

Grounds of Appeal

Proposed extension to relocate 12 touring caravan pitches on site adjacent to West Beach Caravan Park, Harbour Street, Hopeman, Elgin, Moray

March 2016

Planning Application Ref No 15/02159/APP

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Appendices – separate document:

Appendix 1: Decision Notice 15/02159/APP

Appendix 2: Planning Statement 15/02159/APP

Appendix 3: Circular 4/2009 – Development Management Procedure (Annex A)

Appendix 4: National Planning Framework 3- Extracts

Appendix 5: Scottish Planning Policy (SPP)- Extracts

Appendix 6: Moray Economic Strategy- Extracts

Appendix 7: Moray Local Development Plan 2015- Extracts

- PP1 Sustainable economic Growth
- ED8 Tourism Facilities and Accommodation
- Hopeman Settlement Statement
- E5 Open Spaces
- E7 Areas of Great Landscape Value
- E8 Coastal Protection Zones
- E9 Settlement Boundaries
- IMP1 Developer Requirements
- T2 Provision of Road Access
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- EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)
- Policy EP9 Contaminated Land
- Policy EP10 Foul Drainage

Appendix 8: SNH Moray and Nairn Landscape Character Assessment- Extract

Appendix 9: Report of Handling 15/02159/APP

Introduction

These grounds for review of a decision to refuse planning permission for a proposed extension to West Beach Caravan Park, Hopeman are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 28th of January 2016.

The grounds for review respond to the reasons for the refusal of planning permission and address the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Background

The application was dated the 7th of December 2015 and was refused under the Councils Delegation scheme by the case officer on the 28th of January 2016. The reason for refusal (Appendix 1) states that;

The proposal would be contrary to the Moray Local Development Plan 2015 policies E5: Open Spaces (based on the ENV8 Foreshore designation in the Hopeman Settlement Statement); ED8: Tourism Facilities and Accommodation; E8: Coastal Protection Zone; E7: AGLV and impacts on wider landscape; E9: Settlement Boundaries and IMP1: Developer Requirements;

- (i) *The proposed development would be a substantial visual intrusion into an area of attractive coastal scenery that has significant recreational benefits for tourists and the general population;*
- (ii) *The proposal represents unplanned sprawl to the Hopeman settlement and would erode the traditional qualities of the village.*

The Proposal

The application site forms a natural westward extension to the existing holiday park to accommodate 12 pitches for touring caravans.

This application was supported by a detailed planning statement (Appendix 2) which should be read in conjunction with these grounds of appeal and the submitted plans.

The Site

The subject site adjoins the existing holiday park to the east, and it is to be served by an access which extends from the existing internal road network. The site itself is relatively flat but the surrounding topography is gently rolling and undulating which restricts views of the site from the south.

There are no environmental designations (National or International) covering the site; there does not appear to be any archaeological/ historic interest in it. The proposal has been amended slightly in accordance with the advice of SEPA and the Moray Council's own Flood Engineers.

Development Plan Policy

The Development Plan for Moray comprises the Moray Local Development Plan 2015 and its associated Supplementary Guidance. The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

Scottish Government Circular 4/2009 (Appendix 3) describes how planning applications should be determined when balancing the Development Plan and material considerations. It sets out the following approach;

- Identify the provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well detailed wording of policies;
- Consider whether or not the proposal accords with the Development Plan,
- Identify and consider relevant material considerations for and against the proposal, and
- Assess whether these considerations warrant a departure from the Development Plan.

The provisions of the circular are important in the context of this application because the appellants consider the proposal to be in full accordance with the Development Plan and that there are no material considerations that would warrant the refusal of this application.

National Planning Policy and Guidance

The National Planning Framework (NPF3) (Appendix 4) supports the many and varied opportunities for planning to support business and employment. These range from a focus on the role of cities as key drivers of our economy, to the continuing need for diversification of our rural economy to strengthen communities and retain young people in remote areas. It advises that the planning system should address the development requirements of businesses and enable key opportunities for investment to be realised. It can support sustainable economic growth by providing a positive policy context for development that delivers economic benefits.

Scottish Planning Policy (SPP) (Appendix 5) sets out the Scottish Governments overarching policy on land use planning. SPP advises that Planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long term benefits for the public, while protecting and enhancing natural and cultural resources.

In particular SPP emphasises the importance of tourism as a key sector in Scotland with particular opportunities for growth. Paragraph 79 recognises the importance of tourism, in particular static holiday units and pitches, and supports new tourist development where it promotes the diversification and growth of the economy while protecting the distinctiveness of these areas.

Paragraphs 77 and 78 of SPP emphasise the importance of encouraging development that provides sustainable economic growth, while preserving important environmental assets such as landscape and wildlife habitats that underpin continuing tourism visits and quality of place (paragraph 108).

SPP goes on to state that development plans should align with local economic strategies as this will help meet the needs and opportunities of indigenous firms and inward investors (paragraph 94).

The Moray Economic Strategy (Appendix 6)

The Moray Economic Strategy articulates the ambitions of Moray's community planning partners to achieve a strong, diverse, and sustainable economy and high quality of life and well-being for residents. The strategy action plan identifies a range of projects with opportunities for investment in life sciences, technology, engineering, renewable energy, broadband and tourism.

The strategy identifies the visibility and value of Moray's tourism offer as a particular challenge to its economy. It recognises the appeal of the area to tourists specifically the whisky sector and the areas landscapes, but states that the sector underperforms because visitor infrastructure, accommodation and other facilities are inadequate and need to be developed to raise Moray's visitor profile and develop the tourism sector into a high profile, high value sector.

Moray Local Development Plan 2015

The development strategy for Moray mirrors the Scottish Government's overarching aims, and Primary Policy 1 (PP1) (Appendix 7, page 24) Sustainable Economic Growth also ties back into the Moray Economic Strategy, prescribing a general presumption in favour of proposals which contribute towards the delivery of sustainable economic growth. The important role tourism plays in achieving these aims is reiterated in this policy.

Policy ED8 (Appendix 7, page 25) relates specifically to Tourism Facilities and Accommodation stating the Council will generally support proposals which contribute towards Moray's role as a tourist area. All proposals will require to;

- be compatible with policies to protect and enhance the built and natural environment;
- provide adequate infrastructure arrangements (e.g. roads, parking water, drainage), and;
- demonstrate a locational need for a specific site.

This policy recognises the importance of tourism within the local economy but seeks to ensure that tourism development does not have a detrimental impact on the environment, which is the main attraction of the area as a tourist destination.

The application site straddles the settlement boundary (Policy E9, Appendix 7, page 32) and falls to be assessed against several different policies. The portion of the site inside the Hopeman settlement boundary is designated ENV8 Foreshore Areas (Appendix 7, page 26) i.e. an area of open space which contributes to the environment and amenity of the settlement. Parent policy E5 (Appendix 7, page 29) aims to protect open spaces as identified, stating that development that would cause the loss of areas identified under the ENV designation in settlement statements should be sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site.

The remainder of the site, which lies outside the settlement boundary, is in an Area of Great Landscape Value (Policy E7 (AGLV), Appendix 7, page 31) and is also identified in the Coastal Protection Zone (CPZ).

Policy E7 states that development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- they incorporate the highest standards of siting and design for rural areas;

- they will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study;
- they are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

Following on from that, policy E8 (Appendix 7, page 32) of the Moray Local Development Plan states that Development proposals identified as being within the CPZ will be refused except:

- where there is an existing use;
- it is an appropriate extension or change of use to existing buildings, or replacement of existing buildings;
- for low intensity recreational or tourist use;
- For uses directly related to agriculture, forestry and fishing.

The objective of the policy is to protect and enhance the Moray coast for its landscape, nature conservation, recreational and tourism benefits. As a result, proposals that are appropriate within the policy must not prejudice the objectives of the CPZ or adversely affect the ecological, geomorphological or landscape importance of the area.

The requirements set out in the relevant policies are supplemented by the general criteria based Policy IMP1 – Development Requirements (Appendix 7, page 33). This policy has a range of requirements applicable to all new development including that;

- scale, density and character must be appropriate to the surrounding area,
- development must be integrated into the surrounding landscape.

In addition, there are a range of other Local Plan policies relating to infrastructure, servicing, and tree requirements as follows;

- Policy T2 – Provision of Road Access (Appendix 7, page 34)
- Policy T5 – Parking Standards (Appendix 7, page 36)
- Policy EP5 – Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) (Appendix 7, page 37)
- Policy EP9 – Contaminated Land (Appendix 7, page 38)
- Policy EP10 – Foul Drainage (Appendix 7, page 39)

In general terms these policies seek to ensure that new development is provided with a suitable and safe access, adequate car parking and adequate surface/ foul drainage.

Main Issues

Having set out the policy background it is now necessary to consider the main issues that arise from the proposal in relation to this policy context. The main issues are considered to be;

- Demonstrate a locational need;
- Compatibility with policies to protect and enhance the built and natural environment;
- Layout and design;
- Infrastructure and servicing.

The matters identified above are also addressed in the original planning statement; however it necessary to restate much of this information in this document for review. The appellants recognise the importance of the environmental policies identified, but strongly disagree with the Officer's interpretation of them and the conclusions reached.

There is a clear commitment in National and Local Planning Policy and the Moray Economic Strategy to the principle of sensitive developments that contribute positively to the role and image of the area as a tourist destination. As such, there is clearly strong support for a proposal which seeks to strengthen an existing tourism business.

This presumption in favour of tourism development is transposed into a local context through policy ED8 Tourism Facilities and Accommodation. This policy recognises that much of Moray's attraction is its environment, with heritage, scenery and outdoor activities being key features and states the Council's wish to maximise economic and employment opportunities associated with the tourism sector sensitively, and so prescribes criteria to ensure that these special qualities are not damaged by inappropriate or unsympathetic development. Crucially, none of these policies preclude development completely.

Demonstrate a locational need

Firstly, the policy advises that locational need must be demonstrated. This is an established tourist destination and the application is a response to the inadequacies of the existing facility. The simple fact is there is no other area the holiday park can be extended into to provide the required space.

The appellants turned away an average of 12 touring caravans per night last summer. There is simply not enough space to accommodate any more caravans within the existing site so a proposal was conceived to extend the facility. Although the extension will not fully satisfy demand, it will provide 12 more pitches and dramatically improve the product available to visitors throughout the site. The appellants decided against increasing their existing licence with a larger extension.

The subject site adjoins the existing holiday park so the required services (roads, drainage, waste collection etc) are readily available and its position away from Hopeman ensures that there will be no detrimental impact upon neighbouring amenity.

Compatibility with policies to protect and enhance the built and natural environment

The second of the criteria is prescribed to ensure the proposed development is compatible with policies to protect and enhance the built and natural environment. It is important to note at this stage that there are no environmental designations (National or International) covering the site and there does not appear to be any historic/ archaeological interest in its vicinity.

Despite the absence of any designations, the appellants are acutely aware of their responsibility as custodians of the land. Their business depends on these assets. The proposed extension to the caravan park takes the smallest area of land possible to ensure that any detrimental impact on these interests are minimised and the work will be carried out sensitively with input from an ecologist/ archaeologist if required.

The proposed implementation of a land management scheme will help integrate the site into its surroundings and aims to result in a net increase in ecological value and biodiversity over time. In this case, the Review Body has the benefit of assessing a business with an already well established reputation as an environmentally accountable tourism enterprise and the review body can impose conditions on this aspect of the development to give them further confidence the work has been carried out to a high standard and that it is maintained appropriately into the future. It is understandable that the appellants do not wish to engage the services of an Arboroculturalist until they are certain the principle of development has been accepted by the Local Authority.

It is worth noting at this stage that none of the policies listed by the case officer preclude all development within their extent; rather the wording of these policies encourage sensitive, environmentally accountable developments which bring significant benefits to the economy and local community. The appellants do not dispute the sensitivity of the subject site, but would contend that the comprehensive design process and resultant development has considered any potential detrimental impact on these assets and all necessary steps have been taken to ensure this development can be supported in relation to these policies.

Layout and design

The subject site's position in a Coastal Protection Zone (CPZ) and an Area of Great Landscape Value means it falls to be assessed against several policies (ENV8, E5, E7, E8) which seek specifically to protect and enhance the Moray coast for its landscape, nature conservation, recreational and tourism benefits.

SNH's Moray and Nairn Landscape Character Assessment characterises the area of which the subject site forms part as 'Hard Coastal Shore' (Appendix 8). This landscape consists of an irregular coastal edge of relatively remote, small covers and pebble strewn raised beaches backed by Old Red Sandstone cliffs. These cliffs form an abrupt margin to the Coastal Farmland to the south, and focus views out over the Firth, partially screening the rocky foreshore. This landscape character type is sensitive to new built form which detracts from the open character of views to the coast from adjacent areas.

The appellants recognise the importance of the landscape as a major asset to the area so the site layout has been developed to minimise any landscape impact and no built form is proposed in the site area. As such, and in the absence of any large areas of hardstanding as stated by the case officer (Appendix 9, page 48) it is not considered that the development detracts from the open character of views and consequently it is concluded that the landscape has the capacity to absorb this development.

The appellants realise how important an attractive landscape setting is to their business and are seeking to maximise the tourism benefits associated with their position on the coast, not detract from it. It should be noted in this context that policy E8 prescribes an exception for low intensity tourist uses.

The case officer describes in great detail the plethora of views the subject site would be visible from and the detrimental impact this would have in terms of recreational value (Appendix 9, page 48). In reality, the site is not clearly visible from the core path and if it were the appellants would contend strongly that the perceptual effect of this small extension to an established holiday park would read favourably to those using the coastal path, and should certainly not be used as a reason to refuse this planning application.

Furthermore, the topography surrounding the caravan site will ensure that views of the caravans from the south during the season are restricted; this is coupled with the aforementioned land management scheme which will further ensure the development integrates sensitively into its surroundings.

From a purely recreational point of view, this is an unusable area of impenetrable whin and it is worth noting that the Access Officer makes no reference to a loss of recreational value in his response. However, the content of the response from the Access Officer is noted and the appellants have confirmed that access will be maintained through the site during and after construction in accordance with the Land Reform (Scotland) Act 2003 and the Countryside (Scotland) Act 1967 to ensure that genuine recreational interests are protected.

Infrastructure and servicing

Development plan requirements for infrastructure and servicing relevant to this proposal relate to access, parking and drainage.

Policies T2 and T5 require a suitable and safe access to be provided from the public road along with car parking in accordance with the Councils parking standards. The subject site would be served by the existing internal road network and the case officer's report of handling (Appendix 9) confirms that the Councils Transportation Manager has no objections to the proposal.

Policy EP10 ensures that adequate foul drainage arrangements are available- these additional pitches will connect to the facilities existing public connection. It has been indicated that there is capacity in wastewater provision to accommodate the proposed development. The water supply will be from the public mains.

The use of Sustainable Urban Drainage Systems (SUDS) is promoted by Policy EP5 (Surface Water Drainage: Sustainable Urban Drainage Systems). SUDS will be provided and the detail can be controlled through planning conditions.

Reason for Refusal

The first reason for refusal starts off by saying that the proposal would be a substantial visual intrusion into an area of attractive coastal scenery that has significant recreational benefits for tourists and the general population.

Although this matter is addressed in some detail in both the original planning statement and under the heading of layout and design in the previous section, the appellants do take issue with the reference to a 'substantial visual intrusion'. This development has been carefully planned to ensure visual impact is minimised, and in the absence of any built form it is difficult to understand why the case officer has concluded such.

It is accepted that there will be vehicles parked on the site during the tourist season, but there are many instances all over Scotland where touring caravans park in idyllic coastal locations. As a result, the relationship between touring caravans and the coast is an established one. Any imposition of 'intrusion' is unfounded on this basis.

As stated previously, recreational interests will be protected in perpetuity for tourists and the general population alike. As such, the proposal does not contravene policy in the way presented.

The second reason for refusal states that the proposed development represents unplanned sprawl to the Hopeman settlement boundary such that would erode the traditional qualities of the village.

Policy E9 Settlement Boundaries (Appendix 7, page 31) is the lead policy on such matters and is quoted in the reasons for refusal. The policy precludes development immediately outwith settlement boundaries to prevent settlements expanding in a manner that leads to ribbon development or that blurs the distinction between built up areas and the countryside.

However, the appellants contend that this policy does not apply to the proposal. The application under review is not a proposal to expand the settlement as controlled through Policy E9 nor will the creation of 12 touring caravan pitches lead to further development opportunities. Even if these were to be created, it would not be reasonable to determine the proposal on this basis because the planning authority would have the opportunity to assess any further applications, should they ever present themselves.

There are no permanent structures proposed beyond the settlement boundary and the topography between the public road to the south and the nature of the proposal will ensure that both the visual and perceptual effect of the development on the integrity of the settlement boundary and on the character of Hopeman is insignificant.

Furthermore, the omission of an area into which this established and thriving local business can extend into could be seen simply as a failing of the Local Development Plan review process. However, this is an entirely separate process to the development management function and does not preclude a positive decision on this application at review.

Conclusion

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are material considerations sufficient to justify doing otherwise.

There is overwhelming support for this proposal in National and Local Planning Policy and these grounds of appeal have clearly demonstrated adherence to lead Local Development Plan policy ED8 Tourism Facilities and Accommodation.

It is important to note that none of the Local Development Plan policies cited by the case officer preclude development on their own, or cumulatively, rather prescribing criteria to ensure that any change is managed sensitively. In this context, it has been shown that the proposal is acceptable in relation to relevant policies regarding layout and design, compatibility with the built and natural environment, the coastal protection zone, landscape, open space and infrastructure requirements.

As the proposal can be accepted under Development Plan policies and because there are no material considerations to the contrary sufficient to warrant refusal of the application, it is respectfully requested that the application be approved.