



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

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Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR150
  - Site address: Site Adjacent to West Beach Caravan Park, Harbour Street, Hopeman
  - Application for review by Mr & Mrs B. Scott, c/o Mr Stuart Morrison, Grant & Geoghegan against the decision of an Appointed Officer of The Moray Council
  - Planning Application 15/02159/APP for proposed extension to relocate 12 touring caravan pitches
  - Unaccompanied site inspection carried out by the MLRB on 22 April 2016
  - Date of decision notice: 17 May 2016
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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 2013.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 28 April 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull (Deputy Chair), G. Cowie, M. McConachie, K. Reid and R. Shepherd.

#### 2. Proposal

- 2.1 This is an application for planning permission for a proposed extension to relocate 12 touring caravan pitches on Site Adjacent to West Beach Caravan Park, Harbour Street, Hopeman.

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

- 3.1 A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse an application for proposed extension to relocate 12 touring caravan pitches on site adjacent to West Beach Caravan Park, Harbour Street, Hopeman.
- 3.2 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with documents considered or prepared by the Appointed Officer in respect of the planning application and the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.
- 3.3 As a preliminary matter, Mr Henderson, Planning Officer (Planning & Development) advised that he had been consulted by, and gave advice to, the Appointed Officer during consideration of the planning application and, in the interests of natural justice, declared an interest and left the meeting, taking no part in the discussion of this item.
- 3.4 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.5 With regard to the unaccompanied site inspection carried out on Friday 22 April 2016, Mrs Gordon, Planning Adviser, advised that Members were shown the site where the proposed development would take place.
- 3.6 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies E5: Open Space, ED8: Tourism Facilities and Accommodation, E8: Coastal Protection Zone, E7: Areas of Great Landscape Value, E9: Settlement Boundaries, IMP1: Developer Requirements of the Moray Local Development Plan (MLDP) 2015.
- 3.7 Stating that 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, the Planning Adviser advised that the proposal represents an unplanned sprawl to the Hopeman settlement and would erode the traditional qualities of the village.
- 3.8 Referring to the Applicant's Grounds for Review, the Planning Adviser advised that the Applicant had stated that the proposal is not purely to increase the number of caravans on site but that the proposed layout has been designed to improve the density and layout of the existing park, to improve the quality of pitches and to enhance the visitor experience offered.
- 3.9 The Applicant stated that Scottish Planning Policy emphasises the importance of development that provides sustainable economic growth the importance of tourism and static holiday units and pitches is recognised.
- 3.10 Noting that Primary Policy 1 (PP1): Sustainable Economic Growth is supportive of development that helps diversify the economy of Moray, the Applicant stated their opinion that there is a presumption in favour of development that contributes towards Moray's role and image as a tourist area.

- 3.11 The Applicant stated that an extension to an established, low density, tourism enterprise would clearly contribute positively to the role and image of Moray as a tourist area. Noting that the proposed development is clearly ancillary to the principal use of the ENV designation, the Applicant advised that the economic benefits of the proposal outweigh the retention of a small area of land when the overall quantity and quality of open space around Hopeman is considered.
- 3.12 Stating that there was clearly a locational need for the development of an existing, well established, tourism business, the Applicant advised that the extension to the park is an opportunity to sensitively improve their product and consolidate their position as a premiere holiday park in Moray, thereby making a meaningful contribution to improving the overall role and image of the area as a tourist destination. The Applicant noted that West Beach Caravan Park turned away an average of 12 tourers per night during the previous summer and by extending the site and improving pitches at West Beach will strengthen the business.
- 3.13 The Applicant advised that the site layout has been developed to minimise impact and has avoided the introduction of built form. They noted that pitches have been located to minimise visibility from public vantage points and to take account of views to the north.
- 3.14 The Chair, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated his belief that the proposal complies with Policy E5 as the proposal is ancillary to the caravan park and moved that the Review is upheld and planning permission granted, subject to conditions to be agreed.
- 3.15 Councillor Shepherd stated that he was of the same opinion as the Chair and seconded his motion.
- 3.16 The Legal Adviser reminded the Committee that, when making a motion to uphold a review, Members should ensure that they adequately address the policies in which the proposal was contrary to when refused by the Appointed Officer. He advised that Members should state the grounds to which they believe the proposal complies with policy or, in some case such as Policy E9, the material considerations for being an acceptable departure from policy.
- 3.17 In response, the Chair stated that – in addition to complying with Policy E5 – the proposal was an acceptable departure from Policies E8 and E9 on the grounds that it is adjacent to, and a natural extension of, the caravan park. He moved that a condition be included that that the footpath from the caravan park along the shoreline be maintained. This was agreed by Councillor Shepherd as seconder.
- 3.18 The Chair, in response to queries regarding occupancy length, moved that a condition be included regarding holiday use, as per planning consent covering the existing caravan site.
- 3.19 There being no one otherwise minded, the MLRB agreed to uphold the review and grant planning permission in respect of Planning Application 15/02159/APP, subject to standard conditions, a holiday use condition as per

planning consent covering the existing caravan site, and that the footpath from the caravan park along the shoreline be maintained.

**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. No built development shall take place below 5mAOD to ensure that the development is adequately protected against flood risk. If development is proposed to take place below 5mAOD a topographic survey of the site shall be submitted for agreement in writing by the Planning Authority in consultation with SEPA.

Reason: In order to protect against flooding

2. The caravans 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 away from that person or person's sole or main place of residence.

Reason: In order to ensure that the caravans are used for holiday purposes only.

3. The permission hereby granted allows the use of the caravans for holiday purposes only (as defined elsewhere in this permission) during the period of 1st January to 30 November in any year and outwith this period there shall be no occupation of the caravans for any purposes.

Reason: In order to ensure that the caravans are used for holiday purposes only.

4. The footpath from the caravan park along the shoreline shall be maintained along its existing line, and prior to any development commencing, a plan shall be agreed in writing with the Planning Authority of the footpath route.

Reason: In the interests of maintaining public access.

#### 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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

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.**