

Gillian Pearson
Planning Service
The Highland Council



By email: eplanning@highland.gov.uk

Date: 20th October 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

Additional Information – submitted September 2023

RSPB Scotland strongly objects to the Proposed Development as set out in our letters of April 2023. In summary, this is 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
4. The Applicant's misleading arguments that the Proposed Development is needed to secure future management of the designated sites, and that biodiversity enhancement can be effectively delivered on site.

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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.

Since we submitted our objection, the latest State of Nature Report¹ has been published. Sadly, this shows a continued decline in Scotland's nature and deterioration of the wider environment in Scotland. This highlights the importance of protecting our most precious wildlife sites from development, with protected areas described as 'a key pillar of nature conservation'.

Additional Information

The Highland Council online planning portal does not make public what additional information, if any, the Applicant was asked to submit and what issues the information seeks to address. This would be useful in understanding the process and assessment of the application. The Additional Information that has been submitted appears to comprise of the following:

'Biodiversity' – a Report by Ness Planning.

'Butterfly and Moth Larval Foodplants' – a Report by Botanaeco dated 19/09/23.

An updated 'Habitats, Vegetation and Plants' – a Report by Botanaeco dated 24/08/(year redacted).

'Protected Species Review' – a Report by STRI.

In addition, the application form refers to a 'corrected P1 section EIAR' document, however, it is not clear what this relates to or whether further information has been submitted which is not publicly available.

Despite this Additional Information, evidence has still not been provided to enable a full assessment of impacts on the environment from the proposed development, including the long-term operational impacts. The Application has still not demonstrated 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. The information provided does not demonstrate compliance with the Development Plan.

The Additional Information does not change our position and reasons for objection. Please refer to our letters dated 6th and 18th April 2023 for further detail.

The Proposed Development would not deliver biodiversity enhancement, primarily as it would not follow the mitigation hierarchy by first avoiding damage, then mitigating and compensating for any residual impacts. Only after this hierarchy has been followed and impacts have been suitably addressed, can enhancement be fully considered. The Proposed Development would directly and indirectly affect an area internationally and

¹ [State of Nature Partnership \(2023\) State of Nature- Scotland](#) (accessed 2/10/23)

nationally designated for nature and has clearly not avoided adverse impacts on habitats and species. The Applicant has not recognised the extent of likely significant impacts of the Proposed Development and has not proposed suitable mitigation and/or compensation.

Comments on Additional Information documents

Biodiversity Report

We note that the Biodiversity Report seeks to clarify the opportunities to enhance biodiversity within the areas of the site and adjacent land that are outwith the boundary of the designated SSSI. The Report seems to have pulled together a number of enhancement proposals mentioned in the EIAR and Application, as well as suggesting new potential actions.

Having considered the Additional Information it remains our firm opinion that the Proposal does not comply with Policy 3 Biodiversity of NPF4 and would not leave nature in a better state.

Policy 3 Part b) clearly states that such large, EIA developments 'will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention' [emphasis added]. The proposal would not conserve, restore and enhance biodiversity but would irreparably damage protected sites for nature.

Policy 3 Part b iii) emphasises the need for the Applicant to show they have carried out an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements. This has not been done.

Policy 3 Part b) iv) emphasises that the Applicant needs to show that significant biodiversity enhancements are provided, in addition to any proposed mitigation. Again, this has not been shown.

Page 3 of the Biodiversity Report states:

'The opportunity to deliver enhanced biodiversity to compensate the impact of the development is therefore entirely capable of being delivered.'

This demonstrates a fundamental lack of understanding by the Applicant of the need to mitigate and compensate for detrimental impacts of any development before enhancement can be delivered. Enhancement is not a form of compensation.

The 'biodiversity enhancements' that the Report sets out are not clear and deliverable commitments. Any measures to deliver enhancement should set out the details of what it is being proposed including clearly identified areas (not just indicative circles and

arrows on aerial photographs) timescales, management plans etc. If actions need to be discussed or agreed with NatureScot, this should be done before determination and taken into account in decision-making process. Such crucial details which form a fundamental part of the proposals cannot be left until after determination.

It is very concerning that some of the suggested measures may have detrimental impacts on the nearby designated sites, specifically the Dornoch Firth and Loch Fleet SPA. For example, in Area 4 (fields to the west of the Application site) woodland creation and other interventions are proposed on fields currently used by SPA species for feeding, such as Greylag Goose. This appears to show a considerable lack of understanding of the characteristics of the areas and the species that may be using them and the effect of such interventions. The enhancement proposals form part of the overall Development Proposal and must be subject to Appropriate Assessments by the competent authority under the Habitat Regulations.

In addition, other examples such as, dune slack creation within borrow pits are not established or well-founded measures and could not be relied on. The provision of an osprey platform within Area 5 (Clubhouse and ancillary buildings) are unsuitable as these birds are vulnerable to human disturbance.

We note that dune heath expansion is proposed within Area 3. As discussed in our previous consultation responses, there is a significant amount of uncertainty over whether it would be feasible.

Overall, this document is poorly thought out, shows a profound lack of understanding of the biodiversity and habitats in question and of the concept and requirements of biodiversity enhancement.

Protected species review

This document states that "All buildings should be surveyed again for bats before any development work as the data from the previous surveys is now out of date" and "it will be crucial that, either via formal survey, or through an Ecological Clerk or Works (ECoW), that buildings are assessed prior to any works being undertaken on them that could disturb or compromise bat populations present."

This is not a new recommendation by the Applicant's consultant, STRI. As stated in our letter dated 18th April 2023, these further surveys and appropriate planning should be carried out prior to determination (section 3.24).

The Chief Planners letter² (16/05/2006) relating to European Protected Species clearly states that:

² <https://www.gov.scot/publications/european-protected-species-chief-planner-letter/> (accessed 20/10/23)

'to ensure that all decisions are compliant with the Habitats Directive and the Regulations ...planning authorities should fully ascertain whether protected species are on site and what the implications of this might be before considering whether to approve an application or not.'

Habitats, Vegetation and Plants – updated August 2023

It is unclear where changes have been made to this document, a version of which was submitted with the Application. The only changes that we have been able to identify are:

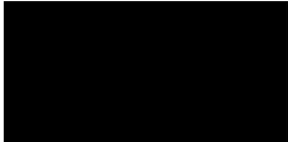
- Date on front page of the report changed from '30/07/22' to '24/08/(year redacted)'; and 'July 2022' changed to 'August 2023' in the footer.
- Section 3.12 has been changed from '14 August 2018' to '14 August 2021'.
- Page 41 has been redacted.

Clarification should be provided as to what new or updated information is contained within the document and why the new document was provided.

Butterfly and Moth Larval Foodplants Report

We defer to others with specialist knowledge for comments on this report, including our Conservation Coalition partners, Butterfly Conservation Scotland and Buglife,.

Yours sincerely,



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