



T: 0131-244 7589

E: planning.decisions@gov.scot

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Dear

DECISION NOTICE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (SCOTLAND) DIRECTION 2009

PROPOSED DEVELOPMENT OF 18 HOLE GOLF COURSE, ERECTION OF CLUBHOUSE, RENOVATION OF EXISTING BUILDINGS FOR MAINTENANCE FACILITY, PRO-SHOP, CADDY HUT, WORKSHOP, ADMINISTRATION BUILDING, INFORMATION BOOTH, FORMATION OF NEW PRIVATE ACCESS FROM C1026 ON LAND 1700M NW OF EMBO COMMUNITY CENTRE, SCHOOL STREET, EMBO (KNOWN AS COUL LINKS)

1. This letter contains Scottish Ministers' decision on the above application submitted to The Highland Council by Richard Stuttard on behalf of Coul Links Ltd. The application was called in for Scottish Ministers' determination on 24 August 2018.
2. The application was considered by means of a public local inquiry, which took place from 26 February 2019, conducted by Mr David Liddell BA (Hons) MRTPI and Mr Timothy Brian BA (Hons) DipURP MRTPI, reporters' appointed for that purpose. A copy of the reporters' report is enclosed.
3. The reporters' conclusions and recommendations are set out in Chapter 13 of the reporters' report.

Scottish Ministers' Decision

4. The reporters' recommended that planning permission be refused. Scottish Ministers have carefully considered the report. For the reasons given below Scottish Ministers accept the reporters' conclusions and recommendation that planning permission



should be refused and adopt their reasoning for the purpose of their own decision, which is summarised below.

The Proposal and site

5. The application relates to a site at Coul Links, north of Embo, Sutherland. Coul Links Limited applied to the Highland Council in September 2017 for planning permission for the construction of an 18-hole golf course, along with the erection of a clubhouse, the renovation of existing buildings to form a maintenance facility, along with a pro shop, caddy hut, workshop, administration building, and information booth. A new private access to the site would be constructed from the C1026 road. This road would connect the site to the existing road network and to Dornoch and beyond. A car park for 85 cars would be constructed.

6. Parts of the application site are subject to several environmental designations at various levels. In summary:

- Dornoch Firth and Loch Fleet Special Protection Area (SPA) is protected for its range of non-breeding waterfowl and breeding osprey;
- Dornoch Firth and Loch Fleet Ramsar site, also protected for its non-breeding waterfowl, breeding osprey and its range of coastal features; and
- Loch Fleet Site of Special Scientific Interest (SSSI), notified for its intertidal marine habitats, its coastlands, its native pinewood, its vascular plant assemblage, and its birds.
- The application site also lies adjacent to the Moray Firth proposed SPA (pSPA), protected for its marine birds.

Development Plan Context

7. Under the terms of section 25 of the Town and Country Planning (Scotland) Act 1997 all applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Highland Wide Local Development Plan (HWLDP, 2012) together with the Caithness and Sutherland Local Development Plan (CaSPLAN, 2018). The east coast of Sutherland, including the application site is identified as part of a tourism corridor.

Ramsar Policy

8. In January 2019, the Scottish Government published guidance on how it expects its policy on the protection of Ramsar sites to be implemented. Where Ramsar interests coincide with Natura qualifying interests protected under an SPA or an SAC, as the case may be, the interests are thereby given the same level of (legal) protection as Natura sites. Where Ramsar interests are not the same as Natura qualifying interests but instead match SSSI features, these receive protection under the SSSI regime.

Summary of reporters' findings

9. Scottish Ministers have carefully considered the reporters findings, reasoned conclusions and recommendation which can be summarised as follows:

Coastal Processes and Climate Change

10. Ministers concur with the reporters findings that there would be no hard coastal defences. Although there are risks and some uncertainties for the long-term fate of some elements of the course from erosion, there would be mechanisms to manage these.

Impacts on the Water Environment

11. The reporters' find that it is not certain whether there would be an impact on the water levels within the dune system as a result of abstraction. In terms of the water table across Coul Links as a whole, the overall volume of irrigation water to be used would be very small. Ministers agree with the Reporters findings here.

Impacts on habitats and vegetation

12. The reporters' conclude that benefits to dune heath would accrue however there would be a likely significant adverse effect on dune heath. The likely overall effect on lichens would be significantly adverse. There are potential benefits to dune slacks, however the overall effect on dune slack is also likely to be a significantly adverse. Given the likely extent of losses of dune juniper, the effect on this habitat would be likely to be significantly adverse. For dune grassland, there would be adverse effects however viewed in isolation, the effects on dune grassland are not likely to be significantly adverse.

13. In relation to the overall system of sand dune habitats at Coul Links, the Coul Links Site Management Plan (CLSMP) would bring benefits. Some habitats would be unaffected by the development. But given the extent of loss of Annex 1 habitats under the golf course; the strongly adverse effects within the longer-cut rough for dune heath and dune slacks; the effects from disturbance; the effects from fragmentation, edge effects and loss of dynamism; and uncertainty about some of the effects on the water environment, there would be a likely significant adverse effect on the overall system of sand dune habitats at Coul Links.

14. Scottish Ministers accept and agree with all of the reporters' findings in respect of the impacts of the development upon habitats and vegetation.

Impacts on Birds

15. The reporters' conclude that the proposed development is likely to have a significant adverse impact on wintering and breeding birds, even after mitigation, arising from disturbance and habitat loss. This conclusion differs from that of SNH who during the processing of the planning application by the Council, had withdrawn its objection relating to disturbance of the waterfowl assemblage of the Dornoch Firth & Loch Fleet SPA and Ramsar site, breeding birds of the Loch Fleet SSSI, and eider on the Moray Firth proposed SPA. SNH withdrew its objection in relation to birds in light of the proposed mitigation measures set out in the RAMP and a Breeding Bird Protection Plan (for SSSI birds). The Reporters' state that they have been able to take account of the extensive evidence to the inquiry, much of which was not available to SNH when they submitted their consultation response. Ministers accept the findings of the Reporters here, and accept their conclusion.

Impacts on invertebrates

16. The reporters conclude that the proposed golf course development has the potential to have a significant adverse impact on the important invertebrate assemblage at Coul Links. The application site contains an unusually rich assemblage of butterflies and moths,

including some rare species. Ministers accept the findings of the reporters, and accept their conclusion in respect of impacts on invertebrates.

Impacts on designated nature conservation sites

17. The reporters' find that the effects of the development upon the conservation designations would be as follows:

- Loch Fleet SSSI – Given the losses of habitat for dune heath, dune slack, dune grassland and semi-fixed dunes at Coul Links, the SSSI management targets relating to the extent of each of these habitats would be less likely to be met. The extent of each habitat present is an important measure of the overall condition of the notified sand dunes feature. Targets relating to the semi-fixed dunes habitat would also be less likely to be met. Overall, there would be very significant adverse effects on the Coul Links part of the sand dunes feature of the SSSI. Coul Links makes up only part of the sand dunes feature of the SSSI – there is also the dune system at Ferry Links. However both are important parts of the SSSI. Therefore the effects on the overall sand dunes feature for the SSSI would be significantly adverse. The sand dunes habitat feature would be more likely, rather than less, to be found in unfavourable conservation status in the future. The development would make it less likely that the SSSI site management objective of restoring the condition of the sand dunes habitat would be achieved. The development is likely to have a significant adverse effect on breeding birds, which are also a notified feature of the SSSI. It would run counter to the SSSI management objective of avoiding significant disturbance to these birds during the breeding season. Given the effects on the sand dunes and breeding birds features of the SSSI, both its objectives of designation and its overall integrity would be compromised. The development of the golf course would, overall, impede the conservation and enhancement of the natural features of the SSSI.
- Dornoch Firth and Loch Fleet SPA – Because of the potential loss of bird habitat and likely disturbance to bird species from construction and operation of the golf course, the proposal runs contrary to the conservation objectives for qualifying interests of the SPA to 'avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained'. For similar reasons, the proposal runs contrary to the conservation objective for SPA qualifying interests to ensure for the qualifying species the long-term maintenance of the following:
 - distribution of the species within the site
 - distribution and extent of habitats supporting the species
 - structure, function and supporting processes of habitats supporting the species
 - no significant disturbance of the species
- The Dornoch Firth and Loch Fleet Ramsar site – the Scottish Government has provided guidance how it expects its policy on the protection of Ramsar sites to be implemented. Where Ramsar interests coincide with Natura qualifying interests, they are thereby given the same level of legal protection as Natura sites. Where, instead, the Ramsar interests match SSSI features, they receive protection under the SSSI regime. The potential loss of bird habitat and disturbance of qualifying species would be likely to result in an adverse effect on overwintering birds, including wigeon and teal, which are protected under the Ramsar site designation. This is addressed in the assessment of impacts on the SPA. The impact on Ramsar

site sand dune habitats and plants is addressed in the assessment of impacts on the SSSI.

- The Moray Firth proposed SPA - The presumed conservation objectives for the proposed SPA would not be compromised.

18. The Scottish Ministers agree with the reporters' findings in respect of the adverse effects upon the noted environmental designations. Ministers accept the findings of the Reporters here.

Impacts on public access and the enjoyment of the links

19. The reporters' conclude that the golf course would allow Coul Links to be enjoyed by many more people than the small number who currently use it for recreation. The operation of the golf course would interfere with enjoyment of the core path and the informal path along the dune crest. The reporters conclude that the relatively unrestricted public access which is currently enjoyed would be materially constrained. However, they also consider that the currently low intensity of recreational use, and the high level of support for the proposal from the local community who use the Links, serve to reduce the significance of the potentially negative impact on public access. Scottish Ministers accept the reporters' findings in relation to impacts on public access and enjoyment of the links.

Other environmental impacts

20. The reporters' find that the visual effects would be lesser during the operation of the golf course, though recreational users would still generally experience significant visual effects. Ministers accept the Reporters finding that significant Landscape and Visual effects would occur during construction.

Cultural Heritage

21. Subject to further consideration through subsequent planning and listed building consent applications, the reporters' find it would be unlikely that there would be significant environmental effects as a result of the proposed conversion of listed buildings on the site. The reporters' find that archaeology issues could be dealt with via planning condition, and that there would be no adverse effects on the setting of Skelbo Castle or on the setting of other cultural heritage assets. Ministers accept the reporters' findings in relation to cultural heritage.

Traffic and Transport

22. The reporters' find that some minor road alteration would be required, and some mitigation of traffic via a shuttle bus would be possible. Scottish Ministers note and accept the conclusion of the reporters that traffic and transport impacts would not be significant.

Economic and Socio-economic impacts

23. The reporters find that the potential socio-economic benefits of the proposal, and the widespread support for the project amongst the local community, are important factors in favour of the application. The construction of the golf course would generate significant economic benefits for a temporary period of around a year, most of which would be experienced outwith the local area. The reporters find that the Coul Links proposal can draw support from a wide range of national policies which aim, amongst other things, to

promote 'high end' tourism (golf tourism in particular), create 'good' jobs and develop rural communities.

24. Overall the reporters conclude that the proposal is of local and regional significance in socio-economic terms, but is not nationally important in terms of jobs and expenditure, or in national policy terms. The Scottish Ministers accept the reporters finding that the proposed development would not be of national significance in terms of the level of economic benefit arising.

Other Matters

Habitat Regulations

25. Ministers have taken into account the findings of the reporters in respect to the Conservation (Natural Habitats, &c.) Regulations 1994¹ (the Habitat Regulations).

Overall Summary of Findings

26. In terms of sustainable development, the reporters conclude that the proposal is consistent with Scottish Planning Policy's (SPP) strong support for economic growth, rural development, growing communities and tourism, a key growth sector in the Scottish economy. However, because of the potential significant adverse effects on protected habitats and species at Coul Links, the reporters consider that the proposed development runs contrary to SPP's emphasis on protecting natural heritage sites and world-class environmental assets. Therefore the reporters do not consider that it would contribute to sustainable development. Overall the reporters consider that the proposed development is contrary to the development plan, as the likely detriment to natural heritage is not outweighed by the socio-economic benefits of the proposal. Scottish Ministers agree with these findings.

27. Para 212 of SPP sets out that development that affects a SSSI should only be permitted where the objectives of designation and the overall integrity of the area will not be compromised; or where any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. Scottish Ministers agree with the Reporters findings that the local and regional socio-economic benefits of the development do not justify the adverse effects on the qualities of designation of the SSSI, SPA and Ramsar.

Conclusion

28. Accordingly, for the reasons set out in the reporters' report and as summarised above, Scottish Ministers hereby refuse planning permission for the proposed development of an 18 hole golf course, erection of clubhouse, renovation of existing buildings for maintenance facility, pro-shop, caddy hut, workshop, administration building, information booth, formation of new private access from C1026 on Land 1700M NW of Embo Community Centre, School Street, Embo (Known as Coul Links).

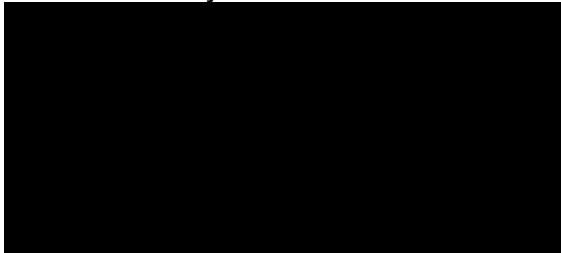
29. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it

¹ [CD005.009: The Conservation \(Natural Habitats, &c.\) Regulations 1994](#)

is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

30. A copy of this letter and the report has been sent to The Highland Council, Scottish Natural Heritage and the persons representing for Not Coul, for the Save Coul Links Conservation Coalition, Peter Batten, Ramblers Scotland and the Scottish Rights of Way and Access Society. Those parties who lodged representations will also be informed of the decision.

Yours sincerely



John McNairney
Chief Planner