

## Menie Estate: Systems Failures



Blairton Burn area of course, 16 February 2013, S Kelly

### **A Report On Public And Private Sector Failings & A Call For Relevant Inquiries**

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## Contents

Contents.....	2
Executive Summary.....	3
1 INTRODUCTION.....	7
2 THE MENIE ESTATE.....	8
2.1 The Estate.....	8
2.1.1 Environment.....	8
2.1.2 Residents.....	9
2.1.3 Trump Development.....	11
3 SYSTEMS FAILURES: AREAS OF CONCERN.....	13
3.1 Local Planning.....	13
3.2 National Government Inquiry.....	13
3.2.1 The Report - Overview.....	14
3.2.2 The Report - Chapter 4 – Findings of Facts and Related Conclusions.....	15
3.2.3 The Report - Some voices of common sense and dissent.....	16
3.2.4 Observations.....	16
3.3 Political Intervention.....	17
3.4 Scottish Enterprise.....	17
3.5 Grampian Police.....	21
3.5.1 Critical Incident Preparation Group Strategy.....	21
3.5.2 Forbes Experiences.....	22
3.5.3 Alicia Bruce Experiences.....	23
3.5.4 Milne Experiences ‘ Double Standards’.....	23
3.5.5 Baxter and Phinney Experiences – ‘You’ve Been Framed!’.....	24
3.6 Security.....	27
3.6.1 Munro Family.....	27
3.6.2 Artist Alicia Bruce.....	27
3.6.3 Milne Family.....	28
3.6.4 Another Resident’s Experience.....	28
3.7 Scottish Outdoor Access Code.....	29
3.8 MEMAG.....	30
3.8.1 MEMAG Remit.....	30
3.8.2 MEMAG Performance: Muddy Waters.....	31
3.8.3 Unanswered Questions.....	33
3.9 Scottish Natural Heritage.....	34
3.9.1 Site of Special Scientific Interest.....	34
3.9.2 SNH – Current Position.....	34
3.10 The Media.....	36

3.11	Aberdeenshire Planning – Enabling Behaviour.....	38
4	RECOMMENDATIONS.....	43
5	5. CONCLUSIONS.....	43

## Executive Summary

American property developer Donald Trump bought The Menie Estate in Aberdeenshire which contained an abundance of wildlife, two Sites of Special Scientific Interest (the highest type of legal protection UK land can be given), and a number of resident families in cottages and farm buildings. The Trump Organisation plans to create two golf courses, parking, a clubhouse, housing for some 450 staff, a hotel, a conference centre, a golf academy and 950 holiday homes<sup>1</sup>. If these structures are all realised, then it virtually spells the end to the area’s environmental balance, the area’s biodiversity, and a way of life for the existing residents.

This plan could not have been approved without the support of a variety of public and private organisations and people. Initially local councillors narrowly voted to preserve the environment and uphold the SSSI status of the land in keeping with planning guidelines and precedent. Next, normal processes for planning applications were derailed by the *dei ex machina* of Alex Salmond’s national government calling the plans in at the first stumbling block (normally the potential developer and the council would have worked out a compromise)<sup>2</sup>.

Existing regulations and guidance were against Trump prevailing; i.e. using housing as a means to fund the development was contrary to existing policy, and two legally-protected SSSIs in the area would be compromised<sup>3</sup>. A raft of documentation was created, an inquiry held and a report produced, but observers could be forgiven for thinking that planning approval for Trump seemed certain. Aberdeenshire Councillor Hendry had asked the Trump Organisation for charitable donations<sup>4</sup>, Director of Planning Dr Christine Gore was seeking advice from the Trump Organisation as to managing the public concerning the development<sup>5</sup>, and Alex Salmond dined at the Marcliffe Hotel in Aberdeen with two senior Trump organisation figures near the time the application was called in<sup>6</sup>. Finance Minister Swinney spent a few days at Trump’s New York country club<sup>7</sup>.

This planning application was not without objections from organisations such as the Royal Society for the Protection of Birds and Scottish Natural Heritage, citing many arguments against the scheme, not least the legal protection SSSI land should have<sup>8</sup>. A detailed account of the voting and issues involved was written by Cllr. Martin Ford.<sup>9</sup> He cast the tie vote which turned Trump down before national intervention; he and other councillors voting against Trump were labelled ‘traitors’ by Aberdeen Journals Ltd<sup>10</sup>, edited by Damian Bates (Trump VP Sarah Malone’s husband as of early February 2013).

<sup>1</sup> <http://www.scotland.gov.uk/Resource/Doc/212607/0067709.pdf> - Report by James McCulloch, Karen Heywood and Michael Cunliffe, reporters appointed by the Scottish Ministers 10 October 2008, Page 6

<sup>2</sup> [http://www.andywightman.com/docs/martin\\_ford\\_ch.pdf](http://www.andywightman.com/docs/martin_ford_ch.pdf) ‘Deciding the Fate of a Magical, Wild Place,’ Martin Ford

<sup>3</sup> IBID, Page 7

<sup>4</sup> [http://aberdeenshire.gov.uk/committees/files\\_meta/802572870061668E802576BA0058B5F1%5CFAC%20MINUTE%2019%20JAN%202010.pdf](http://aberdeenshire.gov.uk/committees/files_meta/802572870061668E802576BA0058B5F1%5CFAC%20MINUTE%2019%20JAN%202010.pdf) Page 1

<sup>5</sup> <http://www.robedwards.com/2009/11/probe-into-top-planners-collusion-with-trump.html> and item 3.1

<sup>6</sup> <http://www.telegraph.co.uk/news/uknews/1572543/Salmond-faces-sleaze-claims-in-Trump-row.html>

<sup>7</sup> IBID

<sup>8</sup> <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/national-designations/sssisi/> - definition and legalities of SSSI designation

<sup>9</sup> [http://www.andywightman.com/docs/martin\\_ford\\_ch.pdf](http://www.andywightman.com/docs/martin_ford_ch.pdf) ‘Deciding the Fate of a Magical, Wild Place,’ Martin Ford

<sup>10</sup> IBID, page 50

The central government intervention coincided with Trump and/or his operatives dining and Alex Salmond, Scotland's First Minister and/or his operatives, on both sides of the Atlantic<sup>11</sup>. The ethics of these meetings were criticised<sup>12</sup>, but the criticism came too late, as any suggestion of government neutrality was replaced by a tacit seal of approval which sent out the signal that Salmond approved of Trump, clear for any and all government employees and elected officials to see. There were no similar meetings between Salmond and those who lived on the estate. The proponents decreed that promised jobs, tourism, work for the new build sector, and wealth creation trumped (if you will) all the other issues. These included such not-for-profit matters as destroying Scotland's most extensive and dynamic sand dune system<sup>13</sup>, habitat destruction, lack of regard for Scotland's dwindling wildlife (sea bird populations are down 50% over the past 20 years in Scotland according to the SNH per the RSPB<sup>14</sup>), the inevitable huge carbon footprint (both in terms of construction and the promised hundreds of visitors and their transport needs<sup>15</sup>), and the existing residents' quality of life. Potential future economic gain won the day over fresh air, flora, fauna and people – and existing law.

All has not turned out as Alex Salmond might have once expected. Trump alleged Salmond gave an assurance there would be no nearby wind farms, and with Salmond denying any such promise existed, Trump declared he had been 'lured' into the venture<sup>16</sup>. Trump then made a sensational allegation – that Salmond wanted to enlist Trump as a supporter for the controversial repatriation of convicted Lockerbie Bomber al-Megrahi<sup>17</sup>. Could Salmond have expected a *quid pro quo* for his support of the golf complex?

Unsurprisingly, the once friendly relationship between Salmond and Trump seems to have somewhat soured. Perhaps sensing the public support for Menie farmer Michael Forbes, voted 'Top Scot of the Year 2012' in a Glenfiddich competition<sup>18</sup>, Salmond may be attempting to reposition himself with the voters prior to the pending Scottish independence referendum. Trump banned Glenfiddich from his properties<sup>19</sup>; despite the family-owned distiller pointing out that the public, not Glenfiddich chose Forbes as the winner (as a result of Forbes winning the award, many consumers sympathetic to the residents bought Glenfiddich to show support, reputedly increasing sales to some degree).

But all is not as Trump might wish, either. A portion of the course recently eroded into the sea<sup>20</sup> (repairs in the form of a bridge are under way at the time of writing). Sand and North Sea salt spray seem, unsurprisingly, to be at odds with the growth of verdant green grass. The 'stabilised' sand dunes might still have some dynamic properties as well.

Then there are the plans for offshore wind turbines: Trump is adamant wealthy golfers will not want to look at an offshore wind farm, and he says he may yet pull up stakes<sup>21</sup> (presumably the world's jet-set golfer will mind the wind farms, but have no qualms with the occasional gale force storm, snow, rain, hail and plummeting temperatures: 950 holiday homes does seem rather optimistic). He placed a curious advertisement in the Press & Journal linking Salmond, the Al-Megrahi release and wind farms; this was the subject of many complaints to the Press Complaints Commission.<sup>22</sup>

<sup>11</sup> [http://news.bbc.co.uk/1/hi/scotland/north\\_east/7135266.stm](http://news.bbc.co.uk/1/hi/scotland/north_east/7135266.stm) 'Salmond's Trump golf team meeting'

<sup>12</sup> <http://www.bbc.co.uk/news/uk-scotland-11510394> 'A Profile of SNP Leader Alex Salmond'

<sup>13</sup> [http://www.snh.org.uk/pdfs/publications/commissioned\\_reports/232.pdf](http://www.snh.org.uk/pdfs/publications/commissioned_reports/232.pdf)

<sup>14</sup> <http://www.rspb.org.uk/community/ourwork/b/scotland/default.aspx> "A recent [Scottish Natural Heritage \(SNH\) report](#) highlighted that Scotland's seabird population has decreased by around 50% over the past twenty years – further evidence that action must be taken now."

<sup>15</sup> <http://www.scotland.gov.uk/Resource/Doc/212607/0067709.pdf> Page 185 "From a relatively modest proposal initially, the present proposal is un-precedented 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."

<sup>16</sup> <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-17826561>

<sup>17</sup> <http://www.businessweek.com/news/2012-10-08/scotland-s-salmond-wanted-trump-support-for-al-megrahi-release>

<sup>18</sup> <http://www.guardian.co.uk/world/2012/dec/05/donald-trump-whisky-award>

<sup>19</sup> IBID

<sup>20</sup> <http://aberdeenvoice.com/2013/01/menie-estate-series-crazy-golf/>

<sup>21</sup> <http://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-19848894>

<sup>22</sup> <http://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-19647185>



With the local press completely supporting Trump and depicting the dissenting councillors as 'traitors' and 'neeps', Anthony Baxter was inspired to use his media and film-making skills to investigate. His childhood vacations were often spent in the Balmedie area; informing his work. Although his film was denied funding from Creative Scotland (which didn't think anyone would be interested in the film), he mortgaged his house and got to work. The multi-award winning documentary, 'you've been trumped' toured the world, depicting the plight of those living on the Menie Estate, picking up awards, critical acclaim and public anger at the situation along its way. Following its first public broadcast in October 2012 by the BBC; Trump threatened to sue<sup>23</sup> even though his organisation had declined the opportunity to be involved in the filming. The documentary depicts life before and after construction started for the residents, who are subject to intense scrutiny and interference by private security. The documentary also gathers scientific and economic criticism of the golf and housing plans. Famously it captures the moment when the two journalists Baxter and Phinney were arrested for allegedly causing a 'breach of the peace' (they had visited the site office to ask about the restoration of running water, which the residents had done without for a week). Charges were eventually dropped, but the National Union of Journalists commented:-

*"According to the NUJ, the incident was the first time in memory that journalists in the UK had been arrested for conducting an interview."<sup>24</sup>*

Without this film, it is highly unlikely that the situation would have been exposed widely. The independent, online free weekly news vehicle, Aberdeen Voice attended the first ever screening of the documentary, and interviewed Baxter. Its contributors have visited the site and the residents, helping to keep the story in the public eye. The BBC broadcast greatly increased public awareness in the UK and the wider world. Several national newspapers have carried stories as well. The local press have almost ignored the residents' plights completely.

Policing on site seemed draconian when it concerned the two journalists, but even long-standing residents are having police issues as well, witness the charge of theft levelled against farmer Michael Forbes for removing boundary flags worth in total less than £20 planted near his land by the Trump organisation.<sup>25</sup> Yet 'you've been trumped' captured scenes of trespass and property damage at the Milne property, which somehow the police chose not to pursue<sup>26</sup>. Locals have also had numerous run-ins with private security, and the Scottish Outdoor Access Code<sup>27</sup> is not followed, as numerous gates remain locked shut, and even established artists / photojournalists such as Alicia Bruce had run-ins with staff impeding her lawful activities and countryside access<sup>28</sup>. It seems the Aberdeenshire Outdoor Access Officer post was vacant for a few months until just recently filled.

Trump's local Vice-President Sarah Malone-Bates claims the course is heavily booked and very popular<sup>29</sup>; residents' observations do not concur (NB a round costs upwards of £180 at the time of writing).

David Milne, resident at Hermit's Point on the estate has created and circulated a petition asking for an inquiry. As at 11 March 2013, there are over 12,200 signatures.<sup>30</sup> This petition was submitted to Holyrood on 11 March, and it will go before Public Petitions Committee:-

*"... to urge the Scottish Government to hold a public inquiry into the way local government, Scottish Ministers and other relevant public bodies conducted themselves throughout their dealings with the Trump Organisation in relation to the Menie project"<sup>31</sup>.*

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<sup>23</sup> <http://news.stv.tv/north/196067-donald-trump-threatens-legal-action-after-documentary-aired/>

<sup>24</sup> [http://www.youvebeentrumped.com/youvebeentrumped.com/NEWS\\_ALERT\\_WORST\\_NIGHTMARE.html](http://www.youvebeentrumped.com/youvebeentrumped.com/NEWS_ALERT_WORST_NIGHTMARE.html)

<sup>25</sup> <http://www.trippinguptrump.com/news/trumps-men-grabbed-my-land-forbes>

<sup>26</sup> This paper, Item 3.5.4

<sup>27</sup> <http://www.outdooraccess-scotland.com/>

<sup>28</sup> This paper, Item 3.5.3

<sup>29</sup> <http://news.stv.tv/north/279374-work-completed-on-trumps-aberdeenshire-golf-course/>

<sup>30</sup> <http://you.38degrees.org.uk/petitions/public-inquiry-into-handling-of-the-trump-resort?source=facebook-share-button&time=1361187814>

Figures in the golfing world are coming out against the manner in which people and the environment have been treated to create Trump's dream as well; expert Kevin Munt says he will never play this course<sup>32</sup>.

This paper will examine the roles played by politicians, the government, Aberdeenshire Planning professionals, police, quangos, private security firms, environmental watchdogs and the local media. It will point out a wide variety of issues and recommend that all relevant public and private sector regulatory bodies hold comprehensive, independent, transparent inquiries. It fully supports David Milne's petition, and recommends an independent examination of all of the factors that led to Scotland's loss of a unique environment, and how residents and journalists in 21<sup>st</sup> century Scotland have been treated by those in power and their agents.

It might be too late to save this coastal area and its flora and fauna (it is hoped the environmental agencies involved will take proactive hands-on roles going forward), but it is not too late to ensure that lessons are learnt so that this will never happen in this country again.

One last note: nature does seem to have its own ideas about this golf course; sand is blowing across the greens; the turf is not looking very healthy, and a storm carried away part of the first course. Perhaps even Mr Trump himself is no match for Mother Nature.

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<sup>31</sup> <http://you.38degrees.org.uk/petitions/public-inquiry-into-handling-of-the-trump-resort?source=facebook-share-button&time=1361187814>

<sup>32</sup> <http://www.dailyrecord.co.uk/news/scottish-news/golf-expert-calls-for-boycott-of-donald-1429862>

## 1 INTRODUCTION

Since the arrival of Trump International Golf Links Scotland at Aberdeenshire's Menie Estate, life has dramatically changed for the area residents, visitors and wildlife. What was once an unspoilt and protected stretch of coastline and a small rural community is now a construction site and golf course - unfriendly to local wildlife and local people alike - where policies and laws seem to be arbitrarily applied.

This paper puts forward the case for independent inquiries into both public and private sector institutions as regards the handling of the issues involved from the first interest in developing the area to the current state of play and future activities. This paper sets out to explore behaviours and actions taken (or not taken) which allowed the area to be turned into a development opportunity, damaged an SSSI, and had adverse effects on those who live there. It is hoped that by creating this collection of problems and issues, regulatory bodies will take action. Hopefully, a picture will form from which future lessons can be learnt, and current problems addressed head on, and past wrongs righted.

This paper will be published on a dedicated internet page, sent to regulatory bodies, politicians, area residents, and the media.

## 2 THE MENIE ESTATE

### 2.1 The Estate

The Menie Estate was privately owned before being sold to the Trump Organisation. Menie House is a Grade B listed building<sup>33</sup>. There are coastal areas, burns, outcrops of trees, and of course the dune system. The Scottish Government's Directorate for Planning and Environmental Appeals' report<sup>34</sup> has this description of the Estate:-

"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 number of residential properties in separate ownership lie within the site boundary."<sup>35</sup>

#### 2.1.1 Environment

Referring back to the Report to Scottish Ministers of October 2008 (Appendix A), here is a summary of the environmental features and designations at Menie:-

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<sup>36</sup>.

VisitScotland described the area as being 'unspoilt', although this quality now seems more of an asset to VisitScotland in terms of real estate development value. There are substantial paths, an abundance of wildlife, much of which is connected to the movable sand dune system. There was no other such system in Scotland, one of the reasons the area was given its SSSI designation. Some land is used for agriculture (there are also a few small wind turbines). The current population density is very low, which is conducive to wildlife being able to flourish. The open areas of ground provide hunting, breeding and living space for many species.

There are unique features; there are species of plants, birds and animals which are under pressure elsewhere. Yet somehow, a golf course which could be located elsewhere is given precedent over these issues, and its developer's subjective insistence the SSSI must be compromised to make the course prevailed.

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<sup>33</sup> <http://www.britishlistedbuildings.co.uk/sc-2787-menie-house-belhelvie>

<sup>34</sup> <http://www.scotland.gov.uk/Resource/Doc/212607/0067709.pdf> (Appendix A)

<sup>35</sup> IBID Page 7 of 295

<sup>36</sup> IBID Page 24



The Report to the Scottish Ministers includes expert opinions that the course means the end for several species:-

“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.”<sup>37</sup>

In its objection to the plans, and to the Trump Organisation’s refusal to negotiate on terms of scale or design, Scottish Natural Heritage raised several objections. These included loss of special interest in the area, loss of coastal habitat, disruption to hundreds of years of ecological continuity, adverse impact on unique invertebrate populations, and more.<sup>38</sup>

Scientists and ecologists have long monitored the wildlife at Menie, and are largely against the golf course. It is astonishing that the data and conclusions of the scientific community are given virtually the same weighting as the opinions of politicians, Scottish Enterprise and VisitScotland. These latter, unelected quangos, have produced reports promising economic prosperity. These reports include a £30,000 taxpayer-funded feasibility study<sup>39</sup> which supports Trump’s desire to put his club in the epicentre of a treasured environment. Is it possible that had these quangos consulted environmental as well as economic experts at an early stage that things might not have gone this far? Had these two quangos experienced any political pressure, directly or indirectly? As shown later, this £30,000 feasibility study was apparently carried out without Scottish Enterprise having any contact with the Trump organisation. VisitScotland’s explanation as to why it committed resources to a feasibility study aimed at turning two SSSIs into a golf course is awaited.

## 2.1.2 Residents

This is a short overview of some of the residents opposed to the Trump organisation’s methods of operation and the golf course. Those who live at the epicentre of the development and who had the threat of compulsory purchase orders hanging over their properties should have been shown far more consideration than they received. They experience the very real human cost of

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<sup>37</sup> IBID Page 63

<sup>38</sup> IBID Page 60

<sup>39</sup> APPENDIX - Scottish Enterprise correspondence

this development, which is still not acknowledged by many of the Aberdeenshire councillors who voted in favour of Trump. (Councillors were contacted and asked to comment on the issues; hardly any of them expressed any regret at how things are developing or any concern for the stress, inconvenience and treatment the residents are receiving to this day). A brief summary of these residents and their experiences follows.

### 2.1.2.1 *Munro Family*

Leyton Cottage on Leyton Farm Road is home to the Munro Family; Susan Munro features in Baxter's documentary. 'Temporary' bunds<sup>40</sup> went up on two sides of her property. Not only did these high, steep works of earth and sand deviate from planning permission (retrospective permission is being sought; residents are fighting this), but the bunds seem to serve no useful purpose. They do block the Munro family's former views across the estate to the sea; not as much light gets to their property, and the sand and soil blowing off the bunds play havoc with the garden. Crucially, the sand and earth have blown into the Munro house and even into automobile engines, causing damage<sup>41</sup>. It was while speaking with Susan Munro at her property that Baxter and Phinney were arrested<sup>42</sup>. As 'you've been trumped' depicts, the police pull up, speak for a few moments, return to their car, and on their return, one of them becomes increasingly aggressive for no discernible reason. Baxter is then abruptly, physically thrown in the back of the police car. Susan's very real stress at the arrests is palpable. She has also advised that security will jump out in front of her car (even at night when she is driving alone), demand ID, and spy on her property. Sarah Malone was a persistent telephone caller, asking Susan to come for coffee. Susan declined – as she also declined the offer of selling her house to one 'Mr White' (covertly working for the Trump organisation) who telephoned at least a dozen times<sup>43</sup>. As shown elsewhere in this paper, White (real name Neil Hobday, in the pay of Donald Trump) had been trying to buy area homes under false pretext (along the lines of 'my wife loves the area') for the golf resort.

### 2.1.2.2 *Moira and David Milne*

The Milnes live in Hermit Point, which is on high ground overlooking the estate and the North Sea – or more recently, overlooking a series of tree plantation. Trees are planted and then dug up again, looking somewhat less healthy than when first planted. This is not surprising for trees on a high, sandy location overlooking the North Sea, with no shelter from the sea's winds. At the hands of Trump operatives, the Milne's experienced trespass, property damage and theft of a fence, and snapped power cables (all reported to the police – some events were even caught on video – yet no action was ever taken). David Milne was sent a three-figure invoice by Trump International which had erected a cheap, temporary fence which the Milnes had never agreed to<sup>44</sup>. The Trump organisation is claiming that a building the Milnes had for years is partially on Trump land; a solicitor's letter was sent to the Milnes on that subject. Trump is captured in 'you've been trumped' speaking to Sarah Malone, saying he wanted the Milne house taken down. David Milne is behind the petition to the Public Petitions Committee referred to previously.

### 2.1.2.3 *The Forbes Family*

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<sup>40</sup> APPENDIX – Image I

<sup>41</sup> various sources – 'you've been trumped', conversations with Susan Munro, site visits

<sup>42</sup> 'you've been trumped' documentary by Anthony Baxter

<sup>43</sup> Susan Munro conversation with Suzanne Kelly 4 March 2013

<sup>44</sup> <http://www.dailymail.co.uk/news/article-1394484/Donald-Trump-puts-barrier-trees-Scottish-neighbours-home.html>

Sheila and Michael Forbes live further south, on the opposite side of the temporary clubhouse, golf course and parking lot to the Munro and Milne families. Michael and his mother, Molly, who also lives on the property, featured in 'you've been trumped' as well. When the water supply was cut off by the builders during the construction, they went for some 7 days without running water – no way to wash dishes, shower or flush the toilet, other than to go to a stream and get water (which Molly managed to do in order to get water for the chickens she keeps). (It was when Baxter and Phinney attended the site office to ask about the water that they were accused of breach of the peace on the say-so of the site manager, and arrested). Trump said that he had twice shaken hands with Michael Forbes over selling the Forbes land to Trump, a claim Michael vehemently denies.<sup>45</sup>

Trump has accused this family of living like pigs.<sup>46</sup> Michael used to be able to take his salmon fishing boat across his land and down to the sea. The access path is now locked as are other gates on the estate<sup>47</sup>, seemingly contrary to outdoor access code provisions<sup>48</sup>, and he is unable to get his boat to the water. At the time of writing answers are awaited as to how this situation came to be.

It is a credit to all of these families that in the face of great, frequent and prolonged provocations of several kinds they have kept their cool and stayed within the laws (although Forbes was charged with theft for picking up boundary flags placed on what he believed to be his property – the flags, worth some £15 or less – were returned undamaged; charges were dropped. This is covered later in this report).

The Trump organisation reported many acts of vandalism against their property. None of the residents engage in or wish to be associated with vandalism, and such acts it should be noted are also contrary to the aims and actions of protest group, Tripping Up Trump.

### 2.1.3 Trump Development

The hub of Trump activity seems to be the temporary clubhouse located in the parking lot; the parking lot is adjacent to the Munro property and is separated by a wooden gate flanked with trees; the gate seems to be locked as a matter of routine. There is a generator (Susan Munro complains of the noise it makes all night long) in an area off the parking lot, near her home. The temporary clubhouse is near the opposite end of the parking lot from the overlooking Milne home, Hermit's Point and the Munro's Leyton Farm Cottage. The course is immediately accessible from the parking lot; it stretches south along the coastline. The Blairton Burn, which collapsed and has since had a bridge built over it, extends to the sea. The Forbes farm complex is south of there, and close to where the second course is proposed. The dunes are between the sea and the golf course, and the course is extremely close to the dunes and the sea at places such as the Blairton Burn area.

Leyton Farm Road runs perpendicular to the coast; along its south side is where the bund was erected, blocking the Munro's view and blocking their sunlight. The road descends from high to low ground as the cottage is reached; the bunds grow in height correspondingly. On the Trump golf course side of the bunds, green turf squares have been laid; as soon as the bund drops down to the Munro side, out of eyesight of those on the course, the turf ends. Several conifers have been planted on the bund; these will certainly block out most of the southern exposure light that still gets through to the cottage – if they grow. Some went in healthy and are turning brown. From Susan's

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<sup>45</sup> you've been trumped

<sup>46</sup> <http://cityroom.blogs.nytimes.com/2012/12/03/trump-takes-on-a-farmer-and-the-farmer-wins/>

<sup>47</sup> APPENDIX – Image II

<sup>48</sup> <http://www.outdooraccess-scotland.com/out-and-about/places/other-places/paths-and-tracks/> "Walkers, cyclists and horse riders can all exercise access rights on paths and tracks" – this right is denied where a lock prevents access; on the estate this applies to the gate between the parking lot and Leyton Farm Road, and near the estate office which Baxter visited.

kitchen window where there was once a great vista of seascape, there is just a high bund with trees planted to be seen.<sup>49</sup>

Trees likewise have been planted on the border between the Milne's view of the sea and their property. In neither area do the trees seem, in my opinion and the families' opinions, to be doing well.<sup>50</sup>

The surface of Leyton Farm Road had been smooth before the construction vehicles moved in; it then became deeply rutted and poorly patched, with a bag of building materials being thrown in one hole that opened up and was several feet deep<sup>51</sup>. The way in water had been channelled to run down the road by the Trump organisation seemed to be causing further erosion. At the time of writing, the road has been surfaced with gravel, and the drainage seems to have been somewhat addressed. The residents are not convinced this gravel is a lasting solution. Aberdeenshire Council's Planning department describe this as a 'private road', but it is the only access road to the Munro property, except for the newly-built road leading to the parking lot, which is a smooth, newly made road. The Munros had to use the Trump road for a period when Leyton Farm Road was impassable; Susan works evenings and had instances of guards 'jumping out at her' as she drove on this road at night, demanding ID. It is hard to imagine the guards don't know who is who by now in this small community and what cars they drive.

Other residents live further north from the golf course area; there are several cottages on an access road. Others live closer to the main road.

Large fields near the main road are earmarked for some of the hundreds of houses that will be built. In such a field near the listed Menie House there is now a large heap of assorted waste<sup>52</sup>.

Relocation of some of the more unique species of flora and fauna had been recommended. At the time of writing, information is still awaited as to specifics of what was done, and how successful translocation was.

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<sup>49</sup> APPENDIX – Image III

<sup>50</sup> APPENDIX – Image IV

<sup>51</sup> <http://aberdeenvoice.com/2013/01/menie-estate-series-no-2-the-roads-a-ruin/>

<sup>52</sup> APPENDIX Image VI

### 3 SYSTEMS FAILURES: AREAS OF CONCERN

From the taxpayer-funded feasibility study stage through planning approval, from the establishment of MEMAG to the threatening behaviour of private security to Alicia Bruce, there is a wealth of public and private sector issues which are in need of analysis.

#### 3.1 Local Planning

The plans for the golf course were initially set before members of Aberdeenshire Council to vote on. Seven local councillors stood up for the existing status quo which would have protected the environment. These included Martin Ford, Debra Storr, Paul Johnston, and Sam Coull. Ford was replaced as chair of the infrastructure committee following his vote against Trump in November 2007.<sup>53</sup> Storr likewise was ousted as vice-chairwoman of Aberdeenshire Council's Formartine area committee<sup>54</sup>; she had also been assaulted by a pro-Trump woman on her own doorstep<sup>55</sup>, and her car was blocked from leaving the Menie Estate on one occasion by the private security firm in charge at the time. It should be noted that Sarah Malone reported illegal assault as well; allegedly someone spat at her.

Dr Christine Gore, now director of Corporate Services at Aberdeenshire Council at £109,000 pa<sup>56</sup>, struck up an interesting relationship with the Trump organisation – while she was meant to be in an impartial role as Aberdeenshire's Director of Planning:-

“Trump's lawyer, [Ann Faulds](#), drafted a four-page report in Gore's name justifying the evictions for submission to councillors, though it was never used. An email from Gore to Faulds in April requested at least a week's notice of Trump's application to help manage media interest.

“Thereafter “close liaison” would be required, Gore wrote, “in order that we can have a managed approach to what is inevitably going to be a difficult and emotive reaction given that this new application will involve land outwith the applicant's ownership.” Marshall alleged that Gore “appears to have colluded with the developer's solicitor”, and argued that her use of the word “emotive” was pejorative. Her behaviour was in breach of the RTPI code of conduct requiring planners to act with integrity and to exercise “independent professional judgement”, he claimed.”<sup>57</sup>

I contacted her professional body, the Royal Town Planning Institute. Its spokesperson declined to even say whether or not an investigation had taken place. Aberdeenshire Council defended Dr Gore – then again, as they favoured the application from Trump, they would do.

Whether or not the RTPI conducted an investigation and what its outcome was should be publicised, but in any event her actions require a more public examination, and should be investigated. Gore's submission to the government's inquiry was important to Trump getting approval.

#### 3.2 National Government Inquiry

From 10 June to 4 July 2008 the Scottish Government held an inquiry which would determine the Trump golf complex application. Surely this would be a balanced, logical and impartial process.

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<sup>53</sup> <http://www.trippinguptrump.com/news/councillors-oust-critic-of-trump-golf-resort>

<sup>54</sup> IBID

<sup>55</sup> [http://news.bbc.co.uk/1/hi/scotland/north\\_east/7120854.stm](http://news.bbc.co.uk/1/hi/scotland/north_east/7120854.stm)

<sup>56</sup> <http://www.aberdeenshire.gov.uk/about/departments/index.asp>

<sup>57</sup> <http://www.robedwards.com/2009/11/probe-into-top-planners-collusion-with-trump.html>

### 3.2.1 The Report to Scottish Ministers – An Overview

The awkwardly-titled inquiry report “ Directorate for Planning and Environmental Appeals 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” (Referred to in this report as ‘The Report to Scottish Ministers’) to my mind makes up for in bulk what it lacks in objectivity.

Here are a few examples of ways in which the Report to Scottish Ministers seems to be slanted towards approval.

The text is laden with positive adjectives to describe the un-built, untested course. It is referred to several times (including the contents pages written by the neutral reporters) as ‘championship.’ The proponents use the description ‘world-class’ and the report also includes an attempt to define what this might mean. Surely world-class is a subjective term, and ‘championship’ is being used in an aspirational, subjective way? The coastline, environment and wildlife were already deemed to be ‘world class’ by virtue of the protection they had previously been afforded. The opponents attack this subjective use of adjectives elsewhere in the report.

Chapter 3 contains the arguments against the development; this doesn’t begin until Page 125. Psychologically, it could be assumed that even the most dutiful reader would be fatigued, having digested all of the pro-course arguments before reaching this point.

Perhaps the opposition speakers were being too technical in their testimony. The dry, technical language in the first few opening paragraphs would make almost anyone prefer the description of a ‘championship, world-class golf course to this prose:-

“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...”<sup>58</sup>

No disrespect to Dr Hansom of the SNH, whose words these are, but undoubtedly the SNH would have had time to develop a strategy of how to word its submission and how to engage with the comparatively unscientific individuals who would be reading this report. Compared to Professor Ritchie’s prose, this is really quite dry material. Surely the SNH knew it had to ‘sell’ the importance of the site’s environmental and scientific value to non-scientists and that they were up against a billionaire showman (love or loathe Trump’s style, he has a flair for getting his message across). Hansom continues (at length):-

“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...”<sup>59</sup>

Saying that bare sand is scientifically interesting is hardly selling the importance of the area, its biodiversity, beauty and intrinsic value. Surely it was obvious that the Trump camp was adept at placing stories, getting press, meeting with officials and so on; did anyone from the SNH seek professional public relations advice when dealing with this billionaire celebrity opponent?

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<sup>58</sup> <http://www.scotland.gov.uk/Resource/Doc/212607/0067709.pdf> (Appendix A) Page 126

<sup>59</sup> IBID



The Report to Scottish Ministers also has this passage from the Council, implying all is well with SEPA. The Council reports that SEPA had sixteen complaints initially; this is down to ten by the time of the inquiry:-

“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).”<sup>60</sup>

If Scotland’s Environmental Protection Agency was satisfied / was going to be satisfied on more than half of the points it raised, does this not imply that they are on balance more than halfway satisfied? Doesn’t that imply that the environmental issues are negotiable?

### 3.2.2 The Report - Chapter 4 – Findings of Facts and Related Conclusions

It seems that conjecture and optimistic projections have crept into the chapter dedicated to facts and related conclusions; here is an excerpt to illustrate:-

“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... 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.”<sup>61</sup>

The table shows financial projections; one from the developer, and the other presumably from the pro-development council’s financial experts. These are not ‘facts’ – they are merely projections, one made by the developer which would naturally be rosy; the other by a council’s paid experts - and the council had come out in favour of the development.

Perhaps there are good reasons why a ‘hotel of this size do not presently exist in Scotland.’ Such factors could have something to do with the sustainability of a year-

<sup>60</sup> IBID

<sup>61</sup> IBID

round resort in a very cold, area with rapid and unpredictable weather changes; an area with high heating fuel costs, high petrol costs, high business rates and lack of infrastructure. Clearly the proponents wished to convince the reporters that this is a viable venture, but the reporters perhaps should not have included projections as 'facts' in their final report. There is also the unsupported conclusion that the 'economically inactive' would 'wish a job.' It is also worth noting that the majority of jobs running a large-scale resort complex are subservient, menial task-related posts. We may be creating jobs, but just how desirable will these jobs be?

An analysis as to how these projections are comparing to current realities should be undertaken. Additionally, what guarantee is there that this American-run company will not be using some mechanism to shelter its income from UK taxation?

### 3.2.3 The Report - Some voices of common sense and dissent

Several objectors made the case against this development well; one in particular seemed succinct and logical:-

"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".<sup>62</sup>

### 3.2.4 Observations

Early in the Report to Scottish Ministers there is meant to be an explanation as to why this application has been called in; this references the relevant point of law, but it does not give the specifics relevant as to why this particular case has been called in by the Ministers<sup>63</sup>. The list of those favouring the proposals features the name of Professor William Ritchie<sup>64</sup>; later on in the body of the work, he claims to be neither for nor against the development<sup>65</sup>. Chapter 2 – The Case For the Development begins on page 69. However, the next page is headed 'Chapter 3 – The Case Against Development' – although the footer refers to 'Menie Chapter 2'. To say this blurs the distinction between the two opposing chapters is fair. Since such a confusing error and contradictory information appear in the document, what other errors might there be? Who had responsibility for proofreading the inquiry report? Who was responsible for ensuring it was accurate and impartial? Who was involved with its preparation and editing? There seems to have been no qualms as to the subjective adjectives used by the proponents.

This Report to Scottish Ministers could have been more balanced, and it is disturbing that it blurs projection and supposition with fact. Perhaps its preparation, editing and overall methodology should be investigated.

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<sup>62</sup> IBID

<sup>63</sup> IBID

<sup>64</sup> IBID – listed on Page 2 in list of those for the development

<sup>65</sup> IBID – Page 82 "He does not support or oppose the proposed development at Menie Links."

### 3.3 Political Intervention

19 November 2007: The Press & Journal's front page carried a photo of George Sorial, managing director of the development, under the headline 'Trump director confident ahead of vote. Sorial was quoted as saying the Trump team was in the "best possible position" ahead of a crucial council meeting tomorrow<sup>66</sup>. Indeed it seems this was the case, and perhaps Sorial did have good cause to be so confident.

Members of Scottish Government interacted with the Trump organisation in ways that were deemed inappropriate by opponents and political observers. At one point, a telephone discussion on the application was taking place within Aberdeenshire Council – yet two Trump staff were present. The conversation was halted. A Press & Journal article, uncharacteristically somewhat critical of Trump, had this to say:-

***"A lengthy investigation was launched by the Scottish Parliament's local government and communities committee earlier this year after Former Liberal Democrat leader Nicol Stephen claimed the SNP government's handling of the case "smelled of sleaze".***

***"His comments came after the Scottish Government called in the application on December 4 after Aberdeenshire Council's infrastructure services committee threw out the plans a few days earlier. Committee chairman Martin Ford was subsequently removed as chairman of Aberdeen City and Aberdeenshire joint strategic planning committee.***

***"Later, Aberdeenshire councillor Paul Johnston was reported to the Standards Commission after he claimed the local authority offered Donald Trump a "sweetener".***

***"The Mid-Formartine member alleged the authority offered £5million worth of land on which to build 98 affordable homes and 52 houses as part of the development.***

***"He has been accused of a serious breach of the councillors' code of conduct by making the claim.***

***"Mr Stephen raised questions about First Minister Alex Salmond's conduct on December 14 after it emerged he met with the Trump Organisation the day before the application was called in by the government.***

***"Revelations that, following the meeting in an Aberdeen hotel on December 3, the Trump Organisation secured a meeting with Scottish Government chief planner Jim MacKinnon after Mr Salmond set it up using his personal mobile phone, sparked a frenzy among opposition MSPs.***

***"The fact that the tycoon's right-hand man, George Sorial, and his colleague, Neil Hobday, were in Mr MacKinnon's office moments before Aberdeenshire Council chief executive Alan Campbell was told the application was being called in, further fuelled speculation that something untoward had happened."<sup>67</sup>***

While the government issued a denial of any wrongdoing<sup>68</sup>, a full, in-depth and independent investigation into the relationships between developer and officials should be undertaken.

### 3.4 Scottish Enterprise

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<sup>66</sup> Press & Journal, 19 November 2007

<sup>67</sup> <http://www.pressandjournal.co.uk/Article.aspx/920241>

<sup>68</sup> <http://www.scotland.gov.uk/News/Releases/2007/12/20091903>

Scottish Enterprise seems somewhat confused when it comes to whether or not they were in contact with the Trump organisation.

First, Jennifer Crow (formerly Chief Executive at Scottish Enterprise Grampian) appeared, along with the Scottish Enterprise logo in a video shown at a public meeting by the Trump organisation in support of the golf complex. When asked about this remarkable implied support of an unelected, taxpayer funded quango for a development which would run contrary to existing Scottish laws and policies, Scottish Enterprise wrote:-

***“Neither SE, nor Ms Crow, has endorsed the Trump planning application. SE Grampian is supportive of the proposals but they have no role or remit in terms of the planning decision.***

***Ms Crow gave an interview to STV in relation to a documentary on the Trump International plans for a golf leisure development on 26 June 2006. Ms Crow was not made aware that the clip would be used as part of the Trump presentation at the public meeting.”<sup>69</sup>***

SE was also asked at the time:-

***“4. How much money, consultation, and other forms of support have Donald Trump’s organisation and representatives received from Scottish Enterprise, and what would the monetary value of such funding and services be?”***

To which they answered:-

***“Donald Trump’s organisation has not received any funding from SE Grampian. A Preliminary Feasibility study along with a promotional DVD in relation to the Menie Estate Golf Resort was commissioned by SE Grampian in line with support for inward investment activity. The cost of this was £30,285.***

***“SE Grampian PR support around the project announcement was given to the Trump Organisation in keeping with support offered to potential inward investors. Please note there is no monetary value placed on staff time spent on projects.”<sup>70</sup>***

There is no report of Scottish Enterprise making a complaint or taking action against the appropriation of their footage and their logo, which might have been prudent to maintain their claim of not supporting the application.

Having established that ‘neither SE nor Ms Crow has endorsed the Trump planning application’ we still do find evidence of SE support.

Jack Perry of Scottish Enterprise is quoted on the Trump International Website, as is VisitScotland’s spokesperson, Riddle<sup>71</sup>:-

***“As Head of Scottish Enterprise, Scotland’s main economic, enterprise innovation and investment agency, I welcome the progress on Trump International Golf Links’ development in Aberdeenshire. The overall aim of Scottish Enterprise’s Tourism strategy is to achieve higher value add through the development of such premium resorts and experiences for visitors.***

***“We value the commitment which the Trump organisation is demonstrating by commencing work on the site at Menie, as this type of new resort development, will deliver modern, high quality accommodation and facilities to Scotland. This is***

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<sup>69</sup> APPENDIX – Scottish Enterprise

<sup>70</sup> IBID

<sup>71</sup> <http://www.trumpgolfsotland.com/Default.aspx?p=DynamicModule&pageid=308637&ssid=196887&vnf=1>

***critical to our ambition to help Scotland realise more value from our tourism assets. The development will attract higher spending visitors from across the UK and overseas and will further support Scotland's position in the global market as the Home of Golf."***

***"Jack Perry, Chief Executive, Scottish Enterprise***

***"Tourism growth is critical to the future of Scotland. Whilst this is a private development and VisitScotland did not have a role in the planning process, we recognise the significant economic impact it will have on the north-east, and indeed to the wider Scottish economy. Tourism will always be strong in the north east, but this development will help refresh Scotland's profile through the publicity it will generate and the potential for ancillary businesses. It is especially encouraging to see this level of investment, considering the current global economic climate and it shows the strength of appeal of the area. Whilst we recognise the strength of feeling around the development, It's crucial we work together to get tourism back on track and this development will allow us to really raise the bar in terms of the tourism product we have to offer and ensure the area remains a must see, must return destination."***

***"Philip Riddle, Chief Executive, VisitScotland"***

Somehow, a £30,000 feasibility study was carried out, endorsements appeared, and the Trump organisation knew how to get footage of Craw and the SE logo to use in its pro-development presentation: all without Scottish Enterprise having had any correspondence with Trump or his operatives at all. Here is part of an email from SE showing questions asked under FOI and their responses (questions in bold; answers in italics):-

**"1. Copies of correspondence to and from VisitScotland and Scottish Enterprise on the one part and Trump International (including Donald Trump, Trump International Golf Links Scotland, Trump International, and The Trump Organization) on the other part, pertaining to the Menie Estate, Balmedie, SSSIs, setting up business in Scotland, environmental laws, finance available for golfing ventures in Scotland).**

*"We have carried out a search of our files and can advise, in accordance with Section 17(1)(b) of FOISA, that Scottish Enterprise holds no information within the scope of your request.*

**"2. Details of any funding applied for, granted, or rejected for Trump International (including Donald Trump, Trump International Golf Links Scotland, Trump International, and The Trump Organization) which pertains to the Menie Estate, Balmedie, SSSIs, setting up business in Scotland, environmental laws, finance available for golfing ventures in Scotland) by VisitScotland and Scottish Enterprise.**

*"I can confirm, in accordance with Section 17(1)(b) of FOISA, that Scottish Enterprise holds no information within the scope of your request. SE has not received any applications for funding, and has not granted, or rejected any applications for funding for Trump International, or the other related parties listed."<sup>72</sup>*

The way in which the Freedom of Information request was handled, the genesis of Trump International's use of footage of Craw and the SE logo – and why no complaint/action was taken at the time, and the £30,000 feasibility study should all be subject to a full, independent investigation, and the endorsement of Perry to the golf complex should be examined as well.

As per an article in Aberdeen Voice, an attempt was made to bring the unauthorised SE footage, implying support for the project, to the Aberdeenshire authorities:-

On 27 September 2007 I [Suzanne Kelly] attended a public meeting at which the Trump organisation played a video in support of their application. This video featured the Scottish Enterprise logo, and featured footage of Jennifer Crow talking about tourism, development and so on. She had been head of Scottish Enterprise at one point.

On seeing this video, the use of the logo convinced me that Scottish Enterprise approved of the project, a project which was still as I understood it, meant to be impartially evaluated by government. The use of the logos and Crow's presence made it appear as if SE approved of the plans.

If government quango SE approved, then so must government was the conclusion I reached. The SE connection could have put pressure on councillors, government employees and others who saw it, and could have easily led to the conclusion that SE approved. But was this conclusion accurate?

I wrote to SE, and they stated that the Trump video had NOT sought their consent to use the clips of Crow or the logo.....

It would appear that SE want us to believe that even though it spent £30k on a video to promote turning Menie into a golf resort, Scottish Enterprise was somehow totally uninterested in influencing the government on the point.

At the next opportunity I tried to speak out at a public meeting to say this video was giving a large and serious false impression by using SE material. I was, disappointingly, not allowed to speak. I did explain that new, relevant information had come to my attention, and that as I had been a long-term objector to the scheme I wanted to exercise the right to address the meeting. This was deemed to be out of order.

SE's logo seems to be protected by copyright, and from what I can gather, it can be used in academic papers without any objection but other use needs permission. Why no objection was raised to the Trump people, or more importantly why SE did not make clear to Aberdeenshire that it did not endorse the project and that its logo had been appropriated without consent remains a mystery.



We have a situation where one side was allowed to go against established procedures and hijack the implied approval of Scottish Enterprise, while the other side of the argument was not allowed any leeway at all.<sup>73</sup>

SE suggested contacting VisitScotland to see if it had corresponded with Trump International; a reply is awaited. In the meantime, the VisitScotland website states:

***“The Coastal Trail is a journey through some of Europe’s most unspoilt and picturesque coastline... There’s a wide range of visitor attractions, nature reserves and other places of natural interest ... There is a wealth of wildlife on the coast.”<sup>74</sup>***

Judging from Riddle’s comments on the Trump website, where he uses his VisitScotland Chief Executive title, Riddle clearly doesn’t think these natural qualities are enough, and that we have to “raise the bar in terms of the tourism product.” It is unfortunate that a unique, unspoilt and picturesque coastline should be sacrificed to development rather than appreciated: if the tourism quango can’t appreciate this ‘wealth of wildlife’ and ‘wide range of visitor attractions, nature reserves and other places of natural interest’ which is unique in the world, perhaps the task of enticing tourists should be given to those who value these assets sufficiently to be able to promote and preserve them? The impact on the coast and wildlife of this development is inevitable; and all for a course which will be beyond the financial reach of most area residents and tourists who are not wealthy.

### 3.5 Grampian Police

If SNH decided it had no role in enforcing the law concerning the SSSIs, surely the Grampian police force would uphold laws protecting people, their possessions, provisions of the Countryside Access Code and established journalistic freedoms. Unfortunately, the manner of policing the estate is one of the most serious failings of the entire Menie saga, and one which must be subject to an independent inquiry. At the time of writing, the police are due to respond to a number of questions on specific incidents.

#### 3.5.1 Critical Incident Preparation Group Strategy

The police had a policy which they created specifically for the Menie Estate; this was set out in an email they sent me of 5 September 2011.<sup>75</sup>

This reads in part:-

***“... in Spring 2009, following the announcement of a number of strategic economic and infrastructure developments, Grampian Police established a short life Critical Incident Preparation Group (CIPG) with a remit to coordinate the prepared phase of ‘critical incidents’.***

***“A ‘critical incident’ is determined in the National Policing Improvement Agency (NPIA) Critical Incident Management Practice Advice as:-***

***“any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community’***

<sup>73</sup> <http://aberdeenvoice.com/2013/02/menie-heroes-and-villains-part-2-villains/>

<sup>74</sup> <http://www.aberdeen-grampian.com/area-guide/trails/coastal-trail.aspx>

<sup>75</sup> APPENDIX – Grampian Police

***“Accordingly, this development was founded on guidance contained within the NPIA manual and centred around the ‘three phases of critical incident management’ determined as;-***

- ***“Preparation***
- ***“Management***
- ***“Restoring Best Confidence***

***“From this, a generic, local strategy relevant to Menie Estate and other similar developments was developed.***

***“This has been determined as;-***

- ***“Maximise safety;***
- ***“Minimise disruption;***
- ***“Facilitate lawful protest;***
- ***“Deter, detect, detain and report those responsible for unlawful behaviour.”***

It is possible the Trump International Golf Links Scotland is satisfied with the police’s response. It is not likely that the Milne and Forbes families, Anthony Baxter and Richard Phinney are satisfied that this strategy was applied to their situations.

### **3.5.2 Forbes Experiences**

Michael Forbes has many experiences with the local authorities since Trump came to town; they have visited his land looking for signs of animal abuse, improperly stored chemicals, and unlicensed weapons.<sup>76</sup> Two memorable experiences with the Grampian Police are adeptly captured in Anthony Baxter’s ‘you’ve been trumped’. In the first encounter, Michael is watching as Trump workers trespass his property and damage goods – the police are standing by, unmoved by Forbes’ pleas to get the transgressors off his land. The Trump position seemed to be that this was a boundary dispute. Normally such a dispute is a civil matter, and the involved parties would communicate with each other to reach a settlement without any trespass taking place, resorting to court action if no concord could be found.

As Scottish property ownership expert Andy Wightman wrote in his comprehensive paper ‘Donald Trump’s Ego Trip – Lessons for the New Scotland’:-

“In late July 2010, TIGLS sent a letter to Forbes asking him to move equipment off the land that had been demarcated to the north east of his property. On 3 August 2010, TIGLS staff arrived at the north end of Forbes property with a digger and two officers from Grampian Police and began to move his salmon nets and equipment and dug up his salmon net drying equipment, removing it from what TIGLS claimed was its land but which assertion was contested by Michael Forbes.

“When Mr Forbes showed the police his title deeds, they claimed that any dispute was a civil matter and they had no locus. So why were they there? In a letter to me [Wightman], Grampian Police claimed no record of any incident on 3 August. “It does, however, appear that Officers attended at the Menie Estate on 4 August in response to a call stating that protestors were present. On the attendance of Officers, it was found that no protestors were there and no offence had been committed.”

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<sup>76</sup> <http://www.nytimes.com/2009/05/05/world/europe/05scotland.html? r=0>

“Putting aside the confusion over the date, it appears that Officers were there on a false premise. Who had made that call that came conveniently at exactly the same time as the diggers moved in to uproot Mr Forbes’ salmon net station?”<sup>77</sup>

If the police were prepared to allow Forbes’ boats, nets and other property to be damaged without interference, how does that fit into their Critical Incident Response strategy for dealing with an incident where ‘the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community’? If they have implemented a strategy to ‘Deter, detect, detain and report those responsible for unlawful behaviour’ why is it they stood back and allowed this trespass and property damage? And exactly who would have made a call to the police about ‘protestors’ being present and why would the police have a record for officers in attendance the day after this occurred, and not on the day itself? Is this inspiring the confidence in the police, which they wish to create? At least if they allowed a fishing boat and nets to be damaged by a digger in a property dispute without making any charges, they would behave in a similar fashion were the shoe on the other foot.

In early June 2010, some 20 white flags appeared on land which Michael Forbes believed to be his; these little plastic flags cost approximately £0.50 each. Forbes picked these up and kept them.

Keeping in mind how Michael Forbes’ ‘neighbours’ the Trump Organisation had raided his land with diggers with no real warning, as impassive and unmoving policeman took no action, what happened next is hard to understand: Forbes was charged with theft, even though he gladly and literally ‘waved the white flag’ and handed over the 20 flags. Sarah Malone the Trump VP was quick to get a quote in the press (which probably was not a difficult thing to do, given her highly-placed future husband, today Press & Journal editor, Damian Bates) referring to Forbes’ actions as ‘criminal.’

Did Michael Forbes get his day in court? No he did not, as charges were dropped. What would a court have thought of the police taking a man to court who had removed – and surrendered – 20 little white flags of no real value which were deployed as part of a property border dispute? It is highly likely Forbes would have been cleared, and the police criticised. Could this be why charges were dropped?

### 3.5.3 Alicia Bruce Experiences

I can find only one instance of the police issuing a warning to the Trump organisation whatsoever; this was when photographer/artist Alicia Bruce was so harassed and threatened by a greens keeper that she had to telephone the police for assistance on 3 June 2012<sup>78</sup>. Bruce has been interested in the area for some time; her award-winning work was shown in Aberdeen’s Peacock Visual Arts gallery, and more recently her portraits of the Menie Estate residents (based on iconic artworks of the past) was exhibited to MSPs at Holyrood (Salmond visited, too).

### 3.5.4 Milne Experiences ‘Double Standards’

Menie Residents have told me they feel that the police have ‘double standards’ when dealing with the Estate.

As detailed above, Michael Forbes was given a caution. The purpose of the caution might seem straightforward – ‘don’t do this again’ – but the implications are hardly democratic, and the effect undoubtedly intimidating. Without a charge, Forbes cannot go to court and testify there was a boundary dispute and that he believed his land was

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<sup>77</sup> [http://www.andywrightman.com/docs/trumpreport\\_v1a.pdf](http://www.andywrightman.com/docs/trumpreport_v1a.pdf)

<sup>78</sup> <http://duckrabbit.info/blog/2012/11/not-the-usual-highland-welcome-im-going-to-smash-your-camera/>

trespassed and the flags planted without his consent. He cannot therefore clear his name. The court would have had the chance to throw the case out and criticise the police for bringing such a low-value, civil matter before it. So, the police issue a caution, and it has the effect of intimidating the recipient, and letting the police escape any examination of their conduct. Being arrested is itself a stressful situation. This strategy of arrest, charge, drop charges and issue a caution is used again.

But what would happen if the Trump organisation removed something of substantial value and damaged property? Surely the police would charge someone?

David Milne of Hermit's Point had this to say about an incident on his property in October 2012:-

"Trump [operatives] came onto my property, physically cut down and remove a fence along with a whole host of other things in the bargain but that's the primary element I'm talking about, which was reported to the police as criminal damage / theft. About a month to 6 weeks later they [police] came back to say the police force solicitor has decided it's too difficult- there's no case to answer and dropped it. Now if that's not double standards what is? Bearing in mind that this [incident] is the segment of film that's actually been aired on TV in the film 'You've Been Trumped!'. I've still got the video tapes somewhere... it was a hassle to get a video recorder running. I still have the evidence; they have been made aware of it. Double standards."<sup>79</sup>

The value of the fencing and other property that was removed from David Milne's property would have been many times the value of the white boundary flags which landed Michael Forbes a charge for theft. Why then was no action taken by the police by the Trump organisation's operatives especially as the acts of trespass and theft were caught on video?

The police have now been asked to explain their handling of this incident and their solicitor's decision that there was no case to answer. (Ironically, Trump would later erect a cheap temporary fence near David Milne's home – and send Milne a three-figure bill for the unwanted fencing)<sup>80</sup>.

While the residents have a great deal to put up with and have had stress and the threat of compulsory purchase orders hanging over their homes, at least none of them have been handcuffed, thrown into a police car and arrested (yet). It may be the 21<sup>st</sup> century; this may be a first world country, and a bastion of 'democracy,' but journalists can be arrested on the say-so of a single man – if that man works for billionaire Donald Trump.

### 3.5.5 **Baxter and Phinney Experiences – 'You've Been Framed!'**

The highest-profile police intervention at the estate was the arrests of film-makers Anthony Baxter and Richard Phinney. They had been working on their documentary for some time when they decided to pay the estate office manager a visit to determine when local residents would have their water restored (this had been somehow accidentally cut off by the construction work in progress, but no access to water or bottled water was offered). They filmed their conversation with the estate manager, whose conduct towards them was dismissive, rude, and even potentially threatening (the man commented on the probable value of their recording equipment, the tone and the context making the remark seem more than a friendly interest in recording equipment).

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<sup>79</sup> (S Kelly Interview with David Milne, Saturday 16 February 2013)

<sup>80</sup> <http://www.dailymail.co.uk/news/article-1394484/Donald-Trump-puts-barrier-trees-Scottish-neighbours-home.html>

Baxter and Phinney left the office, no wiser than before as to restoration of water; they then visited Susan Munro. A police car with two policemen pulled up. The car sat for some moments, then the officers got out of the car and began to ask Anthony and Richard for identification. Then, as captured on film, following some further consultation the older of the two policemen escalated from his previously calm position to a hostile, aggressive attitude; the men were cuffed and bundled into the back of the car, arrested, and put in separate cells. Baxter explained:-

“After the interview [at the estate office], Richard and I were both suddenly arrested on the property of another local resident – Susan Munro. We were then driven miles to Aberdeen, banged up in separate prison cells for several hours and stripped of our possessions. DNA, fingerprints and photos were all taken and camera equipment and footage impounded. We were both charged with ‘a breach of the peace’ a criminal offence which you can go to jail for in Scotland.

“The criminal charges were eventually thrown out by the Crown Office. But my arrest was a turning point, in what had become an extraordinary journey. I was now unwittingly part of a deeply disturbing and troubling story. And what had begun as an exercise to purely document what was happening, had now become a feature film – and I was in it.”<sup>81</sup>

Unsurprisingly, this incident was condemned by many, including the Nation Union of Journalists, which described the incident as:-

“..a blatant example of police interference stopping bona fide journalists from doing their job.”<sup>82</sup>

This charge ‘breach of the peace’ requires further consideration. Its critics believe it is a carte blanche to be used arbitrarily for almost any purpose; social control, censure and limiting freedoms unduly at its core.

“Where something is done in breach of public order or decorum which might reasonably be expected to lead the lieges being

- alarmed or
- upset or
- tempted to make reprisals at their own hand, the circumstances are such to amount to a breach of the peace.”

“This broad definition showed that a charge of Breach of the Peace can arise from virtually any conduct which caused or (can generally be regarded as being reasonably likely to cause) either alarm, annoyance, upset or embarrassment to another person or person.’ This effectively means that you can be charged with breach of the peace for doing absolutely anything. Any person can have [sic] the power of arrest if there is grounds [sic] for someone committing breach of the peace. It states on know your rights, ‘The police and any other person have a power of arrest where there are reasonable grounds for believing a breach of the peace is taking place or is imminent’.

“In fact LJG Emslie even went as far as to state that: ‘There is no limit to the kind of conduct which may give rise to a charge of breach of the peace.’ (Montgomery v. McLeod)’.

“One of the reasons why breach of the peace is such a broadly defined crime is that there is no precise conduct required for the

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<sup>81</sup> <http://blogs.independent.co.uk/2012/10/18/you%E2%80%99ve-been-trumped-director-anthony-baxter-speaks-about-his-new-documentary/>

<sup>82</sup> IBID

actus reus. Instead the effect of what the accused did is taken into consideration and each case is judged on its individual facts and circumstances. Many claim that it is a tool of social control, a law specifically designed to make sure whenever the public threaten to behave in a manner that may be seen as unpeaceful, the police can intervene.”<sup>83</sup>

Unsurprisingly, charges were dropped. If that sounds like a fair, proper end to the matter, it was not.

“He [Baxter] and Phinney were charged with a ‘Breach of the Peace’ before the charges were downgraded to written cautions at the time – which served both to prevent them having a fair day at court, and to try to intimidate them from continuing their filming.

“If the intent was to stop this film, it is clear that it did the exact opposite. “The entire matter was eventually thrown out – not before DNA had been taken and they had been treated like criminals: they did not find out about the matter being dropped from an apologetic police force, but from the media third-hand. This use of police caution had also been used against Michael Forbes – he had removed marker flags that Trump’s people put on his land – and was cautioned not to do anything again. The value of these flags was £13.”<sup>84</sup>

As with Michael Forbes, there was never the opportunity to clear their names in court, and to have a court decide the merits or otherwise of how the police behaved in this instance. The police did not have to answer for putting two filmmakers in cells. Knowing the police could and would arrest for ‘breach of the peace’ on the uncorroborated, un-witnessed say-so of a Trump employee, the tacit message was sent out to these and other journalists to back off. It is a very serious issue which itself should be subject to investigation by independent authorities: interference with journalistic freedom, potential intimidation, potentially unlawful arrests, potential misuse of police powers, potential misuse of law, and the nature of ‘breach of the peace’ are some of the issues which should be examined. Those involved in any such behaviours must be exposed, those responsible called to account, and assurances obtained that such will never be the case again.

The tide may be turning. The police revealed over 200 pages of memoranda and other documentation which reflects incessant demands from Donald Trump, Donald Trump Junior and other Trump operatives for the police to ‘beef up security.’ The Herald Scotland <sup>85</sup> covers some of the many attempts by the Trump organisation to get police cover ‘beefed up’ as well as an indication of the cost of a Trump visit to Aberdeen. Apparently when a visit was cancelled last minute, the police considered sending a bill for over £2,000 to the Trump resort to cover their costs<sup>86</sup>. This raises questions as to why this particular property mogul’s visits to the region are treated like state occasions, requiring an increased police operation costing thousands at least in once instance. This revelation may not sit well with local charity event organisers, who are often faced with charges for police and other charges by City and Shire for holding public fundraising / publicity events.

How much taxpayer money Grampian Police has spent to date policing the estate, providing advice, managing Trump family visits, etc. should be disclosed, as well as this financial aspect and all policing aspects to date be examined by an independent inquiry. The experiences of the residents, artists such as Alicia Bruce, and journalists Baxter and Phinney need to be fully explored with a view to taking whatever corrective measures are

<sup>83</sup> [http://en.jurispedia.org/index.php/Breach\\_of\\_the\\_Peace\\_\(Scotland\)](http://en.jurispedia.org/index.php/Breach_of_the_Peace_(Scotland))

<sup>84</sup> <http://aberdeenvoice.com/2011/06/in-conversation-with-anthony-baxter/>

<sup>85</sup> <http://www.heraldscotland.com/mobile/news/home-news/trump-accused-of-using-police-as-his-private-security-force.15321686>

<sup>86</sup> IBID



necessary to ensure the rights of the individual and of journalists are protected as the law demands.

### 3.6 Security

At least two companies have done private security work for Trump Golf Links International Scotland at Menie; the current security contractor is called IZON.

Virtually every family living on the estate has had run-ins with security. It is important to remember that existing laws including basic Human Rights Law protect people from unwarranted intrusions, stop and search procedures, detainment, harassment, being put under surveillance and intimidation. People also have a right to privacy. Arguably, the police breached some of these principles as per the accounts above. How private security firms have been able to act is likewise a subject worthy of an in-depth, independent investigation. Future private security operations at the estate must be subject to third-party controls and monitoring to ensure that the law is upheld, and the rights of residents, visitors and journalists are respected.

#### 3.6.1 Munro Family

Members of the Munro family at Leyton Cottage have been spied on by frequently-passing security vehicles. Security have used their cars to block a visitor from leaving the Munro property (Alicia Bruce). Security have 'jumped out in front of' Susan Munro, travelling alone at night in her car, demanding information and identification. In Susan's words;-

"I finished work last night and was stopped by security. It's horrible when they jump out at you in the pitch black. They alarmed me. I am sick fed up with security hassling me."<sup>87</sup>

#### 3.6.2 Artist Alicia Bruce

Alicia grew up in the area; she was a frequent visitor throughout her life. It was just as well she had her partner with her when she had this encounter:-

"I've been working on an ongoing photographic project at Menie, the site of the controversial Trump International Golf Links Scotland since 2010. In spite of working in a respectful manner throughout I have been constantly followed and harassed by Trump's security force and stopped on numerous occasions by Grampian Police whilst visiting or photographing the residents on their own properties.

"I lined up my shot then came face to face with an angry aggressive security guard. Trump security again! He blocked my view and started screaming:

"'Who the hell are you? What do you want? I'm going to seize your camera'  
'I've called for back-up. My boss is coming. We'll seize that camera'  
'You're in trouble. Just you wait.

"I politely said that I was in a friend's garden and didn't need permission. He repeated that I had no right to be there or photograph & that he would seize my camera & that back up was coming.

"My partner & I decided to go and walked a few footsteps back to our car. He then drove a few yards from the construction site onto Susan's private road blocking

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<sup>87</sup> <http://aberdeenvoice.com/2013/01/menie-estate-no-3-love-thy-neighbour-trump-style/>

our way out. The only way we could have got out at this point would have been to reverse the entire way up the steep private road which is damaged due to the construction going on. We asked him to move back and he refused again stating that he would "seize & smash the cameras"<sup>88</sup>

The police attended. Bearing in mind the occasion when they instantly arrested Baxter and Phinney for 'breach of the peace', surely they would mete out the same treatment to a man who had threatened to break a woman's camera, screamed at her, and blocker her progress?

"Two Grampian Police officers arrived at Hermit Point. They were re-assuring but continually asked "Are you sure you want to press charges? This man could lose his job." "This could go to court." "There could be a lot of press." I decided to press charges, as I was frightened, my human rights and my rights as a photographer had been infringed. I pointed out my concerns about this happening to the residents of Menie who just want to be left in peace. What if this man treated 88 year old Molly Forbes in this way?"<sup>89</sup>

The behaviour of the police in these two instances should also be analysed as part of any investigation. Baxter and Phinney: journalists protected by law allowing them to report, arrested on the uncorroborated say-so of one man. Threatening behaviour, threat of property damage witnessed by two people including a photojournalist/artist? The police recommend letting the matter drop.

Despite Alicia's standing as an artist and photojournalist (with work at the Menie Estate recently displayed at Holyrood), she has since been followed by Trump security 'at least 10 times.'<sup>90</sup>

### 3.6.3 Milne Family

Like other area residents, the Milnes have seen and had their share of run-ins with security. In the wake of Alicia Bruce's experience (3.6.2), he had this to say:-

*"The day that Alicia and Andrew were threatened by the security at Menie will stay with me for a long time. It was a new security company the last one having just been fired by the Trump Organisation and to see just how shaken and scared Alicia was shocked me. She had always dealt with these situations politely but assertively, this was clearly an extreme incident. I had seen this type of behaviour so often, not so much against myself as I think they knew better but against other visitors to the site that I become immune to it, it no longer bothered me and to see others so clearly shaken and scared made me realise just how much effect it had on innocent people who had never been exposed to this level of aggression or ignorance and I felt responsible for my friends being exposed to this, I still do"*<sup>91</sup>

### 3.6.4 Another Resident's Experience

Understandably, not every resident who has had an encounter with security feels comfortable being named. This anecdote was taken directly from the person who experienced it, and their desire to remain confidential will be respected.

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<sup>88</sup> <http://duckrabbit.info/blog/2012/11/not-the-usual-highland-welcome-im-going-to-smash-your-camera/>

<sup>89</sup> IBID

<sup>90</sup> IBID

<sup>91</sup> IBID

“A local resident wanted to visit the Forbes family, who live on one side of the golf course. While walking towards the Forbes property, a security guard stopped the walker from going any further, even denying there were any buildings where the Forbes have long lived. The walker was forced to accompany the security guard to the ‘temporary’ clubhouse. In the walker’s own words:

“Eventually, after about 20 minutes, I was speaking to a chap named Eric over the phone. He eventually agreed I could walk along this track. I was wanting to go along and visit Mike and Sheila [Forbes].

“The security guard denied there were any houses. I said, ‘Yes, there are; you must drive past them several times a day’. Eric eventually agreed I could walk, but I would have to be followed by the security guard in his truck.”<sup>92</sup>

Covering more such stories would be easy; there is a large body of anecdotes. These include councillors being stopped, visitors being shouted at by greens keepers and so on.

IZON were made aware of some concerns on 16 January 2012 via a contact form on their website. Although an acknowledgement was received, they later said they had not received any contact. They were written to again with these concerns, and on 31 January 2013 replied:-

“Izon Security Ltd is an SIA Approved Contractor and operates to fully comply with this standard. All our officers are fully licensed and trained. They operate to the highest professional standards and do not carry weapons of any description.

“As I am sure you can appreciate, due to reasons of customer confidentiality, we are unable to answer the other questions.

“We do however thank you for your enquiry, we attempt at all times as an SIA Approved Contractor to provide full satisfaction to both clients and members of the public.”<sup>93</sup>

The private security industry is largely self-regulated in the UK; contact with relevant industry bodies has been made with a view to submitting formal complaints; it will be up to those who experienced unacceptable treatment to make such complaints. More widely, the situation should be addressed by the police, the local elected councillors, Aberdeenshire council, and not least the newly-appointed Outdoor Access Officer – which brings up further issues.

### 3.7 Scottish Outdoor Access Code

The right to access the countryside for recreation exists in Scotland. It is not without conditions and responsibilities, but anyone should be free to visit any land as long as they do not cause damage, and with regard to golf courses obey some common sense directives. The Code includes the following points applicable to land-owners and land managers:-

- “respecting any rights of way or customary access across your land or water;
- “avoiding the use of “no access” signs or the locking or removal of gates or other access points, particularly on paths or tracks likely to be used by the public or without providing an alternative means of access;

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<sup>92</sup> <http://aberdeenvoice.com/2013/01/menie-estate-no-3-love-thy-neighbour-trump-style/>

<sup>93</sup> APPENDIX - IZON

- “working with your local authority and other bodies to provide and manage routes across your land that would best help to integrate access and land management;
- “considering what impact your work might have on people exercising access rights on neighbouring land and modifying your work where this is reasonably practicable.
- “do not cause unreasonable interference with the access rights of anyone exercising or seeking to exercise them.”<sup>94</sup>

With regard to the first point, access Michael Forbes historically enjoyed from his property to the sea has been taken away from him by a locked gate. The new access officer has been informed. This seems to go against the basic provision of the code.

Gates are routinely locked. The parking lot gate is frequently locked<sup>95</sup> except when the Leyton Farm Road serving the Munro home was too badly damaged to drive<sup>96</sup>; it has been locked on the four visits I have recently made to the property. The gate leading to where the estate office was likewise seems to be permanently locked; I have never seen it open. Countryside access for those with bicycles or with impaired mobility is hindered if not halted by these locks.

As to the point about not causing unreasonable interference with the access rights of anyone exercising or seeking to exercise them, all the evidence indicates security and greens keeping staff are violating this provision. (By contrast many other area golf courses and clubs welcome walkers and visitors).

The post seems to have been vacant for some time; contact with various administrators within Aberdeenshire Council and/or the SNH connected to the Code at first supplied phone numbers which did not work, or names which were no longer contactable.

Just recently a new Aberdeenshire officer was appointed; they have been contacted and asked to visit the Menie Estate and meet the residents. They will revert.

Interestingly, this new person says their predecessor (a name not previously given to me when I contacted the Council) had made contact with residents in the past. Three of the resident families confirmed they had no contact at all from the person named. This should be looked into as well. It is recommended and hoped the new access officer for the area will visit as soon as possible, meeting residents and Trump staff alike. Residents need to know someone will help them assert their rights, look into why the Forbes access to the sea has been denied, look into the locked gates, and to ensure staff no longer stop lawful access. An investigation into why the area has been neglected in these regards should be undertaken.

## 3.8 MEMAG

### 3.8.1 MEMAG Remit

The Menie Golf Links Environmental Management Advisory Group, or MEMAG was meant to be one of the mechanisms for minimising environmental impact of the golf complex:-

“The Menie golf links environmental management advisory group (MEMAG) met for the first time on 7th December. Established as part of the planning consent granted by Scottish Ministers for the Trump International golf links, MEMAG is a wholly independent

<sup>94</sup> <http://www.snh.gov.uk/docs/A309336.pdf>

<sup>95</sup> APPENDIX Image II

<sup>96</sup> APPENDIX Image V

body which is responsible for providing impartial scientific advice to Aberdeenshire Council and the developer to help minimise the environmental impact of the development on the dune and links system.

"Members of MEMAG include, representatives of Aberdeenshire Council the Belhelvie Community Council, Scottish Natural Heritage, the Scottish Environment Protection Agency as well as Trump International Golf Links, Scotland."<sup>97</sup>

How independent MEMAG could ever be is debatable, as per the Report to Ministers:-

"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."<sup>98</sup>

Belhelvie Community Council favoured the development (apparently after a mere 120 people responded to its consultation).<sup>99</sup> However, it had recommended several controls, one of which would have given MEMAG additional powers:-

"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:

- o the impact on the nature conservation interest is minimised;

- o no hard engineering works are involved in stabilising the sand dome and dune system;

- o MEMAG has authority to prevent damaging activities;

- o a rigorous landscape evaluation is undertaken;"<sup>100</sup>

Additionally, the Report to Ministers stated:-

"Its [MEMAG's] 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."<sup>101</sup>

MEMAG's own mission statement reads in part:-

"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."<sup>102</sup>

### 3.8.2 MEMAG Performance: Muddy Waters

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<sup>97</sup> MEMAG press Release Dec 2009

<http://www.memag.org.uk/Docs/MEMAG%20Press%20Release%201.4b%20Final.pdf>

<sup>98</sup> <http://www.scotland.gov.uk/Resource/Doc/212607/0067709.pdf>

<sup>9999</sup> IBID

<sup>100100</sup> IBID

<sup>101</sup> IBID

<sup>102</sup>

An excerpt from MEMAG minutes of May 2012 raises a catalogue of issues. I have added comments in square brackets and labelled areas of concern with Roman numerals, including:- funding **(I)**, relevant agencies' responsibilities (SEPA, Environmental Clerk of Works, MEMAG) regarding agencies sharing relevant correspondence **(II)**, responsibilities and gaps in knowledge/data **(III)**, poor Trump organisation attendance at MEMAG meetings **(IV)**, and an amazingly optimistic interpretation of a low level of contact with press/public **(V)**:-

"6. 24 – Monitoring Costs - The Chairman highlighted the importance of this item. Monitoring costs to date had been minimal, mainly because of the frequent visits to the site by the Ecological Clerk of Works (ECoW) and their subsequent substantive reports. It is unclear exactly when the ECoW contract with TIGLS will end **(III)** and the **Chairman** agreed to make enquiries with Sarah Malone. The group agreed that monitoring costs going forward would necessarily increase and **MJ** queried whether TIGLS fully understood the monitoring element and associated cost implications **(I)**. The **Chairman** referred to a previous meeting with George Sorial regarding future monitoring requirements and reminded the Group that in September 2010 a draft position paper; "Monitoring Purposes and Arrangements", had been circulated to all involved in MEMAG including TIGLS. Hardcopies of this paper were handed to the meeting attendees.

"Although MEMAG had accepted the draft, it was a general outline and further refinement may be required as monitoring requirements are defined. It was made clear that the cost of monitoring would increase once the course construction had been completed and there was a need to reemphasise to TIGLS the importance of establishing a well-founded environmental monitoring programme post course construction.**(I)**

"The group noted that the absence of TIGLS representation at recent MEMAG meetings was unfortunate **(IV)** but, on a positive note, contact had been made with John Bambury (JB) who is the new LINKS Superintendent. Contact with JB will provide an important link with TIGLS in the future with regards monitoring at Menie. It was agreed that the **Chairman** would send the minutes of the meeting to TIGLS with a covering letter highlighting salient points and noting the attendance issue. **Action:** Chairman to send the minutes of the meeting to TIGLS with a covering letter highlighting salient points and noting the need for TIGLS representation at MEMAG meetings.

"7. 25 - **Hydrological Data and Monitoring** – The **Chairman** noted that gaps remain in the Hydrological information and database. **(III)** The **Chairman** had hoped to provide a list and map for this meeting from Fairhurst and partners, but this had not yet been provided. **(II)** The **Chairman** will reiterate a request this information. **AG** asked who would monitor hydrology going forward? The **Chairman** replied that this had originally been envisaged as SEPA but **DO** explained that SEPA's internal resources in this area were already heavily committed. **(III)** The **Chairman** stressed the importance of resolving this issue and **DO** agreed to discuss options with Andy Rosie. **DO** confirmed that from a SEPA perspective, there had been no compliance issues with the development to date and therefore SEPA had not been required to react from a regulatory perspective. The Chairman acknowledged that hydrology was not a statutory issue, but stressed that it was fundamental to all other areas of dune management. As such, establishing the extent and integrity of the hydrology baseline data was a priority.**(III)** **Action: Chairman** to reiterate request for hydrological data from Fairhurst's. **Action: David Ogilvie** to discuss SEPA resource allocation to assessing hydrological data.

"8. 39 – **Otter Reports – status** – The **Chairman** explained that Esie O'Mahonay was to provide the otter report and noted that this had been sent to ECoW on 19/07/2011, but had not been copied to MEMAG which was the original agreement. **(II)** The **Chairman** agreed to follow up. 9. **Action: Chairman** to reiterate request for otter report to TIGLS/ECoW.



“**DO** noted a press inquiry directed to SEPA/SNH and Marine Scotland asking if there had been any environmental issues associated with the development of the golf course. The **Chairman** confirmed that the question had not been raised with MEMAG. (II)

11. **KN** highlighted that there had been some interest within the Council regarding the need for monitoring activity, but was of the view that the ECoW reports were sufficient to cover the period to date [Do the conditions attached to planning allow MEMAG to deem the ECoW’s monitoring to make their own monitoring redundant? SK] . **AG** thought that more questions were likely to be raised over the forthcoming weeks over the access road. **DO** agreed.

12. There was general acknowledgement that interest in the golf course development was likely to increase in the period leading up to its opening. **KN** noted that there had been very few inquiries thus far and that this might generally be taken as an indication that the development had not infringed environmental or planning regulations. (**V**) [With acknowledge gaps in baseline stats and unclear communication lines, and other issues over monitoring, surely MEMAG cannot assume that ‘few inquiries’ means there are no infringements: MEMAG was meant to take care of the monitoring, not assume all is fine because of a lack of inquiries - SK]

“13. With respect to the potential for a general increase in requests for information, **MJ** felt that the website was fit for purpose but noted that if there were a large number of enquiries then there would be a cost associated and that TIGLS must be reminded of this. **The Chairman** added that it would be pro-active to provide TIGLS with details of the MEMAG remit as a reminder/update and reminded the group that in June 2011 MEMAG provided Sarah Malone with a paper “The Work of MEMAG”. **The Chairman** agreed to re-word/update the paper and **DO** agreed that this would be useful as a periodic update.<sup>103</sup> [Perhaps if Trump representatives attended MEMAG meetings more frequently, they would not need reminders of what the MEMAG remit and their financial responsibilities to MEMAG are – SK]

### 3.8.3 Unanswered Questions

MEMAG were sent a list of questions on environmental issues on 26 January 2013. This correspondence was acknowledged, with the questions going to the board. Further questions were sent, and answers chased. At the time of publishing this report, there have been no answers received. Let’s hope their May minutes’ confidence in a lack of correspondence “....generally be taken as an indication that the development had not infringed environmental or planning regulations.”<sup>104</sup> is more than the guesswork it appears.

The performance of MEMAG seems to include very few site visits, and most recent minutes of meeting posted on their website is for 31 June 2012. The May Minutes do not reassure that consistent, accurate monitoring and/or sharing of knowledge/correspondence is taking place. A formalisation of the MEMAG remit is recommended; there should be a member on the board representing the residents who have first-hand knowledge and experience of what is taking place who can serve as a link between residents and MEMAG; and more frequent meetings – attended by a Trump representative – and more frequent site visits and monitoring are required. Again, an investigation into the operation of MEMAG would be beneficial.

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<sup>103</sup> <http://www.memag.org.uk/Docs/Minutes%20MEMAG%20-%2031May2012%20Website.pdf>

<sup>104</sup> IBID

## 3.9 Scottish Natural Heritage

### 3.9.1 Site of Special Scientific Interest

Where did the SSSI designations given to the Menie are come from? What should this protection actually mean? The SNH website explains:-

“Sites of Special Scientific Interest

“What are SSSIs?

“Sites of Special Scientific Interest (SSSI) are those areas of land and water (to the seaward limits of local authority areas) that Scottish Natural Heritage (SNH) considers to best represent our natural heritage - its diversity of plants, animals and habitats, rocks and landforms, or a combinations of such natural features. They are the essential building blocks of Scotland's protected areas for nature conservation. Many are also designated as Natura sites ([Special Protection Areas](#) or [Special Areas of Conservation](#)). The national network of SSSIs in Scotland forms part of the wider GB series.

“SNH designates SSSIs under the Nature Conservation (Scotland) Act 2004. SSSIs are [protected by law](#). It is an offence for any person to intentionally or recklessly damage the protected natural features of an SSSI.”<sup>105</sup>

The SNH objected to the development; its representation was devoid of the leading adjectives used by the proponents to underline their case (‘world-class’ ‘championship’, etc.) in describing the SSSIs. Whether or not they could or should have mounted a defence of the dunes that was more accessible to the non-scientific mind and perhaps more natural heritage based is debateable. I do not recall seeing much about the area’s natural history and importance in the Report to Scottish Ministers which would capture the attention of the someone outside of the scientific discipline. Whether or not it should or could have mounted a legal challenge of some to prevent this development going ahead and possibly setting an environmentally disastrous precedent is also But surely the SNH would proactively be involved to ensure the laws protecting the SSSIs were upheld as much as possible?

### 3.9.2 SNH – Current Position

The Tayside & Grampian Operations Officer wrote on 27 February 2013 as follows:-

“It may help to begin by explaining our role. Initially we were advisers to Aberdeenshire Council when they were determining the planning application. As you say, we objected to the application. This was due to the impacts the development would have on Foveran Links Site of Special Scientific Interest (SSSI). We provided evidence to that effect at the Public Local Inquiry. Once planning consent was granted, our role changed and we advised the council on compliance with the conditions that were attached to the consent.

“We do not have a role in enforcing the conditions of the planning permission or checking that the construction and operation of the golf course complies with them; that lies with Aberdeenshire Council. Ecological Clerks of Works were employed by the developer, as one of the conditions attached to the planning permission, to oversee the construction of the course and try to ensure the works complied with the drawings and plans that were consented. There are a variety of plans that were required as conditions of the consent, for example an Environmental Management Plan and Habitat Mitigation and Compensation Plan etc. which you can see through the following link:

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<sup>105</sup> <http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/national-designations/sssisi/>

[http://www.aberdeenshire.gov.uk/planning/apps/detail.asp?ref\\_no=APP/2010/0423](http://www.aberdeenshire.gov.uk/planning/apps/detail.asp?ref_no=APP/2010/0423)

“We do, however, retain a role in anything not covered by the consent and plans because the course is on an SSSI. We have visited the site once or twice while it was being constructed in response to a request from the Ecological Clerks of Works. We also visited the site last August to take a preliminary look at the SSSI once the course had been completed. We intend to visit it again this summer to study and evaluate the SSSI.”<sup>106</sup>

This SNH letter raises some important issues. Going back to the government inquiry and subsequent report, the existing legal SSSI protection, and objections of the SNH (which is funded by the Government’s Rural Affairs and Environment arm), was in the end outweighed by the support coming from unelected Scottish Enterprise, private Aberdeen Grampian Chamber of Commerce, and of course the developer and their economic projections. The outcome of the inquiry means in the most simple terms that the potential of making money is more important than the environment and the law protecting the environment. The result is arguably a great one for businesses and quangos, and a bad one for the environment, SNH, the weighting of SSSIs and Scottish law.

Initially advising Aberdeenshire Council that the site was protected as it had two SSSIs, the SNH then moved to another advisory role to advise

“...the council on compliance with the conditions that were attached to the consent.”<sup>107</sup>

As the SNH’s advice was disregarded in the end in at the first hurdle, what position the Council will take on SNH advice regarding compliance?

The SNH is still responsible for SSSIs. However, the letter advises:- “We do not have a role in enforcing the conditions of the planning permission or checking that the construction and operation of the golf course complies with them; that lies with Aberdeenshire Council. Ecological Clerks of Works were employed by the developer...”<sup>108</sup> Couldn’t the SNH take a more proactive role with regard to enforcing the conditions imposed and checking the developer’s construction and operation? Unfortunately, it is not going to do so. Instead, these responsibilities go to MEMAG and a Trump-funded Ecological Clerk of Works. With the best will in the world, the likelihood of stringent environmental monitoring by Trump’s employee is highly unsatisfactory. Even with the best will in the world, objectivity for whoever occupies this post must be difficult. How it came to pass that the Trump organisation would be to some degree self-monitoring via its paying for the Ecological Clerk of Works, and who was responsible for approving such a state of affairs should be investigated.

Once the development got the go-ahead, the SNH assumed a hands-off, advisory role to the Shire. As this development is one without precedent, how does it come to pass that the SNH are not more interested? Were they instructed from some government quarter to take the back seat?

Sadly, it seems as if less than a dozen visits to site by the SNH will have been made by this summer.

Observers of Scottish Natural Heritage and its stewardship compare this laissez-faire approach to upholding actual laws regarding SSSIs with how the SNH insists with a very heavy hand that its code on deer management with regard to projected deer population be taken as law and implemented without question<sup>109</sup>. In Aberdeen City, the SNH were

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<sup>106</sup> Email from SNH to S Kelly 27 February 2013 – See APPENDIX

<sup>107</sup> IBID

<sup>108</sup> IBID

<sup>109</sup> <http://aberdeenvoice.com/2012/06/acc-exceeds-own-tullos-target-34-deer-shot/>

adamant that a small, migratory deer population had to be culled by half in 2012. This cull was held in secret, and protestations from citizens and the Scottish SPCA went unheeded as a population of 70 deer, migratory as well as stable for decades was cut to 35<sup>110</sup>. Elsewhere in Scotland the SNH is demanding an out-of-season cull of 700 healthy deer to make population of these migratory creatures match SNH statistics and new guidelines. Gamekeepers and animal welfare agencies both believe this move is unnecessary and damaging (as well as cruel)<sup>111</sup>. However, in both situations the SNH says that local authorities 'may be in danger of violating the deer code.' Where we have a case where an SSSI is being turned into a golf course, after an initial protest the SNH backed down. Where a code of practice regarding culling (even outside of the close season), the SNH threatens local authorities / gamekeepers that deviance from the code could be illegal, and they strenuously seek enforcement.

Is the SNH proactive? Is it completely independent of political pressures? Does it actively protect the SSSI sites? Does it report SSSI damage or potential damage to legal authorities able to actively protect and prevent damage?

The involvement of the SNH from the genesis of its input into the inquiry to the current monitoring responsibilities should be examined.

### 3.10 The Media

National and International media covered some of the major issues and developments at Menie. Coverage has usually had some balance to it; on occasion there has been somewhat one-sided national coverage, witness an Observer article 'Triumphant Trump wants second golf links on Scotland's wild coastline by Kevin McKenna which makes no reference to any of the social and environmental issues.<sup>112</sup>

The BBC's screening of 'you've been trumped' brought much-needed attention to the issues. The local newspaper coverage is another matter. Aberdeen Journals Limited comprise the Aberdeen Evening Express and the Press & Journal. Their historic editorial policy of support for Trump included denouncing councillors who voted against him as 'traitors' and refusing to cover the protest group 'Tripping Up Trump' as it was not 'bona fide'.

"A wedding was solemnised this past weekend: Miss Sarah Malone married Mr Damian Bates. There are a few points which make this wedding of interest and importance to a wider circle than their family and friends.

"Ms Malone was selected in the Evening Express's beauty contest as the 'face of Aberdeen'. That was in 2007. Mr Bates was editing the paper from 2006, having started there in 2003; he is now the editor of sister paper, The Press & Journal.

"Ms Malone was plucked from the relative obscurity of the Gordon Highlanders' museum by Donald Trump to serve as a Vice-President for his controversial golf development on Aberdeen's coastal Menie Estate. She has no previous experience of real estate developments, or of golf."<sup>113</sup>

Private Eye Magazine covered this potential conflict of interest for Bates as well<sup>114</sup>.

Bates became P&J Editor in June 2011;<sup>115</sup> Bates also serves on the Editors Code of Practice Committee of the Press Complaints Commission.<sup>116</sup>

<sup>110</sup> IBID

<sup>111</sup> <http://www.bbc.co.uk/news/uk-scotland-21470489>

<sup>112</sup> <http://www.guardian.co.uk/uk/2013/feb/16/trump-golf-links-coastline>

<sup>113</sup> <http://aberdeenvoice.com/2013/02/trump-exec-vp-weds-journals-ed-joining-the-dots/>

<sup>114</sup> Private Eye Magazine Issue No. 1334

<sup>115</sup> <http://www.holdthefrontpage.co.uk/2011/news/damian-bates-named-as-press-and-journal-editor/>

The Press & Journal accepted a controversial full-page ad from Trump linking Salmond, wind farms, and Salmond's attempt at recruiting Trump to support the release of convicted Lockerbie bomber, Al-Megrahi. This ad sparked numerous complaints to the P&J and the Press Complaints Commission. The P&J had previously rejected advertising from local group 'Friends of Union Terrace Gardens', for being 'too political'; the group wanted to prevent the city's only free green space (common good land) from development.

The Aberdeen Voice is a local online free weekly news vehicle. It has no advertising, no paid staff, and no editorial agenda. It prints contributions from all points of view. It has carried developments concerning the Menie Estate, its residents and its environment for some time. (The writer of this report is a frequent contributor and interviewed Anthony Baxter following the first screening of 'you've been trumped'<sup>117</sup>).

Perhaps the Press Complaints Commission should investigate why the Aberdeen Voice and not the Press & Journal revealed the relationship between P&J Editor and Trump's VP Sarah Malone. One could wonder why a woman with no previous experience of golf, real estate project management came to be Vice President on a project of this scale. Could her connection have had any impact on Trump's choosing her for the VP post?

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<sup>116</sup> <http://www.pcc.org.uk/about/whoswho/committee.html>

<sup>117</sup> <http://aberdeenvoice.com/2011/06/in-conversation-with-anthony-baxter/>

### 3.11 Aberdeenshire Planning – Enabling Behaviour

Aberdeenshire Council published a helpful brochure, Aberdeenshire Planning – Enforcement Charter. Among its declarations is this extract<sup>118</sup>:-

“Planning permission is required for most development that takes place in Scotland, with the exception of some minor works. Sometimes, however, developers or householders undertake work without planning permission or fail to keep to the permission they have been given. Councils have powers to enforce planning controls in such cases, if they consider it is in the public interest to do so. Councils monitor developments to ensure planning controls are being followed but there is also a role for the public in alerting the council to any problems they become aware of.<sup>119</sup>

Before the reader gets very far into this brochure, they will find that any enforcement is completely discretionary:-

“A breach of planning control is not a criminal offence. The purpose of planning enforcement is to resolve the problem rather than to punish the mistake. In addition, any action taken has to be appropriate to the scale of the breach. Aberdeenshire Council has statutory powers to investigate breaches of planning control and the conditions attached to planning permissions, and to take formal action where a satisfactory outcome cannot be achieved by negotiation. However, enforcement is a discretionary power. That means that, even where there is a breach of planning control, the Council has to consider if it is in the public interest to take enforcement action. Aberdeenshire Council is not required to take any particular action on a specific breach of planning control, and indeed can decide that no action is necessary.

The Menie residents have seen some very large scale breaches. The bund in front of the Munro house was not approved to any such scale. The clubhouse was not as per approved planning. The parking lot likewise was not as per approval. You could be forgiven for thinking these were all rather large-scale deviations. However, those with the power to enforce planning and make the developer take remedial actions are siding time and time again with the Trump organisation when it deviates from what was approved.

Planning department of Aberdeenshire Council were emailed a list of issues. This is part of their reply on 1<sup>st</sup> March 2013<sup>120</sup>, with my own comments added in square brackets in bold:-

“I refer to your email of 18 February 2013 regarding works at the Menie Estate. I note that you have raised concerns regarding works which are currently taking place on the Menie Estate and can confirm that the Planning Inspector visited the site on 19 February 2013 to investigate these matters. The conclusions of this are detailed below.

“Firstly with regard to the works in the dune area. It was identified that works to remove a quantity of sand were in progress at the time of the visit in an area between the dunes and the land on the landward side of the dunes at location reference NJ 9830 1910.

“This area of land is within the application site approved under planning applications:

- APP/2006/4605 - Golf Course and Resort Development,
- APP/2009/2479 - Marram Grass Planting, Preparatory Earthworks and Chestnut Pale Fencing on the Inner Dunes at Menie Links,
- APP/2010/1535 - Construction of Championship Golf Course including Driving Range, Short Game Area, Putting Green & Turf Nursery

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<sup>118</sup> [http://www.aberdeenshire.gov.uk/planning/devservices/Charter-Enforcement\\_000.pdf](http://www.aberdeenshire.gov.uk/planning/devservices/Charter-Enforcement_000.pdf)

<sup>119</sup> IBID

<sup>120</sup> APPENDIX



“The sand was being removed by a small mechanical excavator and transported to the golf greens for use in top dressing the course. A quantity of sand had been transported for use in works adjacent to the car park area. The removal of the sand at this location for re-use on the golf course would not require planning permission. However the Planning Service will ensure that routine monitoring of the site is undertaken to assess the extent of the removal of sand and address the matter should it be considered that the sand is being extracted at such a level that it can be classed as a change of use of the land to a ‘mineral extraction’ use **[I have to wonder if they believe such a massive extraction would take place; I certainly do not think so. If their premise is only that if something of that scale were taking place would there be a need to intervene is worrying]**. At the time of writing this letter no formal application for the formation of the second golf course has been submitted **[I note that news items appeared announcing the application for the second course had been lodged<sup>121</sup> although no formal application had been submitted]**

“With regard to the works adjacent to the car park, these are works to reprofile an area of land adjacent to the car park. These works were being undertaken on an area of land which has been set out as the Driving Range. Sand had been deposited on the land from the area previously mentioned and was being profiled prior to being laid with turf. The raising of the land by 400mm – 600mm is not considered to be of such a material nature that planning permission is required **[again, there is a somewhat patronising tone to this comment, along the lines of the previous ‘mineral extraction comment. In the ‘mineral’ comment they implied a huge scale operation would catch their attention; regarding a very small raised portion of land is trivialised. Did they measure this rise? What I saw at the time did not look remotely as if the area was being raised, more like it was simply being levelled. I am happy to take their word for it that this is for a driving range, and not for the temporary clubhouse.]**. There was no evidence that an area was being created for the purposes of providing additional parking or that any foundations had been formed for the construction or erection of a building. **[a ‘temporary’ marquee is before planning; I am glad this work definitely has nothing to do with its location or foundation].**

“I acknowledge that the developer at the Menie Estate has, on a number of occasions, applied for planning permission which has been granted and subsequently the works that have been carried out are not in accordance with the approved plans. **[this is certainly true – but has the developer been cautioned against continuing to work in this manner? It seems as if 100% of such instances have been granted retrospective planning permission when they have come before the planning authorities, although the Munro bunds are still to be approved or rejected. It is hoped that the developer will be ordered to remove the bunds, which have been the cause of actual damage, as well as blocking light and views.]**

“In all these instances the Planning Service has sought to address this situation by the submission of retrospective applications. Such applications are, unfortunately, relatively common where it has been identified that works have been undertaken in breach of planning control. **[The applications must indeed be common in such circumstances, but this does not explain why the planning authorities a. do not behave more proactively and stop any deviations which they see on their ‘frequent’ visits and b. does not explain why such deviations seem to be approved for this developer with no exceptions I can find; surely this makes any form of planning consent and conditions all but redundant?]**

“Normal practice in such situations to remedy the breach is through the grant of planning permission with any appropriate conditions. **[What ‘appropriate conditions’ should apply to continual deviation from planning on this unprecedented development? I had thought the Shire had acknowledged that this development was not a ‘normal’ one, perhaps ‘normal practice’ is not the appropriate strategy?]** Many retrospective

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<sup>121</sup> <http://www.scotsman.com/the-scotsman/scotland/donald-trump-applies-to-build-second-golf-course-1-2784868>

applications are submitted following an investigation in relation to a complaint, or to reduce the likelihood of the Local Authority commencing enforcement action. **[Faced with several large-scale deviations, what should be done to prevent more deviations? Is the strategy to avoid Local Authority enforcement action? If so, why, and who sanctioned a laissez-faire attitude?]**

“In the case of this development I can assure you that it has been closely monitored. **[Perhaps not that closely monitored in practice, witnessed by the previous paragraphs detailing some of the deviations, as well as the fact that a huge heap of rubbish<sup>122</sup> has accumulated on site, which only now is SEPA looking into. This pile must be a few weeks old at least, and as such perhaps the relevant authorities should have taken action. SEPA learnt of the rubbish from a member of the public. The pile consists of a wide variety of materials, is several feet high and wide, and is near mounds of earth. Did the earth come from other waste being buried? There are no open holes visible.]** The Planning Service has followed up on all allegations of breaches of planning control including non-compliance with conditions or development which has been undertaken in breach of permission which has been granted. As previously indicated this may result in a retrospective application being submitted to regularise the works undertaken, or a subsequent application to allow the development to be undertaken without complying with a specific condition(s).

“You have highlighted a number of other possible contraventions of planning permission at the Menie Estate and I will comment on these in turn:-

“1. Construction of bunds by Munro Home (Leyton Cottage)

Bunds were detailed on the drawings for the access road / car park planning permission which was approved. The bunds that have been formed on site deviated from these and are the subject of a live retrospective planning application which is being considered by the Planning Service. **[These bunds have had a direct negative impact on those living near them; they must come down. The lack of interest displayed later in this email to trees being planted on top of bunds is worrying; surely trees if they did take root would be an argument for the developer to leave the bunds in place? Are the planning authorities really taking appropriate action? This is the first deviation]**

“2. Construction of bunds by Milne Home (Hermit’s Point)

This Service is aware that bunds were erected at this point. However these have now been removed.

“3. Planting trees on bunds at above locations

Planting of trees is not considered to be development. Therefore no planning permission is required. **[See comment in No. 1 above]**

“4. Planting of Sycamore trees on bunds near Milne home

As outlined above the planting of trees is not considered to be development. Therefore, no planning permission is required. As such the Planning Service cannot control the type of tree which is planted. **[See comment in No. 1 above. Perhaps the planning authorities should have liaised with the Environmental Clerk of Works/SNH – both of which are supposed to be monitoring the site: Sycamore is a slightly contentious choice; not long ago it was considered an invasive species, and was still thought of that way in 2010 by Highlands LBAP and the SNH<sup>123</sup>].**

“5. Planting trees (possibly 100+) by Milne home

As above planting of trees is not development therefore, no planning permission is required. As no planning permission is required, the Planning Service has no remit to consider whether or not any environmental change will take place or any effect on the

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<sup>122</sup> APPENDIX Image VI

<sup>123</sup> <http://www.highland.gov.uk/NR/rdonlyres/F5F0A389-E134-4C45-8C62-923F3059CA09/0/MappingINNSHighlandREPORTwithMAPS.pdf>

blockage of light. **[The Planning service is quite clear about what is in its remit or not, but interfacing with the other stakeholder agencies doesn't seem to be a priority. Surely if an issue was a potential concern to the SNH, SEPA, MEMAG, the Environmental CoW, etc., the information should be shared? As demonstrated earlier, information is not getting through to MEMAG when it should.]**

"6. Allowing construction vehicles to cause deterioration of Leyton Road, improper renovation/temporary resurfacing of same A complaint was previously investigated on this issue. Following enquiries it was established that the roads referred to were private estate roads over which there is a public access to properties. **[The Munro home's only access road before the parking lot and the Trump road was this shared road; surely maintaining an established, historic access route must be part of the conditions imposed on the developer?]** There had been increased construction traffic etc but also a combination of severe weather which had also taken its toll. **[I find the tone oddly defensive of the developer; a simple discussion with the local residents confirms the road had never been in such a state in decades as it had after the increase in construction vehicles using it frequently, and that the manner in which water was channelled from the side of the road with the new bund did not help the road surface, either. What research was carried out before this statement was made by planning?]**

"The developer confirmed that remedial works would be undertaken to the roads particularly where property owners require continual access to improve the condition of the roads. In essence this was a private civil matter. The conclusion of this matter was that the breach was resolved and the road damage reinstated and to a better level than previously. **[While the road is improved, having been covered gravel, I do not know if the road users agree that it has been resolved and 'reinstated.. to a better level than previously – how was this conclusion reached?]**

"7. Replacement of a traditional outbuilding near Leyton Road with a corrugated metal structure

This matter was also investigated and the works undertaken were considered to be repairs to an existing building with the subsequent use being covered by the overarching permission that was granted for the use of the land as a golf course. **[This looks far more like the replacement of a traditional steading building with a metal structure; it does not match the existing architecture. This is the second deviation]**

"8. Construction of parking lot

The car park was constructed other than in accordance with the original approval. However retrospective planning permission has been sought. **[On what grounds has retrospective permission been granted / is being considered? This is the third deviation, and of course quite a large one.]**

"9. Entrance sign – larger than originally agreed

Signage was erected other than in accordance with the Advertisement Consent approved. An application for retrospective Advertisement Consent was submitted and has been approved. **[This is the fourth deviation, and at the time of writing, the shire council has a leaflet explaining why unauthorised signs will be taken down<sup>124</sup> although this has not happened in this case.]**

10. Temporary clubhouse – was it approved in advance?

The temporary clubhouse was erected other than in accordance with the original approval. However retrospective planning permission has been sought and approved. **[This is the fifth deviation; if the average person were to erect a building on their property other than what they had been granted permission to do, would they too receive retrospective planning permission?]**

"11. Vegetation stripped away from area north of Leyton cottage

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<sup>124</sup> <https://www.aberdeenshire.gov.uk/roads/maintenance/GuidelinesonUnauthorisedSigns.pdf>

As part of planning permission environmental monitoring by a third party was undertaken throughout the construction of the golf course. The Ecological Clerk of Works has highlighted no issues. **[Reminder – the ECoW is paid for by the Trump organisation. did they consult with the other environmental bodies overseeing the project? There is a great deal of work going on now; has the third-party monitoring ceased? MEMAG have not made many visits for instance, and the large rubbish tip referred to above does not seem to have attracted interest before a member of the public reported it to SEPA – how proactive is the monitoring? Who is monitoring the monitors to ensure they are all following best practice and sharing information?]** Copies of these reports are available on line via the following link.  
[http://www.aberdeenshire.gov.uk/planning/apps/detail.asp?ref\\_no=APP/2006/4605](http://www.aberdeenshire.gov.uk/planning/apps/detail.asp?ref_no=APP/2006/4605)

“12. Use of culverts instead of bridges on course  
Again the environmental monitoring by the Ecological Clerk of Works has highlighted no issues in this regard. **[My understanding from residents is that bridges had been specified over appropriate parts of the course and not culverts. Culverts had been used, and one spectacularly collapsed (see front cover photo) after severe winter storms. Am I incorrect in thinking bridges had been specified? If I am right, then why didn't the ECoW believe that the use of culverts in place of bridges did not constitute a deviation – one that proved potentially dangerous as well as causing course damage? I believe the use of culverts not bridges to potentially constitute a deviation]**

“Finally I note that you have requested a meeting with the Planning Service. However I do not consider that this would be necessary given that the issues you have raised are in the majority of cases historic and the breaches of planning resolved through the submission and approval of applications or indeed the removal of unauthorised works. **[It is unfortunate but unsurprising the Planning Service does not want to meet with me or those living in the area, who are daily observing events as they take place, noting the ongoing series of deviations from approved plans, and seeing retrospective permission granted time and again. Since there seems to be some interaction with Trump/Trump operatives and the planning authorities, should there not also be an opportunity for those directly impacted by these deviations and the course to likewise interact with Planning personnel?]**

“I can assure you that Aberdeenshire Council and the Planning Service monitor this site and will continue to do so to ensure that works are carried out in accordance with the permissions granted and to take necessary action where breaches occur. The Service enforces planning and building regulations and access legislation in an equal and fair manner throughout the authority and all situations are dealt with in a consistent manner.”

Perhaps those in power in Aberdeenshire's planning offices would find my comments too naive; I am not a planning expert. On the other hand, the expertise of those such as Martin Ford, Debra Storr and so on who cited precedents and laws which should have protected the site were deemed less important than the 'opportunity' for economic prosperity which the golf course was meant to be.

The comments and observations made above then require some form of address. An independent investigation into how Aberdeenshire planning officials acted past and present is required. As things stand now, it seems to be a case of do what you want, the ECoW or other advisors may or may not examine what is going on, and get whatever retrospective permission you need later. Is this really a way to treat an SSSI or the law?

Were there system failures in public and private sectors? Across local planning, the Report to Scottish Ministers, political intervention, quangos, the police, private security, and environmental agencies in light of the details supplied above, the answer is assuredly yes. What should be done now?

## 4 RECOMMENDATIONS

David Milne's petition has gone to Holyrood and it is hoped an inquiry will be held. The petition was submitted on 11 March 2013 with 11,000+ signatures; Milne had initially hoped to receive 2,000. Another thousand people have since signed.

The purpose of this report was to identify issues for further investigation, hopefully via formalised and independent inquiries, with the public being made aware of any and all findings. Remedial actions should be taken following any such inquiries, those at fault need to be identified; any motives for subverting the law and/or policy should be examined and addressed. A table summarising the many issues and problems addressed by this report is prepared as a separate document.

## 5 CONCLUSIONS

In light of the anecdotes and evidence of this paper, a re-think of how large scale projects with environmental and social impacts are approved, carried out and monitored is required. There is a lack of consistency in how laws are respected and applied to the natural environment and to people. The role of quangos should be tightly defined. No government operatives/administrators should be making crucial decisions in isolation or without clear, defined and transparent checks and balances. Government officials should, rather obviously, not compromise their objectivity particularly when it comes to controversial international developments. Any would-be property developer should be investigated as to their previous dealings, financial health, associated bankruptcies, environmental performance, and so on. Parent company guarantees should be required for large-scale developments. A developer should fund environmental checks on their projects, but any such environmental operative must be free from any involvement with the developer, and be answerable to local and national government, and the public. The public have a right to expect to have their human rights and their environment respected and protected by law. The media should declare any personal, financial interests which may impact on their editorial policies; the media is of course free to follow any editorial direction it wishes, but the public should be made aware of financial, important relations between an editor and a story. Private security firms need to be regulated, inspected, and fined for breaches of law, privacy and human rights; self-regulation does not seem to go far enough. The public should have a right to free, complete and accurate replies to Freedom of Information requests. Elected officials should declare any family interests in matters before them.

Journalists have to know they can operate without arrest. People must not be intimidated in their own neighbourhoods. And while we still have some wildlife and open areas, we need to consider the serious prospects of urban sprawl, species decline, pollution, and the fact human health and well-being is intertwined with the natural environment.

And other than that, despite all of the unacceptable situations and aspects to what is happening on the Menie Estate, it is remarkable that some of the people who have suffered indignity, arrest, loss of access to the sea and the land have still remained an inspiration to the rest of us.

[TO BE ADDED: SECTION ON PLANNING, CONCLUSIONS AND RECOMMENDED ACTIONS,  
AND APPENDIX]