



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR129
  - Site address: Acarsaid, North Shore, Findhorn
  - Application for review by Mr Ronald McIntyre against the decision of an Appointed Officer of The Moray Council.
  - Planning Application 15/00693/APP to site static holiday caravan
  - Unaccompanied site inspection carried out by the MLRB on 22 September 2015
  - Date of decision notice: 9 October 2015
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#### **Decision**

The MLRB agreed to uphold the request for review and grant planning permission, subject to the conditions appended to this decision notice. Attention is also drawn to the informative notes which follow the conditions.

#### **1. Preliminary**

- 1.1 This Notice constitutes the formal decision of the MLRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 24 September 2015.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), J. Allan, G. Cowie, K. Reid and R. Shepherd.

#### **2. Proposal**

- 2.1 This is an application for planning permission to site static holiday caravan at Acarsaid, North Shore, Findhorn.

#### **3. MLRB Consideration of Request for Review**

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review, Grounds for Review and supporting documents.

- 3.2 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.3 With regard to the unaccompanied site inspection carried out on 22 September 2015, Ms E. Webster, Planning Adviser advised that Members of the MLRB were shown the site where the proposed development would take place.
- 3.4 Ms Webster advised the MLRB that the application had been assessed against the Moray Local Plan 2008 and Moray Structure Plan 2007. She further advised that, under the Moray Local Development Plan 2015, the overriding policies remained the same despite slight changes to the wording.
- 3.5 Ms Webster noted that the application had been refused on the grounds that the proposal is contrary to the approved Moray Structure Plan 2007 Policy 2 and the adopted Moray Local Plan 2008 Policies ED9 and IMP1 where, due to the proximity of the caravan and the absence of screening, the development would undermine the amenity of the adjoining house by introducing a form of development that is not in keeping with the principally residential character of the area and the development would undermine the amenity of the surrounding area with no locational requirement for this specific site has been provided.
- 3.6 Referring to the Applicant's Ground for Review, Ms Webster advised that the Applicant had stated there were no objections from any Findhorn residents or Kinloss and Findhorn Community Council. The Applicant had advised that access from the site onto the caravan park access road had been agreed with its owner.
- 3.7 The Applicant stated that the caravan was for private use and there would be very little, if any, loss of amenity to the existing house as a double garage intervenes and there is only a small loft window at the gable end. They noted that screen will be put in place to ensure the privacy of both the house and static caravan.
- 3.8 Referring to the surrounding area, the Applicant stated that the proposal was in keeping as a static caravan is situated next to the site on the one proposed, approval was given for 5 new static caravans across the road from it in the caravan park and chalets are situated between the proposed site and the shore. Noting that land on which Acarsaid is built had planning permission for two houses, the Applicant advised that the section of land between the house and 'Sandspoint' has been purchased by the Applicant so there is adequate room for a static caravan, which will have little or no impact on the amenity of the existing house.
- 3.9 Prior to consideration of the case, the Chair sought clarification as to whether the Applicant would require to apply for a site licence should the MLRB agree to uphold the review. In response, Ms Webster confirmed that a site licence would be required for a single caravan should development proceed.
- 3.10 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he believed that the proposal complied with Policies ED9 and IMP1 of the Moray Local Plan 2008 on the grounds that the caravan would be reasonable screened; would be bordered

by caravans to the south and east and by holiday chalets to the north; and would have no detrimental impact. Accordingly, he moved that the review be upheld and planning permission be granted, subject to standard conditions and the successful obtainment of a site licence.

- 3.11 Councillor Coull agreed to second the Chair's motion subject to the inclusion of a further condition to limit how long the caravan can be occupied at any one time to ensure there is no permanent residential occupancy. The Chair agreed to amend his motion accordingly and this was duly seconded by Councillor Coull.
- 3.12 There being no one otherwise minded, the MLRB agreed to uphold the review and grant planning permission, subject to standard conditions and the following additional conditions:-
- (i) successfully obtainment of a site licence; and
  - (ii) a time limit on how long the caravan can be occupied at any one time to ensure no permanent residential occupancy.

**Paul Nevin**  
**Senior Solicitor (Property and Contracts)**  
**Legal Adviser to the MLRB**

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### **Notification to be sent to Applicant on determination by the Planning Authority of an application following a review conducted under Section 43A(8)**

#### **Notice Under Regulation 22 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013**

1. If the Applicant is aggrieved by the decision of the Planning Authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the Applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

## IMPORTANT NOTE

### YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

#### SCHEDULE OF CONDITIONS

By this Notice, The Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

#### CONDITION(S)

Permission is granted subject to the following conditions: -

1. The caravan hereby approved shall be used for holiday purposes only and shall not be used as the sole or main place of residence of any occupant; a holiday being defined as a stay of one or more nights by a person or persons away from that person or persons sole or main place of residence.

Reason: In order to ensure that the caravan is used for holiday purposes only.

2. The caravan hereby approved shall not be occupied by the same person or persons for more than 3 months in any calendar year and such period shall not run consecutively to such a period in any successive or preceding year. A register shall be maintained giving details of all occupants of the caravan including the name, address and telephone number of the sole, or main place of residence of any person or persons occupying the caravan, together with expected and actual dates of both arrival and departure of the said person or persons and this register shall be made available for inspection at the request of the Planning Authority.

Reason: In order to ensure that the caravan is used for holiday purposes only.

3. Presentation of evidence that a site licence has been obtained.

Reason: For the avoidance of doubt.

#### ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

The following notes are provided for your information, including comments received from consultee:-

None.

## **IMPORTANT NOTES ABOUT THIS DECISION**

### **DURATION OF THIS PERMISSION**

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

### **COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT**

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

**NOTIFICATION OF INITIATION OF DEVELOPMENT** - S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

**NOTIFICATION OF COMPLETION OF DEVELOPMENT** - S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

**NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT** – Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

**THE MORAY COUNCIL**

**NOTIFICATION OF INITIATION OF DEVELOPMENT**

**Section 27A Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No:**

**Date issued:**

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: ..... Date: .....

**THE FOLLOWING INFORMATION MUST BE PROVIDED:**

1. Name and address of person carrying out the development:

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2. The full name and address of the landowner, if a different person:

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3. Where a site agent is appointed, their full name and contact details:

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4. The date of issue and reference number of the grant of planning permission:

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Please return this form, duly completed to: -      The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office  
High Street  
Elgin IV30 1BX

Or email to: -      [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

**IMPORTANT**

**It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**

**THE MORAY COUNCIL**

**NOTIFICATION OF COMPLETION OF DEVELOPMENT**

**Section 27B Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No:**

**Date issued:**

I hereby give notice that works as detailed under the above planning application will be completed on: .....

Signed: ..... Date: .....

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office  
High Street  
Elgin IV30 1BX

Or email to: - [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

**IMPORTANT**

**It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**