

Gillian Pearson
Planning Service
The Highland Council



By email: eplanning@highland.gov.uk

Date: 6th April 2023

Dear Gillian,

23/00580/FUL | Construction of an 18-hole golf course, practice area, access, parking, ancillary infrastructure and the change of use of existing buildings to form clubhouse, pro shop, maintenance shed and ancillary facilities | Land 1700M NW Of Embo Community Centre School Street Embo

RSPB Scotland Objection

I write on behalf of RSPB Scotland in response to the above application to develop an 18-hole golf course on a site north of Embo, approximately 4km north of Dornoch ('the Proposed Development'). The main golf course development would significantly overlap three areas protected for nature: the Dornoch Firth and Loch Fleet Special Protection Area (the SPA), the Dornoch Firth and Loch Fleet Ramsar site (the Ramsar site), and the Loch Fleet Site of Special Scientific Interest (the SSSI). The Proposed Development site is also adjacent to the Moray Firth SPA.

Due to a delay in the availability of certain information and application documents on the Highland Council website and the deadline falling on a bank holiday weekend, we intend to submit a further, detailed response by the end of April. This letter represents our objection, in summary, based on the application details that are available. However, we reserve the right to change points covering in this summary objection letter once all necessary information is made available.

Background

A previous proposal for a golf course on the same site (reference 17/04061/FUL) was refused by Scottish Ministers in 2020. They concluded that the proposed golf course was likely to have significant adverse impacts on the important natural heritage

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The RSPB is part of BirdLife International, a partnership of conservation organisations working to give nature a home around the world.

interests at Coul Links, and that those harmful impacts would not be outweighed by the socio-economic benefits of the proposal.

RSPB Scotland has engaged with the Applicant of the current application, C4C, at the pre-application stage attending both the in-person and online events held as part of the formal pre-application consultation. In addition, we have met with the Applicant on site to hear directly from them about their proposals and raise our concerns. We commented on the EIA Scoping Request submitted by the Applicant to the Council in March 2022 and the Council's Scoping Opinion helpfully refers to our comments. We have carefully considered the Proposed Development on its own merits.

Proposed Development

After reviewing the available application information (noting that some parts of the EIA Report (EIAR) and supporting information are either redacted or not publicly available on the Highland Council's website), it is extremely disappointing to find that the Proposed Development does not significantly differ from the previously refused application; and not all the factors that led to the Scottish Ministers' decision to refuse planning permission have been addressed. Indeed, many of the EIAR conclusions are flawed and proposed mitigation measures inadequate, especially in light of the Reporters' (and Scottish Ministers') conclusions.

It is noted that there would be a slight reduction in the area of the main golf course that would require intrusive construction works to create playing areas, compared to the refused application. However, other elements of the Proposed Development would significantly modify existing protected habitats (for example, mowing of paths and fairways). We are deeply concerned that these direct impacts have not been counted as direct losses from protected habitats, meaning the assessment of them is misleading.

It is vital that this Proposed Development is considered on its own merits and not as a 'less bad' version of the previously refused proposal. Again, we are concerned that the Applicant has not provided sufficient clarity nor information to enable this to be done (based on the information that is currently available) including all the long-term operational impacts which must be taken fully into account. We note there are also additional elements proposed, such as a nine-hole Par 3 course, that were not included in the 2017 application and other associated planning applications and consents now exist within the red line site boundary, for instance, recently granted holiday lodge accommodation (21/02644/FUL).

Frustratingly, this application again sees a proposal for a golf course on sites nationally and internationally protected for nature. Since the submission and determination of the previous application, the recognition of the need to address the nature crisis has

increased and government policy has moved on to reflect this crisis. In 2019, The Highland Council declared a climate and ecological emergency¹ and in 2022 signed up to the Edinburgh Declaration², emphasising a clear commitment to tackling biodiversity loss. In February 2023, the Fourth National Planning Framework (NPF4) was adopted and became part of the statutory development plan, against which all planning applications must be considered. The introduction to this key document states,

'Putting the twin global climate and nature crises at the heart of our vision for a future Scotland will ensure the decisions we make today will be in the long-term interest of our country.'

The important role that planning has to play in tackling the nature and climate crises is also reflected in the draft Scottish Biodiversity Strategy 2045³. This states that positive effects for biodiversity will be secured from our National Planning Framework (NPF4) and Development proposals contribute to the enhancement of biodiversity.

The Scottish Government has also committed to protect at least 30% of our land and sea for nature by 2030 (30x30 Target)⁴. Ensuring that the sites that are already designated are not lost and damaged must be a key part of achieving this target.

RSPB Scotland strongly objects to the Proposed Development for the following reasons:

- 1. The application does not demonstrate that the Proposed Development would not adversely affect the integrity of the Dornoch Firth and Loch Fleet SPA and Ramsar sites, the Moray Firth SPA and their species, nor that the Proposed Development is not likely to damage the Loch Fleet SSSI and its species;**
- 2. The proposal does not accord with the relevant sections of the Development Plan and would run contrary to other material consideration such as Scottish Government commitments to protect at least 30% of land for nature by 2030;**
- 3. The failure to provide adequate and robust assessments of possible and predicted environmental impacts of the Proposed Development, including underestimation of the likely effects on bird features of the designated sites; and**

¹ https://www.highland.gov.uk/meetings/meeting/4119/highland_council/attachment/75435

² https://www.highland.gov.uk/news/article/14990/council_leader_and_officials_meet_naturescot_ceo_to_sign_edinburgh_declaration_and_discuss_biodiversity

³ [SG \(2022\)Draft Scottish Biodiversity Strategy to 2045](#)

⁴ [SG \(2022\)Draft Scottish Biodiversity Strategy to 2045](#)

4. The Applicant's misleading arguments that the Proposed Development is needed to secure future management of the designated sites.

Effects on International and National Designations

From the information presented:

- a) It is not possible to establish beyond reasonable scientific doubt that there would not be adverse effects on the overlapping Dornoch Firth and Loch Fleet SPA and Ramsar site, as a result of the Proposed Development.
 - i. In addition, we are of the opinion that the Proposed Development would be contrary to the conservation objectives of the Dornoch Firth and Loch Fleet SPA.
 - ii. Therefore, is not possible to conclude that the Proposed Development would not have adverse effects on the integrity of the internationally imported protected sites.
- b) The proposal would result in damage to the qualifying habitats and species of the Loch Fleet SSSI, a nationally important nature conservation site.

In summary, we are of the opinion there would be adverse effects on and damage to the designated sites for the following reasons:

- The EIA (and information it contains to inform the Appropriate Assessment) is misleading to suggest that there would only be 1.5ha of direct habitat loss from the creation of tees and greens within the designated sites, as mowing the fairways, pathways and roughs will also alter the existing habitat, along with the effects from footfall and vehicles.
- Impacts would extend beyond the actual golf course infrastructure and red line boundary, for example, through disturbance to wintering and breeding birds, including qualifying species of the designated sites.
- No construction mitigation has been proposed for qualifying bird species of the designated sites. We understand that, if granted, a Breeding Bird Protection Plan would be produced, but the content of this remains unknown since no draft or outline plan is provided with the application documents. Notwithstanding this, such a plan would not address wintering and non-breeding bird disturbance.
- The impact of increased human disturbance on the SPA, Ramsar and SSSI bird species have been underestimated.
- The Applicant has not given appropriate consideration to the potential impacts of changes to the quality and coherence of the habitat and the effects this would have on the SPA, Ramsar and SSSI bird species.
- The proposed operational mitigation for non-breeding SPA and Ramsar birds in terms of winter course closure, cessation of shooting, signage and removal of boardwalks/bridges would not be sufficient to mitigate the likely adverse impacts. Notwithstanding this, these have not been included in the Schedule of Mitigation.

- Operational mitigation for the SSSI breeding bird assemblage in terms of signage are unlikely to be effective. Notwithstanding this, this measure is also not included in the Schedule of Mitigation.
- No cumulative or in-combination impact assessments have been undertaken, for instance, considering the approved Coul Links holiday lodges (Ref: 21/02644/FUL), the reservoir (Ref: 17/04404/FUL) which is currently under consideration or any other relevant proposals in the area.
- No assessment has been made on the impact of the Proposed Development to the adjacent Moray Firth SPA and its qualifying species.
- Lastly, we support the points our Conservation Coalition partners make within their responses in regard to impacts on non-bird taxa and qualifying species of the designated sites.

Planning Policy and Other Material Considerations

The Development Plan for the area is comprised of the Caithness and Sutherland Local Development (CSLDP); The Highland Wide Local Development Plan (HWLDP) and Fourth National Planning Framework (NPF4). The Proposed Development does not accord with the following policies:

- a) The Highland Wide Local Development Plan
 - i. Policy 28 Sustainable Design
 - ii. Policy 36 Development in the Wider Countryside
 - iii. Policy 43 Tourism
 - iv. Policy 49 Coastal Development
 - v. Policy 57 Natural, Built and Cultural Heritage
 - vi. Policy 58 Protected Species
 - vii. Policy 59 Other Important Species
- b) The Vision and Strategy of the Caithness and Sutherland Local Development Plan.
- c) Fourth National Planning Framework (NPF4)
 - i. Policy 1 Tackling the Nature and Climate Crisis
 - ii. Policy 3 Biodiversity
 - iii. Policy 4 Natural Places
 - iv. Policy 10 Coastal Development
 - v. Policy 29 Rural Development
 - vi. Policy 30 Tourism

The following are also material considerations:

- d) The Scottish Biodiversity Strategy to 2045: The proposal would hinder the ambition to achieve a Nature Positive Scotland by 2030 and would not deliver positive effects for biodiversity. As the proposal would damage internationally and nationally

designated sites, it is likely to make it harder to achieve the commitment to protect at least protect 30% of land and sea for nature by 2030.

- e) The Edinburgh Declaration: Approving the proposal would run contrary to the Highland Council's commitments to nature and climate as demonstrated by their signing up to the Edinburgh Declaration.

Environmental Impact Assessment

The EIAR fails to provide adequate information, consideration and assessment of all the possible likely significant environmental impacts of the Proposed Development. We have a number of concerns about the quality of the EIAR, to the extent that it would seem to fail to meet the requirements of the EIA Regulations⁵:

- a) Survey work and the results presented are inadequate to describe the bird populations using the Proposed Development site and surrounding area at all times of year and across multiple years. As with the previous application, surveys have only been undertaken over a single winter and single breeding season. Few details of survey coverage are provided, and it seems likely that there are as issues with timings that may have led to a significant under-estimate of the year-round importance of Coul Links to birds, including qualifying interests of the designated sites.
- b) The surveyors that carried out the Spring/Summer surveys in 2022 do not appear to be appropriately trained and experienced ornithologists (one person is a director of the STRI group (EIAR section 5.3.4) apparently without appropriate ornithological expertise). No evidence is presented of the graduate ecologist's 15 years of ornithological experience, and we request this is provided. It is vital that surveyors have appropriate experience and expertise to ensure confidence can be had in the survey results and to comply with the EIA Regulations⁶. The assessment of the ornithological impacts and supporting documents, such as the 'Biodiversity Net Gain Assessment' (Appendix B.11) do not appear to have been carried out by a suitably qualified and experienced person either.
- c) Reviewing the available documentation has been made difficult by inconsistencies in naming of files and reports, and the resolution and lack of detail provided in many of the Figures. Some of the documents contain numerous proofing errors and presentational issues which have also made it difficult to make an independent assessment of the impacts. In addition, there are inconsistencies in key figures, such as the area of designated sites affected by the tees and greens construction, the footprint of the course and between the size of the red line boundary shown on

⁵ [The Town and Country Planning \(Environmental Impact Assessment\) Scotland Regulations 2017](#)

⁶ Regulation 5 (5), [The Town and Country Planning \(Environmental Impact Assessment\) Scotland Regulations 2017](#)

layout plans and on survey plans. There are also numerous discrepancies with regards to the proposed closure period over winter.

- d) No plan, drawing or figure appears to refer to the SPA boundaries in relation to the Proposed Development.
- e) The EIA does not appear to include a plan for the whole site showing the existing and proposed changes to site levels with a clear indication of changes in levels at each contour shown, as clearly required by the Scoping Opinion.
- f) Bird survey data is not depicted on figures in any useful way (i.e., winter vantage point results are not mapped, and a breeding bird territory analysis is not presented).
- g) With regards to breeding birds, no estimates of the number of territories affected have been provided.
- h) The EIAR does not discuss the impacts on breeding birds from increased footfall/use of site during the breeding season or from habitat loss and modification by mowing.
- i) The site layout plan does not include additional infrastructure mentioned in the application appendices such as the wastewater treatment plant, the bunkers and 'landing zones' for grass cuttings; nor the approved Coul Links holiday lodges.
- j) No description of the construction or management of the Par 3 course or the 'practice course' (driving range) is provided. The impacts of the proposed borrow pits are not assessed.
- k) We support the points our Conservation Coalition partners make within their responses with regards to the inadequate survey and assessment of non-bird taxa such as vascular plants, bryophytes, fungi, lichens and invertebrates.
- l) The bat surveys are incomplete and do not allow an adequate assessment of likely impacts.
- m) The assessment of hydrology impacts is inadequate, particularly in relation to the sensitive dune slack habitats as no further research has been undertaken to investigate the impacts of abstraction since the previous application.
- n) Two holes are under threat of erosion from climate change sea level rise. Chapter 12 (Conclusion) of the EIAR and Appendix ES.18 Coul Links Coastal desktop study recommend that "a robust coastal monitoring programme be implemented and a detailed study of the coastal processes in this area be commissioned, in order to quantify the risk of coastal erosion and develop a long-term management plan." However, it appears this has not yet been undertaken and this information should be imperative in assessing the impacts on both the Ramsar site and SSSI and be part of the decision-making process.

Future management of the designated sites

- a) It is acknowledged that the sand dune features of the SSSI are currently in an unfavourable condition. Although we do not disagree that some level of habitat

management on the site is required, the issues presented in terms of 'invasive' species, many of which are naturally found in dune systems, are exaggerated.

- b) RSPB Scotland is extremely concerned that the Applicant is promoting the Proposed Development as the only viable mechanism to fund habitat management on the designated sites. Funding for habitat management on the site is not reliant on private funds and can be delivered in the absence of this damaging development.
- c) NatureScot has statutory obligations in relation to designated sites and has an ongoing management agreement with the landowner to this end, and we understand that it is only in its first year of its five-year period.
- d) Other funding is available to the landowner for nature restoration.
- e) The proposal cannot be said to secure biodiversity enhancement, primarily as it would not follow the mitigation hierarchy by first avoiding damage, then mitigating and compensating for any residual impacts. Notwithstanding this, very little and conflicting detail is given in the various documents provided as to what habitat management commitments have been made. Biodiversity enhancement should not be delivered on designated sites where there are other mechanisms in place to address the issue.

We ask that the Highland Council refuses this application for the reasons outlined above.

RSPB Scotland is not opposed to golfing development in East Sutherland but must object to one that would irrevocably negatively damage Scotland's important network of designated sites for nature. The Applicant has said they carried out a survey in 2021 asking locals residents, 'do you support a community planning application for an environmentally sensitive, world-class golf course to be built at Coul Links near Embo'. Unfortunately, this is not environmentally sensitive course but an exclusive development which would diminish the special character of the area for everyone.

Yours sincerely,

Bea Ayling
Conservation Officer