting the environmental sensitivity of the site and habitat enhancement.

40. (New Condition)

Prior to the commencement of any development on the site details of mitigation measures to reduce bird disturbance in the Ythan Estuary, Sands of Forvie and Meikle Loch SPA, comprising, inter alia, the provision within the application site or other areas owned or controlled by the developer of appropriate forms of open space, the improvement of access on the Menie Estate and enhancing the recreational attraction and capacity of existing semi-natural open space on the Estate, shall be submitted to and approved in writing by the Planning Authority, following consultation with Scottish Natural Heritage. The measures shall thereafter be implemented in their entirety in accordance with the approved details.

Reason: To ensure that there would not be an adverse effect on the integrity of the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and the Ythan Estuary and Meikle Loch Ramsar site.

Water and Drainage

41. (New Condition)

That no works in relation to the Championship golf course shall take place until an overall site water management plan has been submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. This shall include full details of the foul water disposal, the proposed means of disposal of surface water from the development, full details of any water abstraction and any irrigation. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban

Drainage Systems and the development shall not be brought into use unless the agreed drainage system has been provided in association with each phase of development.

Reason: To ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

42. (Formerly Condition 8)

That no works in connection with the development hereby approved, with the exception of the Championship golf course, shall take place unless an overall site water management plan has been submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. This shall include full details of the proposed foul water disposal, the proposed means of disposal of surface water from the development, full details of any water abstraction and any irrigation. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems and the development shall not be brought into use unless the agreed drainage system has been provided in association with each phase of development.

Reason: To ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

43. (Formerly Condition 6)

That prior to the submission of any application for reserved matters for any of the buildings, development impact assessments for foul drainage and water supply shall be submitted for the further written approval of the Planning Authority in consultation with Scottish Water. No development pursuant to this planning permission shall take place until plans indicating all details of:

- the proposed sewage disposal/drainage facilities
- provision for surface water disposal
- the proposed water supply

have been submitted to and approved in writing by the Planning Authority in consultation with Scottish Water and the Scottish Environment Protection Agency.

Reason: In the interests of public health and to prevent pollution.

44. (Formerly Condition 7)

The site shall be drained to the mains sewerage system by means of adoptable sewerage and plant the details of which shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Water and thereafter complied with.

Reason: In the interests of public health and to prevent pollution.

45. (New Condition)

That no works in connection with the Championship golf course shall commence until details of the location and configuration of all Sustainable Urban Drainage Systems to be provided within that part of the development, and the arrangements for the maintenance thereof, have been submitted and approved in writing by the Planning Authority.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

46. (Formerly Condition 64)

That no works in connection with the development hereby approved, with the exception of the Championship golf course, shall take place until details of the location and configuration of all Sustainable Urban Drainage Systems to be provided within the development, and the arrangements for the maintenance thereof, have been submitted to and approved in writing by the Planning Authority.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

47. (New Condition proposed by SEPA)

That where any watercourse crossings are required, watercourses will be bridged, with no part of the structure within the banks or bed of the watercourse, and not culverted

Reason: To ensure the integrity of the existing watercourses on the site.

48. (New Condition proposed by SEPA)

That prior to the commencement of any development a scheme for monitoring and remedial feedback measures in relation to local water quality shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency, and thereafter complied with.

Reason: In the interests of protecting the water quality within the site.

Landscaping Details

49. (Formerly Condition 14)

That no works in connection with the development hereby approved, with the exception of the Championship golf course, shall take place unless a scheme of hard and soft landscaping works, linked to the agreed phasing plan pursuant to condition 3 above, has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- (i) Existing and proposed finished ground levels relative to a fixed datum point;
- (ii) Existing landscape features and vegetation to be retained;
- (iii) Existing and proposed services including cables, pipelines and substations;

- (iv) The location of new trees, shrubs, hedges, grassed areas and water features;
- (v) A schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) The location, design and materials of all hard landscaping works including walls, fences, gates, street furniture and play equipment;
- (vii) An indication of existing trees, shrubs and hedges to be removed;
- (viii) A programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development or such other date as may be agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

50. (Formerly Condition 63)

That no works in connection with the development hereby approved, with the exception of the Championship golf course, shall take place unless details of the location and nature of public open space to be provided within the development as a whole, and the arrangements for the maintenance thereof, have been submitted to and approved in writing by the Planning Authority.

Reason: to ensure that public open space is provided and maintained to an acceptable standard throughout the development.

51. (New Condition)

That no works in connection with the Championship golf course shall take place unless details of all of the proposed means of enclosure to be provided in that part of the proposed development have been submitted to and approved in writing by the Planning Authority. The development of the Championship golf course shall thereafter be carried out in complete accordance with the approved details.

Reason: In the interests of the appearance of the development and the visual amenities of the area.

52. (Formerly Condition 13)

That no works in connection with the development hereby approved, with the exception of the Championship golf course, shall take place unless details of all of the proposed means of enclosure to be provided in the proposed development have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: In the interests of the appearance of the development and the visual amenities of the area.

Public Access

53. (Formerly Condition 33)

As part of the Masterplanning exercise required by Condition 3(a), a plan will be prepared to the satisfaction of the planning authority, which sets out both the broad approach and details of how the developer will meet its obligations under section 3 of the Land Reform Act. This plan will ensure that public rights of access are maintained over the development area in accordance with the Land Reform Act, and it should be prepared with the involvement of the relevant recreational and community interests. In particular, the plan should:

- Describe action to compensate for losses arising from conversion of land to golf course use
- Integrate provision for access across all sectors of the public who are participating in open-air recreation – those at the resort, the visiting public and local residents;
- Show any routes proposed for promoted public access, and provide details on how these routes will be constructed and implemented;
- Provide details of how multi-use access (cyclists, horse-riders and all ability use) will be accommodated;
- Provide details and specifications for the provision of ancillary facilities such as parking, information boards and way-marking;
- Provide details of a maintenance regime for the foregoing, including a mechanism for liaison over access with the local authorities, local community interests and the local access forum, as appropriate;
- Describe in general terms how access might be affected by any special events taking place at the resort;
- Describe in general how the needs of any community events that impinge on the development area will be accommodated; and
- Address how access will be accommodated during the construction phase.

Existing routes across the sites used by the public at present must not be significantly affected, without provision of a suitable replacement. Additionally, the operation of any gatehouses for the resort or private housing, or any other means of limiting access, shall not prevent or deter any person from the exercise of their access rights.

Reason: In order to promote compliance with Part 1 of the Land Reform (Scotland) Act 2003, and to secure and enhance existing public access at Menie.

54. (New Condition)

That no physical development including fences shall occur, or any recreational activities be provided by the developer seaward of the golf courses that would detract from the quality of experience enjoyed by those participating in quiet open air recreation activities on the adjacent dunes and shore.

Reason: In order to safeguard future public enjoyment of the area.

Housing and Holiday Accommodation

55. (Formerly Condition 4)

That concurrently with the submission of the first application for the approval of reserved matters, plans shall be submitted for the consideration and written approval of the Planning Authority showing the proposed phasing of the housing development in relation to the erection of numbers of houses, open space and other relevant development within the specified areas, to reflect the provision of conditions () to ().

Reason: To ensure the timeous provision of different, inter-related parts of the development.

56. That no more than 500 houses shall be built under the permission hereby granted.

Reason: For the avoidance of doubt and in order to comply with the proposals as submitted.

57. (Formerly Condition 5)

That the golf villas and holiday apartment buildings hereby approved shall be occupied on a holiday letting or fractional ownership basis only, and none of these units of accommodation shall be occupied by any group or individual for more than a total of 12 weeks in any calendar year.

Reason: In order to retain control over the occupation of these buildings as holiday accommodation.

Transport and Roads

58. Prior to commencement of any works, except works related to the construction of the championship golf course, a plan showing the extent of the modifications proposed on the A90(T), necessary to mitigate the Phase 2 shall be submitted to and approved by the planning authority in consultation with Transport Scotland, Trunk Roads – Network Management Directorate (TS-TRNMD).

59. Prior to commencement of any works, except works related to the construction of the Championship golf course, a plan showing the extent of the modifications proposed on the A90(T), necessary to mitigate Phase 2 shall be submitted to and approved by the planning authority, in consultation with Transport Scotland, Trunk Roads – Network Management Directorate (TS-TRNMD).

60. Prior to the commencement of any development on the site, except works related to the construction of the championship golf course, details of the provision of either new or extended bus services within the development,

including details of operating hours, frequency of service, route and timescale for introduction, together with evidence of an agreement with a public transport operator to provide this service, (in accordance with the proposed service outlined within the Fairhurst Transport Report Dated April 2008) shall be submitted to and approved in writing by the planning authority, after consultation with Transport Scotland – Trunk Road Network Management Directorate.

61. In concomitant of the phases of development the agreed bus services referred to in Condition () shall be introduced.
60. Prior to the commencement of any development on site, except works related to the construction of the championship golf course, a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management Directorate (TS-TRNMD). The Travel Plan shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan.
62. No development, except works related to the construction of the championship golf course, shall take place until details of the road lighting/ road drainage have been submitted to and approved by the planning authority, in consultation with Transport Scotland Trunk Road Network Management Directorate (TS-TRNMD).
63. Prior to the occupation of Phase 1 of the development hereby permitted the proposed A90 (T)/ Development Access roundabout (generally, but not exactly, as indicated in the Fairhurst Drawing No: 71236/00001), shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, Trunk Roads – Network Management Directorate (TS-TRNMD).
64. The development hereby permitted shall not be occupied until the existing A90(T)/ Hill of Menie Access has been permanently closed and the A90(T) road properly reinstated.
65. Prior to the occupation of Phase 1 of the development hereby permitted the modifications to the A90 (T) Ellon Road/ B999 roundabout, (generally, but not exactly, as indicated in the Fairhurst Transport Assessment dated April 2008) shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, Trunk Road Network Management Directorate (TS-TRNMD). A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the modifications to the A90 (T) Ellon Road/B999 roundabout to be constructed in accordance with a specification to be agreed with the planning authority in consultation with Transport Scotland, Trunk Road Network management Directorate.
66. Prior to commencement of the development, except works related to the construction of the championship golf course, a scheme of proposals to

mitigate the proposed development impact at the A90 (T) Parkway/ A956 roundabout shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management Directorate (TS-TRNMD).

67. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the mitigation proposals to the A90(T) Parkway/ A956 roundabout to be constructed in accordance with a specification to be agreed with the planning authority in consultation with the Transport Scotland, Trunk Road Network Management Directorate (TS-TRNMD).
68. Prior to the occupation of Phase 1 of the development hereby permitted the approved mitigation proposals to the A90 (T) Parkway/ A956 roundabout, shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, Trunk Road Network Management Directorate (TS-TRNMD).
69. Prior to commencement of the development, except works related to the construction of the Championship golf course, a scheme of proposals to mitigate the proposed development impact at the A90 (T) Parkway/ Scotstown Road roundabout shall be submitted to and approved in writing by the planning authority, in consultation with Transport Scotland Trunk Road Network Management Directorate (TS-TRNMD).
70. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the mitigation proposals to the A90 (T) Parkway/ Scotstown Road roundabout to be constructed in accordance with a specification to be agreed with the planning authority in consultation with the Transport Scotland, Trunk Road Network Management Directorate (TS-TRNMD).
71. Prior to the occupation of Phase 2 of the development hereby permitted the approved mitigation proposals to the A90 (T) Parkway/ Scotstown Road roundabout, shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, Trunk Road Network Management Directorate (TS-TRNMD).
72. No additional development shall be occupied in excess of that identified in Conditions [] and [] until after the opening of the new A90(T) Balmedie to Tippetty dual carriageway upgrade to include an additional grade separated junction in the vicinity of Orrock House, north of Balmedie village, to serve the development directly from the new dual carriageway.

Reason:

Archaeology

73. (Formerly Condition 25)
No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in

accordance with a written scheme of investigation which has been submitted by the applicant, as agreed by Aberdeenshire Council Archaeology Service and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in consultation with the Council Archaeology Service.

Reason: In the interests of recording and preserving such items of historical importance that exist within the site.

Lighting

74. (New Condition)

Details of any external lighting installation that may illuminate any part of the golf course and ancillary golf facilities shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Natural Heritage prior to its installation and thereafter complied with.

Reason: To prevent adverse impacts on wildlife, at night, in the coastal environment.

75. (Formerly Condition 32)

That a lighting scheme for the development other than the golf courses and ancillary golf facilities shall be submitted to and approved in writing by the Planning Authority before the installation of any such lighting and thereafter complied with.

Reason: In the interests of the amenity of the area.

Miscellaneous

76. (Formerly Condition 48)

Prior to the commencement of works in association with any of the buildings hereby permitted, details of any electricity sub station or gas governor kiosks shall be submitted to and approved in writing by the Planning Authority and thereafter complied with.

Reason: In the interest of visual amenity.

77. (New Condition)

That no works in relation to the Championship golf course shall commence until a waste management plan for that part of the development, incorporating on site disposal, has been submitted to and approved in writing by the Planning Authority. The provisions of this plan shall thereafter be complied with.

Reason: In the interests of the sustainable disposal of waste.

78. (Formerly Condition 49)

That prior to the commencement of any works on site, with the exception of the Championship golf course, full details of a waste management plan for the remainder of the development, incorporating on site disposal, shall be submitted to and approved in writing by the Planning Authority in consultation with Environmental Health. The provisions of this plan shall thereafter be complied with.

Reason: In the interests of the sustainable disposal of waste.

79. (Formerly Condition 50)
Details of any micro wind turbines to be installed as part of the development hereby approved shall be submitted for the further approval of the Planning Authority in consultation with the BAA Safeguarding Team and thereafter complied with.

Reason: In the interests of health and safety.

80. (Formerly Condition 51)
Any plant and equipment e.g. air conditioning, mechanical extraction, air receivers etc must be designed and installed so as to prevent noise disturbance to adjoining properties.

Reason: In the interests of the amenity of the area.

Construction Requirements

81. That prior to works commencing on the formation of the championship golf course, a detailed construction methods statement for the works, which shall take account of the environmental management plan for the site and the individual plant and habitat management plans, shall be submitted to and approved in writing by the Planning Authority following consultation as appropriate with Scottish Natural Heritage, SEPA and Transport Scotland.

The method statement shall include:

- a) Details of buffer zones, public access arrangements during construction, signage details and car parking.
- b) Details of storage areas to be utilized during the construction period, which shall not be on the site access or any other access roads serving the development.
- c) Details of the installation of an effective wheel washing facility which shall be retained in working order throughout the construction period and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes noise or hazard on the road system in the locality.
- d) Details of dust suppression measures to be employed at the site during the construction period.
- e) Proposed hours of working.
- f) Details of a proposed construction access route.

- g) Details of a soil and sand management plan, which shall include maximum reuse of sand and soil within the site.

Once approved the construction of the development shall be undertaken entirely in accordance with the provisions of the method statement, which shall be reviewed prior to the commencement of each phase of development and amended as required with the written approval of the Planning Authority and following appropriate consultation.

Reason: To ensure that all construction activity is undertaken so as to protect the environmental sensitivity of the site and the residential amenity of neighbouring properties.

Parties additional written submissions

The submissions made to us at the inquiry concerning planning conditions and agreements are recorded in the relevant sections of this report, at:

- Paragraphs 2.1.127; 2.1.128; 2.1.134; 2.1.140; 2.1.141; 2.1.148-2.1.151 for TIGLS
- Paragraphs 2.2.30; 2.2.46; 2.2.48; and 2.2.50 for Aberdeenshire Council
- Paragraphs 2.4.3; 2.4.5; and 2.4.7 for Councillor Gifford
- Paragraphs 3.1.47; 3.1.48; 3.1.50; 3.1.52; and 3.1.54 for SNH
- Paragraphs 3.2.12; 3.2.23; and 3.2.32 for RSPB/SWT/BSBI
- Paragraphs 3.3.22; 3.3.23; 3.3.28; 3.3.32; 3.3.34; and 3.3.35 for the Ramblers' Association Scotland, and others
- Paragraphs 3.4.37; and 3.4.39-3.4.43 for Councillors Ford, Johnston, Ross and Storr
- Paragraph 3.7.2 for the Dyce and Stoneywood Community Council

Written submissions by SNH and RSPB/SWT/BSBI were also made concerning planning conditions and the proposed heads of agreement and these have been taken into account in the recommendations made in Appendix 1B

APPENDIX 1B

Recommended planning conditions

General

1. Application for approval of reserved matters shall be made to the planning authority within 3 years beginning with the date of this outline planning permission.

Reason: pursuant to sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

2. The development hereby granted shall be begun on or before whichever is the latest of the following two dates:

- (i) the expiration of 5 years beginning with the date of the outline planning permission; or
- (ii) the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason: pursuant to sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

3. No works in connection with the development hereby approved shall take place unless full details of the siting, design, external appearance and landscaping of the development and the means of access serving the development (hereinafter referred to as the 'reserved matters') have been submitted to and approved in writing by the planning authority. The reserved matters shall include:

- (i) a masterplan for the whole development;
- (ii) details of all cut and fill operations in the construction of the golf courses;
- (iii) for the championship golf course, a full topographical survey of the site as existing and as proposed, including all engineering works, site levelling and any other works required for the formation of the course;
- (iv) for the remainder of the site, a detailed levels survey (existing and proposed) and cross sections showing proposed finished ground and floor levels of all buildings forming part of the development, relative to existing ground levels and a fixed datum point;
- (v) full details of the proposed means of disposal of foul and surface water from the development;
- (vi) a phasing plan for the whole site;
- (vii) the siting, design, height and external materials of all buildings or structures;

- (viii) the details of all roads, footpaths and cycleways throughout the development;
- (ix) details of any screen walls/fencing to be provided;
- (x) measures to maximise environmental sustainability through design, orientation and planting or any other means, including an Index 21 assessment; and
- (xi) details of all landscaping, planting and screening associated with the development.

Reason: permission for the development has been granted in principle only and subsequent approval is required for the reserved matters in accordance with sections 58 and 59 of the Town and Country Planning (Scotland) Act 1997.

4. The masterplan to be submitted under the terms of condition 3 shall include all elements of the proposed development and in addition shall:

- (i) include the provision of appropriate community facilities, such as general store, nursery/crèche, and such other community facilities as are agreed to be necessary by the planning authority and the developer;
- (ii) identify and safeguard the favoured foraging routes and areas for badgers and connections to their setts; and
- (iii) safeguard the sites identified for artificial otter holts together with otter foraging routes and areas, and resting places.

In addition, the detailed design and construction methods for the built elements of the development shall implement the advice of the planning authority, in consultation with SNH, in relation to provisions for bats and for barn owls.

Reason: in the interests of protecting the environmental sensitivity of the site and enhancing the habitat of protected species and to ensure that proper provision is made within the development to accommodate these requirements.

5. Prior to the commencement of any works in connection with the development hereby approved (apart from the formation of the championship golf course) and to allow for an appropriate design framework, the developer shall enter into a design review process with the planning authority, in consultation with Architecture and Design Scotland. Once a design has been approved following this process, the development shall be carried out in accordance with the approved design.

Reason: in order to ensure a responsive and robust design framework is created for the site.

6. Notwithstanding the details on the indicative masterplan (Figure 3.1 of the environmental statement) and prior to the commencement of any works in connection with the area covered by the particular brief (apart from the formation of the championship golf course), two development briefs, as detailed below, shall be prepared for the further approval of the planning authority. The briefs shall specify:

- (i) the height and appearance of all new structures;
- (ii) the use of appropriate external materials including walls, fences and other boundary enclosures;
- (iii) the surfacing of all new roads, parking areas, cycleways and footpaths;
- (iv) the lighting of all streets and footpaths; and
- (v) the maintenance of all open space and treed areas not included in private house plots.

The briefs shall be prepared for the following areas within the site:

- (vi) the areas proposed for private housing for sale; and
- (vii) all other buildings within the development site.

The briefs shall incorporate the outcome of the design review process required under condition 5 above. Once approved, all development in the respective areas shall be carried out in accordance with the approved briefs.

Reason: in order to give further consideration to those details which have still to be submitted.

Phasing

7. Prior to the start of any work on the site, an agreed construction programme shall be submitted to and approved in writing by the planning authority. The construction programme shall accord with the phases outlined below. For the avoidance of doubt, phase 1 of the development comprises the championship golf course, maintenance building, clubhouse, starter's hut, caddy shack, practice facilities, driving range, hotel, 36 'golf villas' and staff accommodation and phase 2 of the development comprises the first block of holiday apartments to be completed:

- (i) phase 1 of development must be complete before the start of construction of any of the private houses on the site;
- (ii) one of the blocks of holiday apartments (phase 2) shall be completed prior to work commencing on the construction of any of the private houses;
- (iii) the construction of the second block of holiday apartments shall commence prior to the completion of the 101st private house and shall be completed prior to work commencing on the construction of the 151st private house;
- (iv) the construction of the third block of holiday apartments shall commence prior to the completion of the 201st private house and shall be completed prior to work commencing on the construction of the 251st private house;
- (v) the construction of the fourth block of holiday apartments shall commence prior to the completion of the 301st private house and shall be completed prior to work commencing on the construction of the 401st private houses.

Once approved, the development shall proceed in accordance with the approved construction programme, unless otherwise agreed in writing by the planning authority.

Reason: in order to ensure the implementation and completion of the golf course resort components of the proposal, as these are the elements of the proposed development which the planning authority considers will bring economic and social benefits to the area.

Provision of Bonds

8. No works in connection with the development hereby approved shall take place until such time as bonds have been concluded to the satisfaction of and lodged with the planning authority. The bonds shall be in such terms and of sufficient value to ensure that:

- (i) the landscaping works required under condition 29 below can be completed in full. The value of this bond shall be determined following approval of the landscaping works under the terms of that condition; and
- (ii) to ensure that any land upon which works have been undertaken to construct the championship golf course can be restored in accordance with a scheme to be agreed by the planning authority in consultation with SNH. The value of this bond shall be determined by the planning authority in consultation with SNH.

Reason: to ensure the completion of the agreed landscaping scheme in the interests of the visual amenity of the area; to give effect to the evidence given by the developer; and to ensure that, in the event of the championship golf course not being completed, the site can be restored appropriately to a natural state.

Championship Golf Course Details

9. The championship golf course hereby permitted shall be constructed in accordance with the drawing entitled Golf Masterplan, drawn by Hawtree Ltd, dated February 2008, submitted as a document to the public inquiry as plan T2, unless otherwise agreed in writing by the planning authority, in consultation with SNH.

Reason: because the environmental implications of plan T2 have been assessed by the planning authority in consultation with SNH.

10. No provision shall be made for mechanical/electrical golf buggies to be used on the championship golf course.

Reason: to give effect to the evidence given in support of the development by the developer and to protect the environmental sensitivities of this part of the site.

Environmental/ecology

11. Prior to any works commencing in relation to either golf course, an Environmental Management Plan prepared to an industry-recognised standard (either IS400001 or the European standard EMAS) shall be submitted to and approved in writing by the planning authority, following consultation with SNH. The Plan shall relate to both the construction and operational phases of the development and shall include full details of:

- (i) methods and areas of stabilisation within the dune systems;
- (ii) routing of the course including reference to tracks, paths and any other ancillary requirements;
- (iii) specification of grass types, vegetation and seed mixes to be used and identification of planting areas;
- (iv) compliance with best practice standards in relation to soil and turf stripping and storage and provision of details on areas for storage;
- (v) identification of areas and methods for translocation of habitats;
- (vi) a phasing plan, specifying timings and durations of construction aspects in relation to each course;
- (vii) a turf management plan, with full details of fertilisers, herbicides and pesticides, including type, rates of application, duration and method;
- (viii) management of areas of fairway, greens, tees, transition rough and rough, including mowing/grazing regimes, with details of disposal of mown clippings;
- (xi) water irrigation and abstraction rates; and
- (x) identification of the proposed number of rounds per annum, by an agreed date per annum for the first 10 years of operation of each course.

The development of each golf course shall thereafter be undertaken in accordance with its approved Environmental Management Plan, which shall also include a formal reporting and review process.

Reason: in order to protect the environmental sensitivity of the site.

12. Prior to the commencement of any works in connection with the development hereby approved, the developer shall submit the terms of reference for an Ecological Clerk(s) of Works for the written approval of the planning authority, following consultation with SNH. Such terms of reference shall include the length of time that the Ecological Clerk(s) of Work shall be appointed. Thereafter the developer shall appoint a suitably qualified Ecological Clerk (or Clerks) of Works (to be funded by the developer). The person(s) who is/are appointed shall be approved in writing in advance by the planning authority, in consultation with SNH. Subsequently, the developer shall maintain the appointment of the Ecological Clerk(s) of Works for the site, who shall act in accordance with their approved terms of reference.

Reason: in order to ensure that all works relating to the ecological interests of the site are undertaken in the appropriate and agreed manner.

Protection of Specified Areas

13. Prior to the commencement of any works in connection with the development hereby permitted, the extent of the coastal dune ridge shall be defined on a plan to be submitted to and approved in writing by the planning authority, in consultation with SNH. Thereafter, the coastal dune ridge, as defined on the approved plan, shall be protected from all works associated with the creation of the golf courses and their future management, and shall remain as such in perpetuity to the satisfaction of the planning authority.

Reason: in the interest of protecting the environmental sensitivity of the site.

14. Tree surveys shall be carried out and submitted for the consideration and written approval of the planning authority for the area of the championship golf course and for the remainder of the site. In the case of the championship course, the survey shall be submitted prior to the start of work on that part of the site. The other survey shall be submitted prior to the start of work on the remainder of the site. The tree surveys shall identify existing tree species, including an estimation of their height and spread of branches, and plot their location within the site accurately, to the satisfaction of the planning authority. Those trees which it is proposed to retain or to fell and remove shall be separately identified. No tree shall be removed without the express consent of the planning authority.

Reason: in the interests of visual amenity and to safeguard as many trees as possible on the site.

15. No work shall start on the relevant parts of the site unless the trees to be retained as identified in the surveys to be submitted and approved pursuant to condition 14 above have been protected by suitable fencing in accordance with BS5837 2005 (Trees in Relation to Construction). The details of the protective fencing and its location shall be first submitted to and agreed in writing by the planning authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the planning authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: to ensure adequate protection for the trees on the site during the construction, in the interests of the visual amenity of the area.

16. Prior to the commencement of any works in connection with the development hereby permitted and notwithstanding the details on the submitted plans, a plan showing the extent of a buffer zone to be created around the area of ancient woodland shall be submitted to and approved in writing by the planning authority and thereafter no development shall take place within the area so defined.

Reason: to ensure the retention of important habitat and landscape features and preserve the character of the area.

17. Prior to commencement of any works on site a plan showing the location of pond PN8 as labelled in the environmental statement and a 20 metre wide protection zone around it shall be submitted to and approved in writing by the planning authority and thereafter no development shall take place within the area specified.

Reason: to protect the environmental sensitivity of the site.

Species and habitats

18. Prior to the commencement of any works on site a bryophyte survey and mitigation plan(s) shall be submitted to and approved in writing by the planning authority, following consultation with SNH. Once approved, the mitigation plan(s) shall thereafter be complied with.

Reason: in order to give adequate protection to bryophytes, details of which have yet to be submitted.

19. Prior to the commencement of any works on site and with reference to condition 4 above, management plans for otter and badger shall be submitted to and approved in writing by the planning authority, in consultation with SNH. Thereafter the approved plans shall be complied with during the construction works and during the operation of the golf resort.

Reason: to safeguard the habitats of these protected species.

20. Prior to the commencement of any works on site and with reference to condition 4 above, habitat management and enhancement plans, incorporating mitigation and compensatory measures for birds, bats, invertebrates and plants, shall be submitted for the further written approval of the planning authority, in consultation with SNH. For bats, the works on site shall include the felling of any trees, which shall first be surveyed for the presence of bats. Thereafter, the approved plans shall be complied with during the construction works and during the operation of the golf resort.

Reason: in the interests of protecting the environmental sensitivity of the site and to enhance habitats.

21. Prior to the commencement of any development on the site, details of a goose management scheme for pink footed geese shall be submitted to and approved in writing by the planning authority, following consultation with SNH and CAA. The approved scheme shall be implemented in its entirety in accordance with the approved details.

22. Prior to the commencement of any development on the site, details of mitigation measures to reduce bird disturbance in the Ythan Estuary, Sands of Forvie and Meikle Loch SPA shall be submitted to and approved in writing by the planning authority, following consultation with SNH and BAA. Amongst other things, these measures shall comprise: the provision within the application site, or other areas owned or controlled by the developer, of appropriate forms of open space; the

improvement of access on the Menie Estate; and the enhancement of the recreational attraction and capacity of existing semi-natural open space on the estate. The measures shall thereafter be implemented in their entirety in accordance with the approved details.

Reason for 21 and 22: to ensure that there would not be an adverse effect on the integrity of the Ythan Estuary, Sands of Forvie and Meikle Loch SPA and the Ythan Estuary and Meikle Loch Ramsar site and to safeguard aviation at Aberdeen airport.

Water and Drainage

23. Prior to the submission of any application for reserved matters for any of the buildings, development impact assessments for foul drainage and water supply shall be submitted for the further written approval of the planning authority, in consultation with Scottish Water. Thereafter, no development pursuant to this planning permission shall take place until plans indicating all details of: the proposed sewage disposal/drainage facilities; provision for surface water disposal; and the proposed water supply have been submitted to and approved in writing by the planning authority, in consultation with Scottish Water and the SEPA.

Reason: in the interests of public health and to prevent pollution.

24. Site water management plans for: (a) the championship golf course; and (b) the remainder of the development site; shall be submitted to and approved in writing by the planning authority in consultation with the SEPA and SNH. In the case of the championship golf course, the plan shall be submitted and approved prior to the start of work on that part of the site. The other site water management plan shall be submitted and approved prior to the start of work on the remainder of the site. The plans shall include: full details of foul water disposal; the proposed means of disposal of surface water from the development; any water abstraction; and any irrigation. Unless otherwise agreed in writing by the planning authority, surface water shall be disposed of via the use of sustainable urban drainage systems. Once approved, the works shall be implemented in accordance with the agreed plans.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area and for protection of the water environment.

25. Foul drainage from the site shall be drained to the mains sewerage system by means of adoptable sewerage and plant, the details of which shall be submitted to and approved in writing by the planning authority in consultation with Scottish Water, and thereafter complied with.

Reason: in the interests of public health and to prevent pollution.

26. Details of the location and configuration of all sustainable urban drainage systems to be provided on the site and the arrangements for the maintenance thereof, shall be submitted and approved in writing by the planning authority, in consultation with SEPA and Scottish Water. In the case of the championship golf course, the details shall be submitted and approved prior to the

start of work on that part of the site. Details for the remainder of the site shall be submitted and approved prior to the start of work on the remainder of the site.

Reason: to ensure the provision of an acceptable drainage system in the interests of the amenity of the area and for the protection of the water environment.

27. Where any watercourse crossings are required, watercourses will be bridged and not culverted. No part of the bridge structure shall lie within the banks or bed of the watercourse. Details of the proposed water crossings shall be submitted as part of the reserved matters application(s).

Reason: to ensure the integrity of the existing watercourses on the site.

28. Prior to the commencement of any development, a scheme for monitoring, evaluation and mitigation measures in relation to local water quality shall be submitted to and approved in writing by the planning authority, following consultation with the SEPA. Once approved, these measures shall be complied with during construction works and the operation of the golf resort.

Reason: in the interests of protecting the water quality within the site.

Landscaping Details

29. Schemes of hard and soft landscaping works shall be submitted to and approved in writing by the planning authority. In the case of the area covered by the championship golf course, the scheme for that area shall be submitted and approved before works start on that part of the site. In the case of the rest of the development area, the scheme for the whole remaining area shall be submitted and approved before any work starts on any part of the rest of the site. The landscape schemes shall be linked to the agreed phasing plan submitted and approved pursuant to condition 7 above.

Details of the schemes shall include:

- (i) existing and proposed finished ground levels relative to a fixed datum point;
- (ii) existing landscape features and vegetation to be retained;
- (iii) existing and proposed services including cables, pipelines and substations;
- (iv) the location of new trees, shrubs, hedges, grassed areas and water features;
- (v) a schedule of plants to comprise species, plant sizes and proposed numbers and density;
- (vi) the location, design and materials of all hard landscaping works including walls, fences, gates, any other means of enclosure, street furniture and play equipment;
- (vii) an indication of existing trees, shrubs and hedges to be removed;
- (viii) a programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the commencement of the development on that part of the site, or such other date as may be agreed in writing with the planning authority.

Any planting which, within a period of 5 years from the completion of the development, in the opinion of the planning authority is dying, has been severely damaged or is becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: to ensure the implementation of satisfactory schemes of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area.

30. No works in connection with the development hereby approved (with the exception of the championship golf course) shall take place unless details of the location and nature of public open space to be provided within the development as a whole, and the arrangements for the maintenance thereof, have been submitted to and approved in writing by the planning authority.

Reason: to ensure that public open space is provided and maintained to an acceptable standard throughout the development.

Public Access

31. As part of the masterplanning exercise required by condition 3(a), a plan shall be submitted to and approved in writing by the planning authority, in consultation with the relevant recreational and community interests, which sets out both the broad approach and details of how the developer will meet its obligations under section 3 of the Land Reform (Scotland) Act 2003. This plan shall ensure that public rights of access are maintained over the development area in accordance with that Act. In particular, the plan shall:

- (i) describe action to compensate for losses arising from conversion of land to golf course use;
- (ii) describe how existing routes across the sites used by the public at present will be affected and how they will be retained or replaced;
- (iii) integrate provision for access across all sectors of the public who are participating in open-air recreation – those at the resort, the visiting public and local residents;
- (iv) show any routes proposed for promoted public access, and provide details on how these routes will be constructed and implemented;
- (v) provide details of how cyclists, horse-riders and all ability use will be accommodated;
- (vi) provide details and specifications for the provision of ancillary facilities such as parking, information boards and way-marking;
- (vii) provide details of a maintenance regime for the foregoing, including a mechanism for liaison over access with the local authorities, local community interests and the local access forum, as appropriate;

- (viii) describe in general terms how access might be affected by any special events taking place at the resort;
- (ix) describe in general how the needs of any community events that impinge on the development area will be accommodated; and
- (x) address how access will be accommodated during the construction phases.

Reason: in order to promote compliance with Part 1 of the Land Reform (Scotland) Act 2003, and to secure and enhance existing public access at Menie.

Housing and Holiday Accommodation

32. No more than 500 houses for private sale shall be built under the permission hereby granted.

Reason: for the avoidance of doubt and in order to comply with the proposals as submitted.

33. The 'golf villas' and holiday apartment buildings hereby approved shall be occupied on a holiday letting or fractional ownership basis only, and none of these units of accommodation shall be occupied by any group or individual for more than a total of 12 weeks in any calendar year.

Reason: in order to give effect to the evidence given by the developer and to retain control over the occupation of these buildings as holiday accommodation.

Transport and Roads

34. No development shall commence (except works related to the construction of the championship golf course) until the following details are submitted to and approved by the planning authority, in consultation with Transport Scotland:

- (i) plans showing the extent of the modifications proposed on the A90(T), necessary to mitigate the traffic implications of phases 1 and 2 of the development (as defined in condition 7 above), including mitigation works at the A90(T) Parkway/A956 roundabout, the A90(T) Ellon Road/B999 roundabout and the A90 (T) Parkway/ Scotstown Road roundabout;
- (ii) the provision of new or extended bus services to serve the development, including details of operating hours, frequency of service, route and timescale for introduction, together with evidence of an agreement with a public transport operator to provide the service(s), (in accordance with the proposed service outlined within the Fairhurst Transport Report, dated April 2008);
- (iii) a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car, which shall identify measures to be implemented; the system of management, monitoring, review and reporting; and the duration of the plan; and
- (iv) the road lighting/ road drainage.

35. The development hereby permitted shall not be occupied until the existing A90(T)/ Hill of Menie Access has been permanently closed and the A90(T) road properly reinstated.

36. No additional development on the remainder of the site shall be occupied over and above that identified in phase 1 and phase 2 (as defined in condition 7 above) until after the opening of the new A90(T) Balmedie to Tippetty dual carriageway upgrade and the construction of an additional grade separated junction in the vicinity of Orrock House, north of Balmedie village, to serve the development directly from the new dual carriageway. Plans showing the additional grade separated junction shall be submitted to and approved by the planning authority, in consultation with Transport Scotland, prior to the start of development on the remainder of the site.

37. Prior to the occupation of Phase 1 of the development hereby permitted (as defined in condition 7 above), the following road works shall be implemented to the satisfaction of the planning authority, in consultation with the Transport Scotland, and in accordance with detailed plans first approved by the planning authority under condition 34 above:

- (i) the proposed A90(T)/development access roundabout;
- (ii) the modifications to the A90(T) Ellon Road/B999 roundabout; and
- (iii) the approved mitigation proposals to the A90(T) Parkway/A956 roundabout.

38. Prior to the occupation of Phase 2 of the development hereby permitted the approved mitigation proposals to the A90(T) Parkway/Scotstown Road roundabout, shall be implemented to the satisfaction of the planning authority, in consultation with Transport Scotland and in accordance with detailed plans first approved by the planning authority under condition 34 above.

39. Before each phase of the development is first occupied, the agreed bus services referred to in condition 34 above shall be introduced.

Reason for conditions 34-39: to ensure that the development proposals will not have a significant detrimental impact on the operation of the trunk and local road network.

Archaeology

40. No works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, as agreed by Aberdeenshire Council Archaeology Service and approved by the planning authority. Thereafter the developer shall ensure that the approved programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the planning authority, in consultation with Aberdeenshire Council Archaeology Service.

Reason: in the interests of recording and preserving such items of historical importance that exist within the site.

Lighting

41. Details of any external lighting installation that may illuminate any part of the golf courses and any other golf related development shall be submitted to and approved in writing by the planning authority, in consultation with SNH, prior to its installation. Once approved, the approved lighting installation shall be implemented as part of the works on site.

Reason: to prevent adverse impacts on wildlife, at night, in the coastal environment.

42. A lighting scheme for the remainder of the development site, other than the golf courses and ancillary golf facilities, shall be submitted to and approved in writing by the planning authority before the installation of any such lighting. Once approved, the approved lighting installation shall be implemented as part of the works on site.

Reason: in the interests of the amenity of the area.

Miscellaneous

43. Waste management plans, incorporating on-site disposal, shall be submitted to and approved in writing by the planning authority, in consultation with Environmental Health. These plans shall be prepared for:

- (i) the championship golf course; and
- (ii) the remainder of the development site.

In the case of the championship golf course, the plan must be submitted and approved before works start on that part of the site. In the case of the remainder of the development site, the plan must be submitted and approved before works commence on any part of the site, apart from the championship golf course. Once approved, the provisions of the approved plans shall thereafter be complied with.

Reason: in the interests of the sustainable disposal of waste.

44. Details of any micro wind turbines to be installed as part of the development hereby approved shall be submitted for the further approval of the planning authority in consultation with the CAA and thereafter complied with.

Reason: in the interests of aviation safety.

45. Any plant and equipment, such as air conditioning, mechanical extraction, air receivers etc, must be designed and installed so as to prevent noise disturbance to adjoining properties.

Reason: to prevent disturbance from noise.

Construction Requirements

46. Prior to works commencing on any part of the site, a detailed construction method statement, which shall take account of the environmental management plan for the site and the individual species and habitat management plans, shall be submitted to and approved in writing by the planning authority, following consultation as appropriate with SNH, SEPA, Environmental Health and Transport Scotland.

The method statement shall include:

- (i) details of buffer zones, public access arrangements during construction, signage details and car parking for construction workers;
- (ii) details of storage areas to be utilised during the construction period, which shall not be on the site access or any other access roads serving the development;
- (iii) details of the installation of an effective wheel washing facility, which shall be retained in working order throughout the construction period on a particular part of the site, and used such that no vehicle shall leave the site carrying earth and mud in its wheels in such a quantity which causes noise or hazard on the road system in the locality;
- (iv) details of dust suppression measures to be employed at the site during the construction period;
- (v) proposed hours of working;
- (vi) details of any proposed construction access routes; and
- (vii) details of a soil and sand management plan, which shall include maximum reuse of sand and soil within the site.

Once approved the construction of the development on the site shall be undertaken entirely in accordance with the provisions of the approved method statement, which shall be reviewed prior to the commencement of each phase of development and amended as required with the written approval of the planning authority and following appropriate consultation.

Reason: to ensure that all construction activity is undertaken so as to protect the environmental sensitivity of the site and the residential amenity of neighbouring properties.

APPENDIX 2

Heads of Agreement

Introduction:

Trump International Golf Links Scotland ("the Applicant") has submitted an application for outline planning permission for a 'golf course and resort development' on land at Menie House, Balmedie, Aberdeen. ("the application") This application is now before the Scottish Ministers for determination.

Aberdeenshire Council ("the Council"), as planning authority, and the Applicant, as owners of the application site, intend to enter into an agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to control and regulate the development and use of the application site in the event that outline planning permission is granted by the Scottish Ministers.

For the purpose of the public local inquiry, this paper sets out the Heads of Terms agreed between the Applicant and the Council.

Heads of Terms:

1. Affordable Housing

Definitions:

"Affordable Housing Units" will mean 98 residential units to be constructed to a specification to be confirmed by the Council in accordance with the Communities Scotland document 'Housing for Varying Needs Standards'

"The Affordable Housing Site" will mean a site or sites within Balmedie to be provided by the Council or a body to be nominated by the Council.

"The Menie housing units" will mean the 500 open market private residential housing units to be constructed by the Applicant on the application site.

"The Balmedie housing units" will mean the private residential housing units comprising 98 affordable units and 52 open market entry level housing units in accordance with PAN 74 to be constructed by the Applicant within Balmedie as set out in this Agreement.

"The Occupation Date" will mean the date following three months after the service of a Notice by the Applicant on the Council confirming the Applicant's intention to commence construction of the some or all of the Affordable Housing Units on any Affordable Housing Site. For the avoidance of doubt there may be more than one Occupation Date if the Council provides more than one Affordable Housing Site.

"The First Affordable Housing Delivery Date" will mean the date of issue of the habitation certificate for the 125th open market residential unit within either separately or cumulatively the Menie housing units or the Balmedie Housing units.

"The Second Affordable Housing Delivery Date" will mean the date of practical completion of the 250th open market residential unit within either separately or cumulatively the Menie housing units or the Balmedie Housing units.

Obligations:

- a) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the relevant Affordable Housing Site on the relevant Occupation Date, the Applicants will procure the construction of 50 Affordable Housing Units on the relevant Affordable Housing Site or Sites to the stage of practical completion by the First Affordable Housing Delivery Date.
- b) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the relevant Affordable Housing Site on the relevant Occupation Date, the Applicants will procure the construction of 48 Affordable Housing Units on the relevant Affordable Housing Site or Sites to the stage of practical completion by the Second Affordable Housing Delivery Date.
- c) The Council will ensure that each Affordable Housing Site is decontaminated or 'clean' with the benefit of all usual utilities and services to its perimeter on the relevant Occupation Date.
- d) The Council will be responsible for determining the size and mix of the Affordable Housing Units and they will so advise the Applicant in writing at least three months before any contract for the construction of each tranche of the Affordable Housing Units is let by the Applicant.
- e) At the stage of practical completion of each tranche of the Affordable Housing Units, the Council or its nominees will take over the control and management of the units for letting or sales purposes and the Applicant will have no further liability in relation to the units for the purposes of this Agreement.
- f) Subject to obtaining all necessary statutory consents, including planning permission, the Applicant will be entitled to construct and subsequently to sell on the open market a total of 52 open market units forming part of the Balmedie housing units on an Affordable Housing Site.

2. Education Facilities

Definitions:

"the School" will mean a primary school and associated playing fields, playground and car parking to accommodate a maximum of 225 pupils, the specification for which is attached as Appendix [].

"the School Site" will mean a site within Balmedie to be provided by the Council.

"The Menie housing units" will mean the 500 open market private residential housing units to be constructed by the Applicant on the application site.

"The Balmedie housing units" will mean the private residential housing units comprising 98 affordable units and 52 open market units to be constructed by the Applicant within Balmedie as set out in this Agreement.

"The Occupation Date" will mean the date following three months after the service of a Notice by the Applicant on the Council confirming the Applicant's intention to commence construction of the School.

"The School Delivery Date" will mean either (1) the second anniversary of the date of commencement of any one of the Balmedie housing units or (2) such other later date as may be notified to the Applicant by the Council prior to completion of the 250th unit within the Menie housing units.

Obligations:

- a) Subject to (1) obtaining all necessary statutory consents, including planning permission, and (2) the Council ensuring that the Applicant has sufficient access to and control of the School Site on the Occupation Date, the Applicants will procure the construction of the School on the School Site to the stage of practical completion by the School Delivery Date.
- b) The Council will ensure that the School Site is decontaminated or 'clean' with the benefit of all usual utilities and services to its perimeter on the Occupation Date.
- c) The Council will supervise the construction of the School to the stage of practical completion, at which stage the Council will take over the control and management of the School for commissioning and operational purposes and the Applicant will have no further liability in relation to the School for the purposes of this Agreement.

3. Community Facilities

Definitions:

"The Community Contribution" will mean a financial contribution of £500,000 in total.

"The Due Date" will mean a date no later than 28 days after the date of practical completion of the 52nd open market unit forming part of the Balmedie housing units.

Obligations:

- a) The applicant will pay the Community Contribution to the Council quarterly in arrears on the basis of being liable to make a payment of £9,615 for each one of the 52 Balmedie open market units, which reaches the stage of practical completion.
- b) The Council will use the Community Contribution for the purposes and functions of the Council's Education Learning and Leisure Service.

- c) If the Council has not spent or committed to spend all or any part of the Community Contribution by the date of the fifth anniversary of the last payment to the Council, any unspent or uncommitted sum will be refunded to the Applicant within 30 days with interest payable at the base lending rate.

4. Off site road improvements

Definitions:

"Phase 1 of the development" will mean the development of the championship golf course, the maintenance building, the clubhouse, starters hut, caddy shack, practice facilities and driving range, the hotel, 36 golf villas, staff accommodation and the first block of holiday apartments.

"The A90(T) project" will mean the design, construction and procurement of the proposed upgrade of the Balmedie to Tippetty dual carriageway by Transport Scotland.

"The A90 (T) access" will mean the construction of a new access off the proposed grade separated junction forming part of the A90 (T) project, which access will serve the development directly from the upgraded dual carriageway.

Obligations:

- a) No development additional to Phase 1 of the development shall be occupied until the A (90) project has been completed and opened to general traffic.
- b) Subject to obtaining the necessary statutory consents and permits to construct the A90 (T) access, no development additional to Phase 1 of the development shall be occupied until the A90 (T) access has been completed and opened to general traffic.

5. MEMAG

Definitions:

"MEMAG" will mean the Menie Environmental Management Advisory Group;

Obligations:

- a) Prior to the carrying out of the masterplanning exercise required in terms of Condition 3 of the outline planning permission, the Applicant will establish MEMAG in consultation with the Council.
- b) The remit of MEMAG will be to provide advice to the Applicant and the Council on
 - a. 'best practice' environmental management and operation;
 - b. monitoring of environment including ecology;
 - c. the minimisation of unanticipated adverse changes in addition to those already recognised in the main Environmental Impact

Assessment that accompanied the application for outline planning permission;

- d. Full compliance with the relevant conditions attached to the outline planning permission and related reserved matters' approvals;
- c) The membership and structure of MEMAG will be as set out in Appendix 6 – 6 of the Environmental Statement. A copy of Appendix 6 -6 will be annexed to the Section 75 Agreement or its terms incorporated therein.
- d) The policy committee of MEMAG will agree the locus and maximum estimated costs of their operations and activities, including the cost of administrative and secretarial support on a three year rolling basis.
- e) For the avoidance of doubt, MEMAG will operate as an advisory body only and will not have the power to veto any proposal or action proposed by the Applicant or the Council. The Council, as planning authority, will remain responsible for the statutory development management of the application site.

6. Local Training and Staff Recruitment Programme

Definitions:

"A Training and Employment Strategy" will mean a strategy to promote and develop local training and education opportunities in disciplines to be employed within the application site with specific objectives, an action plan and monitoring arrangements.

"Development" will mean the development approved by the outline planning permission under exception of the construction of the championship golf course.

Obligations:

- a) Prior to commencement of the Development, the Applicant shall agree a Training and Employment Strategy in consultation with the Council.
- b) During the construction of the Development the Applicant will take reasonable steps to ensure that full and fair employment opportunities are given to persons resident within a 50 mile radius of the Application Site before advertising for staff outwith that radius.
- c) During the construction of the Development the Applicant will take reasonable steps to ensure that full and fair opportunities in relation to Construction contracts and sub-contracts are given to suppliers of goods and services trading or having a depot within a 50 mile radius of the Application Site before advertising for the supply of goods and services outwith that radius.
- d) The Applicant will notify the Council of (1) the nature of the goods and services which they intend to procure for the purpose of carrying out the development and (2) businesses with a principal base or depot with a 50

mile radius of the application site that may reasonably be able to tender for the supply of the specified goods and services.

- e) The Applicant will provide advice to prospective tenderers regarding contract procedures, standards and requirements.
- f) The Applicant will record relevant information in relation to these obligations on a monthly basis for submission to the Council on a six monthly basis starting with the date of commencement of development. Such information will be agreed as part of the Training and Employment Strategy.
- g) The Applicant will notify all job vacancies to Job Centres, a schedule of which Centres will be agreed as part of the Training and Employment Strategy, before advertisements are placed elsewhere to determine if suitable local labour is available prior to the employment being offered elsewhere.
- h) The Applicant will not be required to do anything in relation to these obligations that could be construed as a breach of European Employment Law.
- i) The Applicant will provide a contact person to liaise with the Council in relation to the implementation of these obligations and the Training and Employment Strategy.

GENERAL

- a) All financial contributions will be index linked to the Retail Price Index from 1 January 2008.
- b) The Applicant will be liable for their own and the Council's reasonable legal expenses in relation to the preparation of the Section 75 Agreement

On behalf of the Applicant
12 June 2008

On behalf of the Council

APPENDIX 3

Note of the pre-inquiry meeting 26 March 2008

1. Introduction

The procedure meeting was held by the reporters to discuss the procedural arrangements for the public local inquiry called by Scottish Ministers to consider the outline planning application made on 27 November 2006 to Aberdeenshire Council by Trump International Golf Links Scotland Ltd. That application was called-in by Scottish Ministers on 4 December 2007, as it raised issues of importance requiring scrutiny at a national level.

The inquiry, which will commence on Tuesday 10 June at 10.00 am within the Aberdeen Exhibition and Conference Centre, will be held jointly by James McCulloch, Karen Heywood and Michael Cunliffe – each of whom is a reporter appointed by Scottish Ministers. The reporters will make a recommendation in respect of the application and Scottish Ministers will decide whether, or not, outline planning permission is to be granted.

2. The decision making context

The law requires that the decision in this case is made in accordance with Section 25 of the Town and Country Planning (Scotland) Act 1997³. Section 25 states that:

...the determination shall be made in accordance with the development plan *i.e. policies in the Aberdeen and Aberdeenshire Structure Plan and the Aberdeenshire Local Plan* unless material considerations indicate otherwise.

The council's committee reports identify the range of development plan policies that must be considered – the council's assessment is that some support the development, and that others do not. It is therefore the assessment of both the development plan and material considerations that will be critical to the recommendation and the decision on this outline planning application.

A material consideration should serve or be related to the purpose of planning – in other words it should relate to the development and use of land; and it should fairly and reasonably relate to the particular application in question. The identity of a prospective developer is not a material planning consideration because in law if planning permission is granted that permission runs with the land. It is for the decision-maker to assess both the weight to be attached to each material consideration and also whether individually, or together, they are sufficient to outweigh the provisions of the development plan.

³ The Town and Country Planning (Scotland) Act 1997:
http://www.opsi.gov.uk/acts/acts1997/ukpga_19970008_en_1

There are more than 4,000 written representations concerning the development from concerned individuals and bodies and made initially to Aberdeenshire Council and subsequently to Scottish Ministers. All of these are before the reporters and will be taken into account in their report to Scottish Ministers, there is thus no need to appear in person at the inquiry to ensure that a view expressed in writing is taken into account. There is, in addition, a significant level of environmental information concerning the proposal and its likely effects contained in the environmental statement and the supporting documentation. All of the written material connected with the case will be placed on deposit, as indicated below at paragraph 10, in the Council's Ellon Area office and, additionally, may be referred to on the web pages of Aberdeenshire Council. A dedicated web site is being established and will be accessible at www.aberdeenshire.gov.uk/meniefinquiry. It will be in place in time to host the publication of statements of case.

It is important that the inquiry is concentrated on the matters in dispute, This requires parties considering their evidence to be prepared to reach qualified agreements with others – including those whose position they oppose – concerning matters of fact. The reporters therefore encourage the production of agreed statements by parties as soon as possible. These could cover – as matters of fact - the development plan policy that applies; traffic generation; geomorphology; nature conservation; housing land supply etc allowing the inquiry to concentrate on the correct interpretation to be placed on those facts. This will allow the best use to be made of oral evidence so that formal cross-examination improves the reporters' understanding of the issues at stake. Where cross-examination is unlikely to have this effect it will be more appropriate to rely on parties' written positions.

Those parties sharing a common point of view should take the opportunity to group together under one spokesperson so that expertise is shared and repetition avoided. Repetition does not strengthen a case and will not be allowed. The opportunity for individuals and organisations to group together in this way will continue until May 5, the deadline for lodging statements of case. Please tell Colin Bell at DPEA of any such change in your circumstances – his contact details appear at paragraph 13 of this note.

3. The main issues requiring consideration by the inquiry

The reporters have made a provisional assessment of the issues requiring further examination based on the material currently available to them. Besides the issues raised by the development plan and against which the developments must be tested, the disputed material considerations relevant to this development include:

- the likely impact on the SSSI – *parties are asked to explore the scope for an agreed statement establishing the factual position – if successful there may be no need for oral evidence*
- possible effects on the SPA – *the need for oral evidence is dependent on the position of SNH. If an effect of significance is held to be likely then oral evidence will be required so that sufficient environmental information is available to Scottish Ministers to mount an appropriate assessment.*
- mitigation of environmental effects – *confirmation is requested from the applicants that the undetermined application for detailed planning permission*

for the Championship Golf Course is the development that represents the applicants' preferred method of mitigation - oral evidence will be required

- the significance of any residual effects – *oral evidence required*
- economic effects, including benefits to the economy and employment – *clarification is requested from the applicants as to how they propose to deal with the issue of commercial confidentiality in assessing the economic effects - oral evidence required*
- the need for the housing component and the financial cross-funding case underpinning it – *oral evidence required*
- the effects on the wider housing market – *oral evidence required*
- the outline planning application - *clarification by way of a written submission is requested from the applicants concerning the exact scope of the outline planning application and the balance with matters that would be reserved – should outline planning permission be granted - for the subsequent approval of Aberdeenshire Council as planning authority.*
- design, landscape and visual impacts – *the likely visual impact of this development is essentially a matter of subjective judgement for the reporters and Scottish Ministers, it is difficult to see what benefit would be achieved by the cross-examination of witnesses. Further written submissions are therefore invited.*
- effects on public access and recreation, amenity and local community facilities – *oral evidence required*
- traffic and surface transportation – *dependent on the provision of further information by the applicants to Transport Scotland, the issues may be resolved or dealt with by written submissions*
- ground water environment – *dependent on the provision of further information by the applicants to SEPA, the issues may be resolved or dealt with by written submissions*
- national planning policy and advice - *written submissions are invited*

The reporters will give further consideration to these matters when statements of case are received.

4. Sequence of evidence

The applicants will present their case first, followed by those who support the development; the inquiry will then turn to consider the evidence of those who object.

At the opening of the inquiry an arrangement will be made for evening sessions. Two will be available: one for supporters, another for objectors – with the purpose of allowing local residents who do not wish to rest on written submissions to make their opinions known. This will not provide the opportunity for them to question other parties. The limited availability of objectors and supporters who can attend during the day but not for the duration of the inquiry will also be considered. A programme will be set on the opening day of the inquiry.

5. Participation

The Inquiries Procedure Rules⁴ refer to “relevant persons” – organisations or individuals who will be playing a large part in the inquiry. The applicant and the planning authority are always relevant persons; if others represent the interests of a group or intend to make a significant case – then these organisations or individuals also may be made relevant persons. Annex 1 of this note indicates those parties, groups and organisations that have been made relevant persons following discussion and agreement at the pre-inquiry meeting. It also indicates parties’ intentions for calling witnesses and the likely duration of their case, together with their contact details.

The right to the status of a relevant person comes with significant responsibilities. Relevant persons must serve statements of case, documents and precognitions on all other relevant persons and the reporters in a structured way before the inquiry.

6. Pre-inquiry disclosure

Statements of case – to be exchanged by relevant persons by 5 May

The statement of case must outline each of the arguments on which reliance will be placed. It is critical to proper prior disclosure, ensuring that other parties are not faced with surprises. The statement should list the documents that will later be produced; the witnesses that will be called, together with their specialisms, whether there will be legal representation and, for the council also, the suggested conditions and heads of terms for any legal agreement that has been agreed to be appropriate under section 75 of the Act.

Inquiry documents - to be exchanged by relevant persons by 12 May

Parties are asked to co-operate in the identification of core documents (such as the environmental statement, plans and supporting information, structure plan, local plan, national and other relevant policies) – these need only be listed once and should not be produced as documents by each party wishing to refer to them. Parties are asked to be considerate in their use of paper and to refer only to documents that are essential to their case. The use of complete and relevant extracts is also encouraged so avoiding the circulation of many irrelevant pages. It is helpful for all to be pointed to the information that you want to be taken into account.

Precognitions and summary precognitions - to be exchanged by relevant persons by 19 May

A precognition is a full statement of the evidence that a witness proposes to give to the inquiry. If that statement runs to more than 2,000 words then a summary is required; normally only the summary is read to the inquiry.

⁴ The Town and Country Planning (Inquiries Procedure) (Scotland) Rules 1997, as amended, <http://www.opsi.gov.uk/si/si1997/19970796.htm> and SODD Circular 17/1998 - particularly Annex A at <http://www.scotland.gov.uk/Publications/1998/10/circular-17-1998-root/circular-17-1998>

Rebuttal statements – to be exchanged by 2 June

Rebuttal statements can assist in concentrating the inquiry by further refining the issues in dispute once additional written submissions and the precognitions of witnesses for opposing parties have been exchanged and read.

Legal submissions

Should parties wish to challenge any aspect of these arrangements or any other matter, then notification is requested in writing and immediately the issue becomes apparent. Challenges should not be left to be made when the inquiry is opened.

7. Exchanging statements of case, documents, precognitions and rebuttal statements

Each relevant person is expected to produce a statement of case; documents if additional to those on the core list; precognitions, together with summaries where necessary. The need for rebuttal statements will be determined by the nature of the case made and its relationship to the case made by opposing parties.

For each exchange:

- 3 paper copies are to be submitted to DPEA (1 for each reporter)
- 2 copies to Aberdeenshire Council (allowing 1 set to be placed on deposit)
- 1 copy to the applicants
- 1 copy to each of the other relevant persons

Should parties agree reciprocally, the exchanges between them may be made by e-mail or disk. In each case the reporters request that an e-version of statements of case; precognitions; and rebuttal statements is made available to them in Microsoft Word format.

Documents to be posted to the web should be sent to menieinquiry@aberdeenshire.gov.uk in PDF format. It is the responsibility of the relevant persons to ensure that their statements of case, documents, precognitions and rebuttal statements are sent to this e-mail address for inclusion on the planning authority's website and parties should send confirmation to DPEA when this has been done. **Those sending data to the council to be posted on the internet must ensure** that personal information is excluded from the version of the document that they submit.

8. Parties leading oral evidence, but not as relevant persons

It is not necessary to be a "relevant person" to give evidence at the inquiry. Individuals and groups wishing to amplify the arguments contained in their written submissions may do so, **provided** a precognition is produced in advance, by 19 May, so that all parties are fully aware of the cases that are to be made. If any documents are to be referred to these must, in common with all others, be produced by 12 May. Those wishing to lead oral evidence, but not as relevant persons, should let Colin Bell at DPEA know that this is their intention and ensure that all of the

material relevant to their case (i.e. documents and precognitions) are sent to him by the appropriate deadline for onward transmission to others.

9. Submitting further written submissions by 21 May

Parties resting on written submissions need add nothing to those already submitted to ensure that these are taken into account. Any further lines of argument that parties wish to pursue in writing are to be submitted to DPEA by 21 May.

10. Reference to inquiry documentation

The note of this pre-inquiry meeting will be posted at <http://www.scotland.gov.uk/Topics/Planning/Appeals>

Government policy and advice is also available from this source, together with the procedural guidance concerning cases proceeding by public local inquiry. <http://www.scotland.gov.uk/Topics/Planning/Appeals/Inquiries>

Aberdeenshire Council will place on deposit a paper set of all of the inquiry documentation, including representations. This will be available for reference at :

Planning & Environmental Services
Aberdeenshire Council
45 Bridge Street
Ellon
AB41 9AA

Tel:- 01358 726429
Email:- fo.planapps@aberdeenshire.gov.uk
Office hours:- 8:45 am to 5:00 pm

Once the inquiry opens the inquiry documentation on deposit will transfer to the inquiry venue. In addition, the council's website contains information relevant to their consideration of the proposal as planning authority:

http://www.aberdeenshire.gov.uk/planning/apps/detail.asp?ref_no=APP/2006/4605

and, as indicated, the council will establish a dedicated web site for inquiry documentation: www.aberdeenshire.gov.uk/menieinquiry.

11. Timetabling the inquiry

The inquiry will commence at 10.00 am on Tuesday 10 June and on subsequent days at 9.30. It will close each evening between 4.30 and 5.00 pm depending on the business in hand. There will be a break of 1 hour for lunch and short mid morning and afternoon breaks timed as necessary. The evening sessions will sit from 6.30 – 9.30 pm; there will normally be only 2 sessions per day, so that on the 2 days with evening sessions the inquiry will sit only in the morning or afternoon. The reporters will be making an accompanied site visit and will announce the arrangements at the inquiry.

12. At the inquiry

- only the summary of a precognition will normally be read to the inquiry by a witness
- this means that documentation before the inquiry is taken as read and the inquiry sessions are not the opportunity for parties to familiarise themselves
- new material must not be introduced at the inquiry. If, even so, a new matter is raised and it is relevant, the person introducing it may have to bear the costs of the inquiry considering it
- there will be the opportunity for questioning, or cross-examination, by opposing parties
- those on the same side will not be able to cross-examine each other, but will be allowed to seek clarification
- the reporters will also ask questions
- re-examination will be allowed
- there will also be the opportunity for closing submissions to be made – these set the context in which you wish your case to be viewed by the reporters – taking account of the concessions and the ebb and flow that has occurred during the inquiry. If a closing submission is made then a typescript will be required before it is read to the inquiry. This will become an inquiry document and thus be made available to Scottish Ministers for them to be able to see your case in the light that you choose, rather than as summarised by the reporters. Closing submissions are made in reverse order; the applicant goes last. The dates on which closing submissions are to be heard will be set during the inquiry.

Late submission of any of the material listed is unfair to other parties, it hampers proper preparation. The reporters may not be prepared to accept late material unless there are exceptional, unavoidable circumstances. Even if late material is accepted, there is the possibility of an award of expenses.

13. Contacting DPEA

Colin Bell
DPEA
4 The Courtyard
Callendar Business Park
Falkirk
FK1 1XR

| | |
|-----------|---|
| Telephone | 01324 696 463 |
| Fax | 01324 696 444 |
| e-mail | Colin.Bell@scotland.gsi.gov.uk |
| web | http://www.scotland.gov.uk/Topics/Planning/Appeals |

DPEA
31 March 2008

Annex 1 – Relevant persons and their contact details

| Relevant person | Contacts | Likely number of witnesses | Likely duration of case - days |
|---|--|----------------------------|--------------------------------|
| The applicants | Ann Faulds Dundas & Wilson CS LLP Saltire Court 20 Castle Terrace Edinburgh EH1 2EN Tel: 0131-200-7330 Fax: 0131-228-8888 e-mail: ann.faulds@dundas-wilson.com | Up to 10 | Up to 4 |
| Aberdeenshire Council | Sonya Galloway (Planner) Planning & Environmental Services Aberdeenshire Council 45 Bridge Street Ellon AB41 9AA Tel : 01358 726424 e-mail: sonya.galloway@aberdeenshire.gov.uk e-mail contact for website inquiry documentation: menieinquiry@aberdeenshire.gov.uk | 3 | 1½ |
| Scottish Natural Heritage | Erica Knott Scottish Natural Heritage Battleby Redgorton Perth PH1 3EW e-mail: SNH-TIGLS-PLI@snh.gov.uk Tel: 01738-458674 | Up to 6 | 3 |
| RSPB/SWT (together with David Welch, and Aberdeen Friends of the Earth) | Anne McCall RSPB Scotland Dunedin House 25 Ravelston Terrace Edinburgh EH4 3TP Tel: 0131-311-6500 e-mail: anne.mccall@rspb.org.uk | Up to 5 | 3 |

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|---|---|---------|---|
| | | | |
| Mr Agnew (On behalf of Messrs Banks, Millen, Foote and Davidson – members of Sustainable Aberdeenshire) | Mr J A A Agnew Town and Country Planning Agent Kinnear House 33 Evan Street Stonehaven AB39 2EJ Tel: 01561-361364 e-mail: wagnew@tiscali.co.uk | 3 | 1 |
| Councillor Ford (together with Councillors Alistair Ross, Debra Storr and Paul Johnston and Belhelvie Community Council) | Councillor Martin Ford e-mail: cllr.m.ford@aberdeenshire.gov.uk | 4 | ½ |
| Ramblers' Association (together with ScotWays and Aberdeen Local Access Forum) | Helen Todd/Ian McCall Ramblers' Association Scotland Kingfisher House Auld Mart Business park Milnathort Kinross KY13 9DA Tel: 01577-861222 Fax: 01577-861333 e-mail: scotland@ramblers.org.uk | Up to 3 | ½ |
| Aberdeen and Grampian Chamber of Commerce (together with Aberdeen Hotels Association) | Geoff Runcie Chief Executive Greenhole Place Bridge of Don Aberdeen AB23 8EU Tel: 01224-343900 Fax: 01224-343943 e-mail: info@agcc.co.uk | 1 | ½ |
| | | | |
| Position reserved meantime | | | |
| Transport Scotland | Malcolm Forsyth Transport Scotland Buchanan House | | |

| | | | |
|---|--|--|--|
| | 58 Port Dundas Road Glasgow G4 0HF Tel: 0141-272-7386 e-mail: Malcolm.forsyth@scotland.gsi.gov.uk | | |
| SEPA | Jim Mackay Planning Unit Manager Environmental Partnership Unit SEPA Dingwall IV15 9XB 01349-860315 Fax: 01349-863987 e-mail: Jim.Mackay@sepa.org.uk | | |
| Dyce and Stoneywood Community Council | Contact details available on request to this office | | |
| | | | |

The addresses of private individuals have been redacted to comply with the Data Protection Act 1998

| | | | |
|---|--|--|--|
| Individuals who attended the PIM and intend to lead oral evidence, but not as relevant persons | Contact details available on request to this office | | |
| | | | |
| Mr E Thorpe | | | |
| Mr A Heikkinen | | | |
| Mr A Andersson | | | |
| Mr K Bowman | | | |
| Ms N Seal | | | |
| | | | |

| | | | |
|---|--|--|--|
| Individuals who did not attend the PIM but who intend to lead oral evidence, again not as relevant persons | Contact details available on request to this office | | |
| | | | |
| Dr Nick Littlewood | | | |
| Mr J Benton (Osprey Homes) | | | |
| Scottish Green | | | |

Appendix 3: Note of the pre-inquiry meeting 26 March 2008

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|---|--|--|--|
| Party | | | |
| Mr Ian Bell | | | |
| Mr James Noel | | | |
| Mr Nigel Dyer Sandtoft Roof Tiles Ltd | | | |

Annex 2 – Timeline for pre-inquiry disclosure and for the inquiry sessions

| Date | Deadlines |
|---|--|
| | |
| March 10 | Relevant notice |
| | |
| May 5 | For the exchange of statements of case |
| | |
| May 12 | For the exchange of documents |
| | |
| May 19 | For the exchange of precognitions and summaries |
| | |
| May 21 | For the submission of additional written submissions |
| | |
| June 2 | For the exchange of rebuttal statements |
| | |
| Tuesday June 10 – Friday June 13, inclusive | Week 1 of the Inquiry which opens at 10.00 am on Tuesday June 10 and continues on subsequent days, starting at 9.30 am |
| | |
| Monday June 16 – Thursday June 19, inclusive | Week 2 of the Inquiry , note the exceptional start on Monday (June 16) in this week only, together with closure on Thursday, rather than Friday |
| | |
| Tuesday June 24 – Friday June 27, inclusive | Week 3 of the Inquiry |
| | |
| Tuesday July 1 – Friday July 4 inclusive | Week 4 of the Inquiry |

APPENDIX 4

Documents before the inquiry

Core documents

A Development Plan

- A1 North East Scotland Together – Aberdeen and Aberdeenshire Structure Plan 2001-2016
- A2 Aberdeenshire Local Plan 2006

B Scottish Government Guidance

- B1. National Planning Framework for Scotland 2004
- B2 National Planning Framework for Scotland 2: Discussion Draft 2007
- B3 Designing Places: A policy statement on design

C Planning Policy

- C1 Scottish Planning Policy 1 (SPP 1) – The Planning System
- C2 SPP 2 – Economic Development
- C3 SPP 3 – Planning for Housing
- C4 SPP 3 – Planning for Housing: Consultative Draft
- C5 National Planning Policy Guideline 5(NPPG 5) – Archaeology and Planning
- C6 SPP 6 – Renewable Energy
- C7 SPP 7 – Planning and Flooding
- C8 NPPG 10 – Planning and Waste Management
- C9 SPP 11 – Open Space and Physical Activity
- C10 NPPG 13 – Coastal Planning
- C11 NPPG 14 – Natural Heritage
- C12 SPP 15 – Planning for Rural Development
- C13 SPP 17 – Planning for Transport
- C14 NPPG 18 – Planning and the Historic Environment
- C15 SPP 20 – Role of Architecture and Design Scotland
- C16 SPP 23 – Planning and the Historic Environment: Consultative Draft

D Planning Guidance

- D1 PAN 38 (Revised 2003) – Housing Land
- D2 PAN 40 – Development Control
- D3 PAN 41 (Revised 1997) – Development Plan Departures
- D4 PAN 43 – Golf Courses and Associated Developments
- D5 PAN 44 – Fitting New Housing Development into the Landscape
- D6 PAN 45 – Renewable Energy Technologies; Annex – Planning for Micro Renewables

| | |
|-----|---|
| D7 | PAN 51 (Revised 2006) – Planning, Environmental Protection and Regulation |
| D8 | PAN 58 – Environmental Impact Assessment |
| D9 | PAN 60 – Planning for National Heritage |
| D10 | PAN 61 – Planning and Sustainable Urban Drainage Systems |
| D11 | PAN 67 – Housing Quality |
| D12 | PAN 68 – Design Statements |
| D13 | PAN 72 – Housing in the Countryside |
| D14 | PAN 73 – Rural Diversification |
| D15 | PAN 74 – Affordable Housing |
| D16 | PAN 75 – Planning for Transport |
| D17 | PAN 78 – Planning and Building Standards Advice Note: Inclusive Design |
| D18 | PAN 84 – Reducing Carbon Emissions in New Development |

E Circulars

| | |
|----|--|
| E1 | 8/2007 – The Environmental Impact Assessment (Scotland) Regulations 1999 |
| E2 | 4/1998 – The Use of Conditions in Planning Permissions |
| E3 | 12/1996 – Planning Agreements |

F Other relevant documents

| | |
|----|---|
| F1 | Memorandum of Guidance on Listed Buildings & Conservation Areas |
| F2 | Habitats Directive – 92/43/EEC |
| F3 | Conservation (Natural Habitats Etc.) Regulations 1994 |
| F4 | Wild Birds Directive |
| F5 | UK Biodiversity Action Plan |
| F6 | The Scottish Biodiversity List |
| F7 | SNH Species Conservation Framework |
| F8 | NE Scotland Biodiversity Action Plan |

G Documents in relation to Application

| | |
|-----|---|
| G1 | Planning Application Ref: APP/2006/4605 – all consultations |
| G2 | Application and all drawings/plans |
| G3 | EIA |
| G4 | Appropriate Assessment Report by ECOS in relation to Birds (October 2007) |
| G5 | Survey of Terrestrial Invertebrates by Alba Ecology (September 2007) |
| G6 | Breeding Bird Survey by ECOS (October 2007) |
| G7 | Drainage Impact Assessment |
| G8 | Transport Assessment |
| G9 | All Committee Reports & Minutes |
| G10 | TIGLS response to Aberdeenshire Council and Statutory Consultations |

Documents for Trump International Golf Links Scotland

Project Description

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| T1 | Original golf course layout (Tom Fazio II layout) |
| T2 | Golf course layout (Hawtree layout) |
| T2A | Annotated Fazio and Hawtree golf course layout on original golf course masterplan |
| T2B | Annotated Hawtree golf course layout on original golf course masterplan with diagrammatic boundary of the SSSI |
| T2C | Spot heights for the Hawtree championship course |
| T3 | Letter dated 17 April 2008 and 21 April 2008 requesting and confirming withdrawal of detailed application for golf course |
| T4 | Revised hole-by-hole analysis of February 2008 golf course masterplan, addressing geomorphology and habitat impacts |
| T5 | Proposed 13th hole photomontage (photographs A – h) May 2008 |

Economic

| | |
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| T6 | Economic impact of the Menie Estate Development, Fraser of Allander Institute, May 2008 |
| T7 | Financial Report and Analysis, Johnston Carmichael, May 2008 |

Environmental – Geology, Geomorphology & Soils

| | |
|-----|---|
| T8 | Report to SNH on Assessment of TIGLS Environmental Statement (Geomorphology) (March 2007), Dr Jim Hansom, 11 May 2007 |
| T9 | Report to SNH on TIGLS Environmental Assessment and supplementary reports prepared for Menie Golf Resort Development, Dr J Patrick Doody, National Coastal Consultants, Brampton, 20 May 2007 |
| T10 | May, V. J. & Hansom, J. D. (2003) Coastal Geomorphology of Great Britain, Geological Conservation Review Series No 28, JNCC |
| T11 | Wright, R., 2001, Assessment of Landform Change within Forvie NNR and Foveran Links SSSI. Report to Scottish Natural Heritage. |
| T12 | Ritchie, W., Rose, N. and Smith, J.S. (1978) The Beaches of North East Scotland, Department of Geography, University of Aberdeen, |
| T13 | MacTaggart, F. 1998 Sands of Forvie and Ythan Estuary SSSI and Foveran Links SSSI. Earth science Documentation Series Scottish Natural Heritage, |
| T14 | Ritchie, Site photographs demonstrating closure of the gap in the coast dune, 2007 |
| T15 | Pro forma issued by Ironside Farrar for establishing baseline information for purpose of agreed statement with SNH, RSPB and SWT in respect of geology, geomorphology and soils |

Ecology, Nature Conservation & Biodiversity

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| T16 | Revised Appropriate Assessment Report (April 2008) incorporating pink-footed geese and recreational disturbance issues |
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- T17 Pro forma issued by Ironside Farrar for establishing baseline data for purpose of agreed statement with SNH, RSPB and SWT in respect of ecology, nature conservation and biodiversity
- T18 Dargie, TCD (2004) Monitoring protocols for condition assessment of Ross Links in relation to stock management, Report to English Nature
- T19 Dargie, TCD (2007) Lewis Wind Farm: Rebuttal of the 2005 and 2007 Lindsay Observations on Habitats and Ecological Assessment, Report to Lewis Wind Power
- T20 Sandwich Bay Dunes, Kent: NVC Survey 2001, Report to English Nature
- T21 Doarks C, Holder C & Radley GP (1992) Foveran Links, Gordon, 1990. Sand Dune Survey of Great Britain Site Report No 98, JNCC
- T22 Doody JP (2001) Coastal Conservation and Management: An Ecological Perspective. London, Kluwer
- T23 Geelen LHW, Cousin EFH, Schoon CF (1995) Regeneration of Dune Slacks in the Amsterdam Waterworks Dunes. Pp 525 – 532 in MG Healy & JP Doody eds Directions in European Coastal Management. Cardigan, Samara Publishing Limited
- T24 JNCC (2004) Common Standards Monitoring Guidance for Sand Dune Habitats, archived version from February 2004
- T25 JNCC (2004b) Common Standards monitoring guidance for Sand Dune Habitats, August 2004, JNCC
- T26 Dargie, TCD (1996) Sand Dunes, Pp 46 – 51 in Barne JH, Robson CF, Kaznowska SS & Doody JP (eds) Coast and Seas of the United Kingdom. Region 3. North-East Scotland: Cape Wrath to St Cyrus, JNCC
- T27 Shaw MW, Hewett DG & Pizzey JM (1983) Scottish Coastal Survey: Main Report. A Report on Selected Soft Coast Sites in Scotland, Bangor, Institute of Terrestrial Ecology
- T28 R&A publications in respect of habitat and wildlife conservation work undertaken on Open Championship Golf Courses, Royal Liverpool and Royal County Down
- T29 Dargie, T 2000 Sand Dune Vegetation Survey of Scotland: National Report. SNH
- T30. Dargie, TCD (1992) Sands of Forvie, Gordon, 1991, Site Report No 45 JNCC
- T31 Foveran Links SINS – Documents a – c
- T32 Dargie, T (1998) NVC Survey of Ross Links, Lindisfarne SSSI: Vegetation change 1988-1998, unpublished report to English Nature
- T33 Dargie, T (2001) Sand Dune Vegetation Survey of Scotland: East coast.
- T34 Hill MO, Mountford JO, Roy DB & Bruce RGH (1999) Ellenberg's Indicator Values for British Plants.
- T35 Rodwell JS (1992) British Plant Communities. Volume 2: Mires and Heaths Cambridge, Cambridge University Press
- T36 Rhind P, Stevens S & Sanderson R (2006) A Review and Floristic Analysis of Lichen-Rich grey Dune Vegetation in Britain. Proceedings of the Royal Irish Academy, 106B, 301-310
- T37 Rodwell, JS, JC Dring, ABV Averis, MCF Proctor, AJC Malloch, JHJ Schaminee & T Dargie (2000) Review of Coverage of the National

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| | Vegetation Classification (including an Annotated Conspectus of British Vegetation types and Rare Plant Affinities with the NVC system), JNCC Report No 302. |
| T38 | Rodwell, J.S. (2006) National Vegetation Classification: Users' Handbook, JNCC |
| T39 | Smedley M (2007) SNH Vegetation Survey of Menie, unpublished SNH document |
| T40 | SNH details of permissions granted for operations likely to damage the SSSI |
| T41 | SSSI citation for Foveran Links |
| T42 | Common Standards Monitoring Reports and Results for Foveran Links SSSI |
| T43 | SNH, Foveran Links SSSI, Operations Requiring Consent |
| T44 | Scottish Golf Environment Group Management and Planning Manual |
| T45 | Scottish Golf Environment Group Nature Conservation and Golf Course Development – Best Practice Guide |
| T46 | Scottish Golf Environment Group Golf Construction and the Environment |
| T47 | Scotland's Biodiversity, It's in Your Hands. A Strategy for the Conservation and Enhancement of Biodiversity in Scotland, Scottish Executive 2004 |
| T48 | Scottish Biodiversity 100 List, UK Species Action Plan for Skylark, Birds of North East Scotland, Buckland et al 1990 |
| T49 | Biodiversity in North East Scotland, An Audit of Priority Habitats and Species. Alexander et al 1992 |
| T50 | Status and Extents of key vegetation types and rare species at Menie and including further mitigation of impacts: receptors, locations and outline methods |
| T51 | NOT USED |
| T52 | Lindsay, R (2005) Lewis Wind Farm Proposals: Observations on the Official Environmental Impact Statement. Report Commissioned by RSPB University of East |
| T53 | Habitat Translocation – A Best Practice Guide |
| T54 | Aerial Photograph showing part of sand dune area on which proposed golf course is to be sited, dated 21.3.06 |
| T55 | Scottish Golf Courses on SSSI Areas (Revised) |
| T56 | North East Scotland Breeding Bird Atlas, 2002 – 2006, raw data from tetrads relevant to Menie |
| T57 | Survey for bats and their roosts at Menie Park steading, near Balmedie, Aberdeenshire, 2007, Dr Sue Swift |

Transport

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| T58 | Consolidated Transport Assessment, April 2008 |
| T59 | Stage 1 Development Appraisal and Access Strategy, August 2007 |
| T60 | Updated Development Appraisal, October 2007 |
| T61 | Letter from Transport Scotland dated 29 October 2007 |
| T62 | Technical Report 01: New Access to Re-Aligned A90, Initial Appraisal, May 2008 |

Hydrology, Drainage & Water Quality

- T63 Updated Drainage Impact Assessment, April 2008
- T64 Site Investigation Report

Recreation, Access & Community Facilities

- T65 Public Access Plan prepared by Jenkins & Marr, May 2007

Declarations of Support

- T66 Spreadsheet detailing statements of support quoted in media
- T67 Press Release: Business Bodies Back Trump dated 14 March 2008
- T68 Quotations and Letters of Support from Local Businesses

Other

- T69 Series of Old Photographs (a-c)
- T70 Plan – Hawtree Layout showing Direct Impacts on Slack Habitat
- T71 Closing submission on behalf of TIGLS

Documents for Aberdeenshire Council

- AC1 Aberdeenshire Council – Strategic Priorities 2007 to 2011
- AC2 Aberdeenshire Council – Economic Development Priorities 2006 to 2011
- AC3 Economic Manifesto
- AC4 Economic Review 2007
- AC5 Housing Land Audit 2007 (extracts)
- AC6 Strategic Forecasts 2007
- AC7 Structure Plan – Issues Report
- AC8 Provisional Draft Structure Plan
- AC9 Report on economic effects of development EKOS
- AC10 Visit Scotland – Scottish Tourism Prospectus
- AC11 SCDI – Comments on the Tourism Prospectus
- AC12 Scottish Enterprise Grampian – Golf Resort Reference Document 2007
- AC13 Scottish Enterprise Grampian – Aberdeen City & Shire Golf Tourism Opportunities
- AC14 North Eastern Tourism Partnership (NESTOUR) – A Strategy and Action Plan for Growth
- AC15 NESTOUR – Strategy Plan for Growth
- AC16 NESTOUR – Action Plan 2006 – 2010
- AC17 Scottish Executive – Scottish Tourism: The Next Generation
- AC18 Statement on Land Supply
- AC19 Letter from EKOS Limited dated 16 June 2008
- AC20 Closing submission on behalf of Aberdeenshire Council

Documents for Aberdeen and Grampian Chamber of Commerce

AGCC1 Closing submission on behalf of Aberdeen and Grampian Chamber of Commerce; Scottish Council development and Industry; Aberdeen City and Shire Hotels Association; Aberdeen City Centre Association; Aberdeen Convention Bureau; the Federation of Small Businesses; VisitScotland; and the Dean of Guild.

Documents for Scottish Natural Heritage

General

SNH1 SSSI Citation for Foveran Links

Geomorphology

SNH2 Dawson et al (in press) Historical changes to Beaches and Dune in Scotland, SNH Commissioned Report

SNH3 Dawson A & Ritchie W, Menie links geomorphological survey, May 2006, Aberdeen Institute of Coastal Science & Management

SNH4 DEFRA (2006) Flood and Coastal Defence Appraisal Guidance

SNH5 Halcrow & Crouch (September 1999) Aberdeen Bay Coastal Protection Study, Aberdeen City Council, Scottish Natural Heritage, Grampian Enterprise Ltd

SNH6 Hansom JD (2007) Assessment of the Geomorphological Interests at Foveran Links SSSI. Scottish Natural Heritage Commissioned Report No.232

SNH7 IPCC 2007 – sea level numbers

SNH8 JNCC Guidelines for selection of Earth Science SSSIs (1977)

SNH9 Leith Docks Redevelopment Environmental Statement, ARUP 2007 (Extract) May, V. J. & Hansom, J. D. (2003) Coastal Geomorphology of Great Britain, Geological Conservation Review Series No 28, JNCC

SNH10 RealClimate: The IPCC sea level numbers

SNH11 Rennie & Hansom (2008, in press) Analysis of historical aerial photography of Aberdeen Bay

SNH12 Ritchie, W., Rose, N. and Smith, J.S. (1978) The Beaches of North East Scotland, Department of Geography, University of Aberdeen, Aberdeen, Extract

SNH13 SNIFFER (2008) Second Technical ReportProject UKFRM10, Coastal Flooding in Scotland: A Scoping Study (March 2008)

SNH14 UKCIP (2005) Updates for regional sea level change estimates for Great Britain (includes 2007 footnote)

SNH15 Wright, R, 2001, Assessment of Landform Change within Forvie NNR and Foveran Links SSSI, Report to Scottish Natural Heritage, Aberdeen Office, p18 and maps

Ecology

- SNH16 Averis, ABG 1998 Botanical survey of West Links, Gullane, East Lothian, 1998 Unpublished report to The Honourable Company of Edinburgh Golfers, Muirfield
- SNH17 Birse, EM 1957 Ecological studies on growth-form in bryophytes II. Experimental studies on growth form in mosses. *Journal of Ecology*, 45, 721-733
- SNH18 Birse, EM 1958 Ecological studies on growth-form in bryophytes III. The relationship between the growth form of mosses and ground-water supply *Journal of Ecology*, 46, 9-27
- SNH19 Bleasdale, A 1988 An assessment of the scientific interest of the dune system at White Strand, Doonbeg, Co. Clare. Prepared for the Heritage Council by Eco-Logic Environmental Consultancy
- SNH20 CORINE Introduction and coastal sections only
- SNH21 Dargie, TCD 1995 Sand Dune Vegetation Survey of Great Britain Part 3 –Wales, JNCC (Extract)
- SNH22 Dargie, TCD 2000. Sand Dune Vegetation Survey of Scotland: National Report, Vol 1 and Vol 2, Scottish Natural Heritage, Battleby
- SNH23 Dargie, TCD 2001. Sand dune vegetation survey of Scotland: East Coast, Scottish Natural Heritage Research, Survey and Monitoring Report No 179
- SNH 24 Doarks, C, Holder, C & Radley, GP 1991. Foveran Links, Gordon, 1990 Sand Dune Survey of Great Britain Report No 98, Nature Conservancy Council, Peterborough
- SNH25 Gange, AC, Lindsay, DE & Schofield, JM 2003, The ecology of golf courses, *Biologist*, 50, 63-68
- SNH26 Gimingham, CH 1997, The flora of the Sands of Forvie, The Ythan, *Festschrift for George Dunnet*, Aberdeen University, 1997, 44-53
- SNH27 Grootjans, AP, Ernst, WHO & Stuyfzand, PJ 1998, European dune slacks: strong interactions of biology, pedogenesis and hydrology, *TREE*, 13, 96-100
- SNH 28 Hope-Simpson, JF & Jefferies, RC 1966, Observations relating to vigour and debility in Marram grass (*Ammophila arenaria*) (L) Link), *Journal of Ecology*, 54, 271-274
- SNH29 Hylgaard, T & Liddle, MJ 1981, The Effect of Human Trampling on a Sand Dune Ecosystem Dominated by *Empetrum nigrum*, *Journal of Applied Ecology*, 18, 559-569
- SNH30 Nature Conservancy Council 1989 [revised 1998] Guidelines for selection of biological SSSIs, Nature Conservancy Council, Peterborough (Note intertidal and lagoon sections dated 1996, revised version 1998, Rationale and Coastal sections only)
- SNH31 Radley, GP 1994, Sand Dune Vegetation Survey of Great Britain, Part 1 – England, JNCC
- SNH32 Ratcliffe, DA Ed. 1977, A Nature Conservation Review Cambridge University Press, Cambridge, (Intro and Rationale to Vol 1 only)
- SNH33 Rhind, P Jones, R & Jones, L 2008, Confronting the impact of dune stabilization and soil development on the conservation status of sand dune systems in Wales, [In Press]

- SNH34 Rhind, P, Stevens, D & Sanderson, R 2006, A review and floristic analysis of lichen-rich grey dune vegetation in Britain, Proceedings of the Royal Irish Academy, 106B, 301-310
- SNH 35 Rodwell, JS (Ed.) 2000 British plant communities Volume 5. Maritime communities and vegetation of open habitats, Cambridge University Press, Cambridge (Extract)
- SNH36 Sand Dune HAP
- SNH37 Scottish Golf Environment Group, 2004, Nature conservation and golf course development: best practice advice
- SNH38 Scottish Natural Heritage 2000 Site Condition Monitoring form and guidance: sand dunes
- SNH39 Soulsby, C & Malcolm, R 1997 Hydrology of St. Fergus dune system The St Fergus coastal environment: monitoring and assessment of the coastal dunes at the North Sea Gas Terminals St. Fergus, W.Ritchie & L.Kingham (Eds), 75-90, Aberdeen University Research & Industrial Services Ltd, Aberdeen
- SNH40 Taylor, RS 1996 Studies in golf course management, No. 1: Heathland/moorland management, Sports Turf Research Institute, Bingley
- SNH41 Vázquez, G 2004 The role of algal mats on community succession in dunes and dune slacks In: Martínez, ML & Psuty, NP (Eds) Coastal dunes: ecology & conservation, 189-203, Springer, London
- SNH42 Willis, AJ 1989 Coastal sand dunes as biological systems' Proceedings of the Royal Society of Edinburgh, 96B, 17-36
- SNH43 English Nature, Environment Agency, Defra, Natural Environment Research Council (2003) Living with the Sea, Coastal Habitat Restoration; towards good practice, CD Version 1
- SNH44 Houston, JA, Edmondson, SE and Rooney, PJ (eds) (2001) Coastal Dune Management, Shared experience of European Conservation Practice, Liverpool University Press
- SNH45 Institute of Ecology and Environmental Management (2006) Guidelines for Ecological Impact Assessment in the United Kingdom (version 7 2006)
- SNH46 Martinez, ML and Psuty, NP (eds.) (2008) Coastal Dunes, Ecology and Conservation, Springer (Extract)
- SNH47 Meulen, F van der, Jungerius, PD and Visser, JH (eds) (1989) Perspectives in Coastal Dune Management, SPB Academic Publishing (Extract)
- SNH48 Ranwell, DS (1972) Ecology of Salt Marshes and Sand Dunes. Chapman and Hall
- SNH49 Rooney, P, Nolan, P and Hill, D (eds) (2005) Restoration, Re-introduction and Translocation, Institute of Ecology and Environmental Management (Extract)
- SNH50 Salisbury, Sir Edward (1952) Downs and Dunes Their Plant Life and its Environment

Other Relevant Documents

- SNH51 Scottish Biodiversity Strategy 'Scotland's biodiversity: it's in your hands', Scottish Executive 2004

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|-------|---|
| SNH52 | Choosing Our Future: Scotland's Sustainable Development Strategy 2005 'Changing our Ways' Scottish Executive Climate Change programme |
| SNH53 | Rennie, AF (2008) Visualisation of revised Golf Layout, SNH (Includes revised visualisation with a gain function of 1, requested by Reporters during PLI) |
| SNH54 | Closing submission on behalf of SNH |

Documents for RSPB, SWT and BSBI

| | |
|-------|---|
| RSB1 | Buckland et al, 1990 The Birds of North-east Scotland, North-East Scotland Bird Club, Aberdeen |
| RSB2 | (a) Letter of 30 April 2007 BSBI (b) Letter of 22 May 2007 BSBI (c) Letter of 16 August 2007 BSBI (d) Letter of 7 January 2008 BSBI |
| RSB3 | Cheffings, C and Farrell, L (Editors), 2005 The Vascular Plant Red Data List for Great Britain, ISSN 1473-0154 JNCC |
| RSB4 | Dargie, TCD 1991 Sands of Forvie, Gordon, Site report no. 45 to JNCC |
| RSB5 | Dargie, TCD 1993 Sand Dune Vegetation Survey of Great Britain: a national inventory Part II: Scotland, JNCC |
| RSB6 | Doarks, C, Holder, C and Radley, GP 1990 Foveran Links, Gordon, Sand Dune Survey of Great Britain Site Report No.98. JNCC |
| RSB7 | Deleted - Doody, JP, Johnston, C and Smith, B (eds.) 1993 Directory of the North Sea coastal margin, JNCC |
| RSB8 | Grampian Regional Council 1977 Ecological Survey of the River Don to River Ythan Report |
| RSB9 | Grampian Regional Council 1989 S.I.N.S. – Sites of Interest to Natural Science, Study of Environmentally Sensitive Areas, Grampian Regional Council |
| RSB10 | Gregory RD, Wilkinson NI, Noble DG, Robinson JA, Brown AF, Hughes J, Proctor DA, Gibbons DW and Galbraith CA, 2002 The population status of birds in the United Kingdom, Channel Islands and the Isle of Man: an analysis of conservation concern 2002-2007, British Birds 95:410-450 |
| RSB11 | Ing B, 1992 A Provisional Red Data List of British Fungi, Mycologist 6(3) pp124-128 |
| RSB12 | (a) Jackson, D.L. & McLeod, C.R. (Editors), 2000. Handbook on the UK status of EC Habitats Directive interest features: provisional data on the UK distribution and extent of Annex I habitats and the UK distribution and population size of Annex II species. JNCC, Peterborough. (b) Spatial/Summary data for UK SACs, SCIS, SACs: Spreadsheet of UK SAC information (c) JNCC: Second report by the UK under Art. 17 on the implementation of the Habitats Directive from January 2001 – December 2006 |

Appendix 4: Documents before the inquiry

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|--------|---|
| RSB13 | Jeremy, AC, Simpson, DA, Foley, MJY & Porter, MS (2007) Sedges of the British Isles BSBI Handbook No 1 Edition 3 BSBI, London |
| RSB14 | Nature Conservancy Council, 1989 Guidelines for the Selection of Biological SSSIs (Nature Conservancy Council, Peterborough) and JNCC |
| RSB15 | NOT USED |
| RSB 16 | Amalgamated with RSB 2 - Letter from BSBI to Scottish Government Planning Team on 7 January 2008 |
| RSB17 | (a) Letter from M. Wood to RSPB Scotland re possible alternative golf course layout at Menie Estate, Aberdeenshire 9 May 2008. (b) Alternative golf course layout map (c) Mike Wood, Career Profile |
| RSB18 | Material from applicants submitted in March, April, and May 2008 |
| RSB19 | Nature Conservation (Scotland) Act 2004 |
| RSB20 | NCC, 1977 Guidelines for selection of earth science SSSIs |
| RSB21 | NCC, 1984 Sands of Forvie & Ythan Estuary SSSI citation including site management plan and ORC list |
| RSB22 | NCC, 1984 Foveran Links SSSI citation including site management plan and ORC list |
| RSB23 | NOT USED |
| RSB24 | Ramsar Citation for the Ythan Estuary and Meikle Loch Ramsar site designated under the Ramsar Convention. |
| RSB25 | Ramsar Convention on Wetlands, 1971 |
| RSB26 | Ritchie, W and Mather 1984 The Beaches of Scotland, Perth, CCS. |
| RSB27 | Ritchie, W, Smith, JS and Rose, N 1977 The Beaches of North East Scotland, Dept. of Geography, University of Aberdeen, Commissioned by CCS |
| RSB28 | Rodwell, JS, 2000 British Plant Communities, Volume 5: Maritime communities and vegetation of open habitats, CUP |
| RSB29 | (a) RSPB Parliamentary Briefing post Council rejection by Infrastructure Services Committee (b) RSPB Parliamentary briefing post Ministerial call-in |
| RSB30 | RSPB leaflet identifying role and engagement with planning system |
| RSB31 | (a) RSPB correspondence to applicant of 14 April 2006 (b) RSBP correspondence to applicant of 15 November 2006 (c) RSBP correspondence to applicant of 21 August 2007 |
| RSB32 | (a) RSPB correspondence to Aberdeenshire Council of 9 November 2006 (b) RSPB correspondence to Aberdeenshire Council of 8 May 2007 (c) RSPB correspondence to Aberdeenshire Council of 13 August 2007 (d) RSPB comments in relation to the Appropriate Assessment 10 November 2007 |
| RSB33 | Scottish Biodiversity Strategy 2004 |
| RSB34 | NOT USED |
| RSB35 | Scottish Environment LINK letter to John Swinney MSP, 12 December 2007 |
| RSB36 | Scottish Government, 2007. The Government Economic Strategy |
| RSB37 | NOT USED |

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| RSB38 | SGEG: Nature Conservation and Golf Course Development – Best Practice Advice |
| RSB39 | SGEG Landscape Guidelines for Golf Course Development |
| RSB40 | SGEG Environmental Issues in Golf Course Construction |
| RSB41 | NOT USED |
| RSB42 | SNH, 1994 Special Protection Area (SPA) citation. Ythan Estuary, Sands of Forvie & Meikle Loch, Grampian plus site conservation objectives |
| RSB43 | SNH, 2005 Sands of Forvie Special Area of Conservation (SAC) citation plus site conservation objectives |
| RSB44 | NOT USED |
| RSB45 | (a) SWT correspondence to Aberdeenshire Council 4 May 2007 (b) SWT correspondence to Aberdeenshire Council 6 June 2007 (c) SWT correspondence to Aberdeenshire Council 23 August 2007 (d) SWT correspondence to Aberdeenshire Council 27 November 2007 |
| RSB46 | SWT planning policy paper |
| RSB47 | UK Biodiversity Group, 1999 Tranche 2 Action Plans, Volume V, Maritime Species and Habitats |
| RSB48 | NOT USED |
| RSB49 | NOT USED |
| RSB50 | United Kingdom Government, 2005 Securing the Future – UK Government Sustainable Development Strategy |
| RSB51 | NOT USED |
| RSB52 | Woods RG, & Coppins BJ, 2003 A Conservation Evaluation of British Lichens, British Lichen Society, London |
| RSB53 | WWF UK and RSPB vs Secretary of State for Scotland - 27 October 1998 Judicial Review of decisions relating to the Protection of European Sites at Cairngorm Mountain, by Aviemore and proposals for construction of a funicular railway thereon |
| RSB54 | Memo submitted by JNCC (ELD15) to Select Committee on Environment, Food and Rural Affairs, April 2007 |
| RSB55 | W Ritchie: Coastal Dunes: Resultant Dynamic Position as a Conservational Managerial Objective, Coastal Dune Management ed. Houston, Edmonson and Rooney, Liverpool University Press 1-16 (2001) |
| RSB56 | W Ritchie, Coastal Sand Dunes, Paper in Scottish Geographical Studies ed. Dawson, Jones, Small and Soulsby, University of Dundee and St. Andrews 73-87 (1993) |
| RSB57 | Scottish Executive Circular, June 2000: Habitats and Birds Directives: Nature Conservation Implementation in Scotland of EC Directives on the Conservation of Natural Habitats and of Wild Flora and Fauna and the Conservation of Wild Birds |
| RSB58 | EIGCA: Statement of Policy, March 2007 |
| RSB 59 | Red Data List of Threatened British Fungi 2007, Shelly Evans BMS Conservation Officer |
| RSB60 | Scottish Executive, 2005: Scotlands Sustainable Development Strategy: Choosing Our Future |

- RSB61 Dargie T : 2001. Sand dune vegetation survey of Scotland: East Coast Vol 1: Main Report Scottish Natural Heritage Research, Survey and Monitoring Report No. 179 (Vols 1-3)
- RSB62 (a) Rodwell, JS (ed) 1991 British Plant Communities Volume 2 Mires and Heaths, Cambridge University Press
(b) Rodwell, JS (ed) 2000 British Plant Communities Volumes 5. Maritime Communities and Vegetation of Open Habitats, Cambridge University Press
- RSB63 Ritchie, W and Kingham, L (eds) 1997 The St Fergus Coastal Environment: monitoring and assessment of the coastal dunes at the North Sea Gas Terminals, St Fergus,. Aberdeen University Research and Industrial Services Limited/St Fergus Dunes Management Committee
- RSB64 VisitScotland, 2005: The Official Guide to Golf in Aberdeen and Grampian Highlands.
- RSB65 Presidency Conclusions: Göteborg European Council 15 and 16 June 2001
- RSB66 TIGLS Response to Aberdeenshire Council and Statutory Consultees, July 2007
- RSB67 Birds of Conservation Concern 2002 - 2007, Gregory RD et al
- RSB68 Aberdeenshire Council Planning and Environment Services Report, 10 September 2007
- RSB69 Managing Natura 2000 sites: The Provisions of Art.6 of the Habitats Directive 92/43/EEC, European Union, 2000
- RSB70 Bakker, C, de Graaf, HF, Ernst, WHO & van Bodegom, PM 2005 Does the seed bank contribute to the restoration of species-rich vegetation in wet dune slacks? Applied Vegetation Science 8: 39-48 [Abstract]
- RSB71 Bossuyt, B, Honnay, O, & Hermy, M 2003 An island biogeography view of the successional pathway in wet dune slacks, Journal of Vegetation Science 14: 781-788 [Abstract]
- RSB72 Bossuyt, B, & Hermy, M 2004 Seed bank assembly follows vegetation succession in dune slacks, Journal of Vegetation Science 15: 449-456. [Abstract]
- RSB73 Jones, R & Etherington, JR 1971 Comparative studies of plant growth and distribution in relation to waterlogging: IV The growth of dune and dune slack plants, The Journal of Ecology 59: 793-801, Introduction, p793, lines 1-13.
- RSB74 Geelen, LHW, Cousin, EFH and Schoon, CF 1995 Regeneration of dune slacks in the Amsterdam waterworks dunes, P. 525-532 in Healy, MG and Doody, JP (eds) Directions in European Coastal Management, Cardigan, Samara Publishing Ltd.
- RSB75 Greipsson, S 2002 Coastal Dunes In Perrow, MR & Davy AJ (eds) Handbook of Ecological Restoration, Cambridge University Press, 460pp
- RSB76 Grootjans, AP, Geelen, HWT., Jansen, AJM & Lammerts, EJ 2002. Restoration of coastal dune slacks in the Netherlands, Hydrobiologia 478: 181-203 [Abstract]

- RSB77 Conrad FK et al 2006 'Rapid declines of common, widespread British moths provide evidence of an insect biodiversity crisis, Biological conservation 132: 279 – 291
- RSB78 Closing submission on behalf of RSPB, SWT and BSBI

Documents for the Ramblers Association, ScotWays and the Aberdeen Local Outdoor Access Forum

- R1 Land Reform (Scotland) Act 2003, Part 1
- R2 The Scottish Outdoor Access Code, 2005 (SNH)
- R3 Part 1 Land Reform (Scotland) Act, 2003 – Guidance for Local Authorities and National Park Authorities, Extract pp15-18, Section 11 powers
- R4 Judgement in the case of Mr Graham Tuley and Mrs Margot Tuley v Highland Council, B201/05 Dingwall, July 2007, Extract paragraphs 94-107, Discussion and decision
- R5 NOT USED
- R6 European Landscape Convention
- R7 Report on European coastal access issues arising from European Ramblers' Association International Seminar, Malaga, Spain, 5-7th June 2008 (circulated on 25th June)
- R8 Closing submission on behalf of the Ramblers' Association, ScotWays and the Aberdeen Local Outdoor Access Forum

Documents for Councillors Ford, Johnston, Ross and Storr

- ISC1 SPP 1 – The Planning System, Paragraphs 4, 7-10, 15-16, 20-21, 50-55, 57
- ISC2 SPP 2 – Economic Development, Paragraphs 2,7,11,31,47,51
- ISC3 SPP 3 – Planning for Housing, Summary and paragraphs 4-5, 7, 10-11, 24, 28, 35-36, 38
- ISC4 SPP 6 – Renewable Energy, Paragraphs 9-11..
- ISC5 NPPG 13 – Coastal Planning, Paragraphs 1, 3, 8, 15-16, 22-23, 36, 42
- ISC6 NPPG 14 – Natural Heritage, Paragraphs 4-6, 9-10, 14-16, 18-20, 23-25, 46-48, 80
- ISC7 SPP 15 – Planning for Rural Development, Paragraphs 4, 14, 24
- ISC8 National Planning Framework for Scotland (March 2004), Paragraphs 26, 34, 39, 54, 93-94
- ISC9 PAN 43 – Golf courses, Paragraphs 9-11, 20-21, 26, 29-31, 44-45, 59-63, 75
- ISC10 PAN 51 – Planning, Environmental Protection and Regulation, Paragraphs 6, 13, 26
- ISC11 PAN 60 – Planning for Natural Heritage, Paragraphs 3-6, 8-9, 12, 23, 29, 34, 38, 40-41
- ISC12 PAN 73 – Rural Diversification, Paragraphs 27-28, 31-32, 44-46, 54
- ISC13 PAN 74 – Affordable Housing, Paragraphs 37-40, 48, 55

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| ISC14 | PAN 84 – Reducing Carbon Emissions in New Development, Paragraphs 8, 29-30. |
| ISC15 | Circular 12/1996 – Planning Agreements |
| ISC16 | Circular 4/1998 – The Use Of Conditions In Planning Permissions |
| ISC17 | Planning Policy & Environment Service relative to Planning Application Ref: F/APP/2006/4605 |
| ISC18 | Choosing our Future: Scotland's Sustainable Development Strategy, Section 1 |
| ISC19 | Vanity Fair, May 2008 edition, article by Alex Shoumatoff titled "the Thistle and the Bee" |
| ISC20 | Prospectus for ITO campus at Kyushu University, |
| ISC21 | 16/01/2006 Note of meeting on 16 January 2006 between Aberdeenshire Council, Jenkins & Marr and Jim Mackinnon |
| ISC22 | The Menie House Estate Preliminary Feasibility Study May 2006 |
| ISC23 | Aberdeenshire Council Sustainability Charter: Action Programme 2007 |
| ISC24 | Scotsman article dated 18th April |
| ISC25 | Report of the Scottish Parliament's Local Government and Communities Committee |
| ISC26 | Closing submission for Councillors Ford, Johnston, Ross and Storr |

Documents for Donald Banks and others

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| DB1 | Letter dated 6 November, 2007, on behalf of the Objectors, addressed to Head of Planning Management, Aberdeenshire Council. |
| DB2 | Letter dated 17 November, 2007, on behalf of the Objectors, addressed to Head of Law & Administration Aberdeenshire Council |
| DB3 | Letter dated 30 November, 2007, from Head of Law & Administration, addressed to Agent for the Objectors. |
| DB4 | Executive Summary (18 July 2007, Final) of Economic Impact Assessment & Financial Review (Deloitte) for Trump International Golf Club Scotland Limited |
| DB5 | Closing submission for Donald Banks and others |

Documents for Dyce and Stoneywood Community Council

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| DSCC1 | Extract of a letter from Will Dougherty (Customer Service Director, Aberdeen Airport) to Dyce and Stoneywood Community Council. |
| DSCC2 | A copy of a typical Internet advertisement for "executive" golf helicopter transport |
| DSCC3 | David O'Neill's comments, as noted on page 33 of the minute of the special meeting of the Formartine Area Committee of Aberdeenshire Council of 27 September 2007. Mr O'Neill is head of customer service at BAA Aberdeen Airport. |
| DSCC4 | Extract from PAN 56 – Planning and Noise (section 33) |
| DSCC5 | Extract from planners' report F/APP/2006/4605 of Aberdeenshire Council. |

Documents for SEPA

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| SEPA1 | Directive 2000/60/EC, The Water Framework Directive |
| SEPA2 | Water Environment and Water Services (Scotland) Act 2003 |
| SEPA3 | Water Environment and Water Services (Scotland) Act 2003 (Designation of Responsible Authorities and Functions) Order 2006 |
| SEPA4 | The Water Environment (Controlled Activities) (Scotland) Regulations 2005 |
| SEPA5 | SEPA's Groundwater Protection Policy |
| SEPA6 | SEPA's Biodiversity Position Statement |
| SEPA7 | Email 23 April 2008 Fairhurst to SEPA and attachment – SEPA planning consultation response from Ironside Farrar |
| SEPA8 | Email 28 April 2008 Fairhurst to SEPA |
| SEPA9 | Email 29 April 2008 Fairhurst to SEPA and attachment – site investigation report (T68) |
| SEPA10 | Email 29 April 2008 from Fairhurst to SEPA and attachment – revised drainage assessment |
| SEPA11 | Davy AJ, Grootjans AP, Hiscock K and Petersen J 2006 Development of eco-hydrological guidelines for dune habitats – Phase 1, English Nature Research Report 696 |
| SEPA12 | UK Technical Advisory Group of the Water Framework Directive 2003, Guidance on the identification of groundwater dependent terrestrial ecosystems UK-TAG paper 5a-b |

Documents for the Scottish Green Party

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| SGP1 | North East Scotland Footprint Reduction Report |
| SGP2 | Scotland's Climate Change Declaration. |