

**Erection of 3 (no) eco-style holiday chalets on land to the south east of Covesea Village, Moray**

August 2016

**Grounds of Review of Refusal of Planning Permission**

Planning application reference 16/00513/APP



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## Summary

Planning permission is sought for the erection of 3 sensitively sited two bedroomed eco style holiday chalets on low quality agricultural land near Covesea. The project is a small scale, visually discreet development and constitutes diversification of an existing, well established farming operation.

The supporting planning statement and these grounds of appeal demonstrate the applicant's vision to provide a unique, low impact, low density and environmentally friendly holiday experience in this beautiful coastal location.

There is a strong presumption in favour of proposals which contribute towards the delivery of sustainable economic growth in National Planning Policy and the Moray Economic Strategy. In terms of the Moray Local Development Plan, policies ED7 Rural Business Proposals and ED8 Tourism Facilities and Accommodation support economic development, in particular proposals which contribute towards Moray's role as a tourist area, subject to criteria relating to locational justification, environmental considerations, landscape and visual impact, sensitive siting and design and provision of adequate infrastructure arrangements.

The appellant's case demonstrates locational justification for the proposed development, both in terms of the viability of new holiday chalet business in this location and showing that the loss of this site from the overall farming enterprise would not be detrimental to the existing business. It has also been shown that the proposal is compatible with natural and built heritage resources and that there is capacity in local infrastructure to accommodate the proposals.

There is an exception in policy E8 Coastal Protection Zone for low intensity tourist use and for uses directly related to agriculture. Where the subject site is redundant for its use as agricultural land, then the appellant would contend that diversification in the manner proposed will allow this area of land to make a meaningful contribution to the overall agricultural operation. In addition, E8 does not preclude built form in the CPZ as implied by the appointed officer.

The objective of this policy is to protect and enhance the Moray coast for its landscape, nature conservation, recreational and tourism benefits. The proposal has been designed to protect the objectives of the CPZ and the ecological, geomorphological and landscape importance of the area. Furthermore, the proposed development will enhance the area in terms of providing high quality tourist accommodation in an easily accessible position that will enhance recreational interests.

The issue of prominence has been over stated by the appointed officer; the surrounding landscape is undulating and consequently there are very limited views of the site from the south. The modest structures have been designed to settle easily into the area from the outset and the implementation of a long term landscaping scheme and enhanced boundary treatments will result in a development which is positive in all respects and a credit to the area.

It is important to note that none of the Local Development Plan policies cited by the case officer preclude the proposed development on their own, or cumulatively, rather prescribing criteria to ensure that any change is managed sensitively. In this context, the appellants approach will inevitably help to improve Moray's role and image as a tourist destination. We respectfully ask that the appeal be upheld.

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### **Appendices:**

Appendix 1: Decision Notice 16/00513/APP

Appendix 2: Circular 4/2009 – Development Management Procedure (Annex A)

Appendix 3: National Planning Framework 3- Extracts

Appendix 4: Scottish Planning Policy (SPP) - Extracts

Appendix 5: Moray Economic Strategy- Extracts

Appendix 6: Moray Local Development Plan 2015- Extracts

- PP1 Sustainable Economic Growth
- ED7 Rural Business Proposals
- ED8 Tourism Facilities and Accommodation
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- E8 Coastal Protection Zones
- IMP1 Developer Requirements
- T2 Provision of Road Access
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- EP5 Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)
- Policy EP10 Foul Drainage

Appendix 7: Supporting Planning Statement and Business Plan

Appendix 8: Report of Handling 16/00513/APP

Appendix 9: SNH Moray and Nairn Landscape Character Assessment- Extract

## Introduction

These grounds for review of a decision to refuse planning permission for the erection of 3 (no) holiday chalets on land to the north of Covesea Village 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 10<sup>th</sup> of June 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 22<sup>nd</sup> of April 2016 and was refused under the Councils Delegation scheme by the case officer on the 10<sup>th</sup> of June 2016. The reason for refusal (Appendix 1) states that;

*The proposal would constitute an unacceptable form of development which fails to comply with the Moray Local Development Plan (2015) Policies ED7, ED8, E8 and IMP1 and is refused for the following reasons:*

*1) The proposal would occupy a conspicuous and prominent, skyline location which lacks existing mature boundaries to provide a suitable degree of enclosure. It would therefore fail to integrate sensitively into the surrounding landscape as required by IMP1.*

*2) In terms of Policy ED7 Rural Business Proposals and ED8 Tourism Facilities and Accommodation the proposed site by virtue of its prominence and lack of enclosure would fail to take account of the environmental considerations and appropriate siting required by these policies.*

*3) The proposal does not protect or enhance the undeveloped coastline by virtue of its built form and prominence within the coastal landscape (thereby compromising the objective of the Coastal Protection Zone in policy E8).*

## The Proposal

The proposed holiday chalet site is a small scale, visually discreet low impact development in a coastal location. It constitutes diversification of an existing, well established farming operation.

The facility is aimed at a niche market with the aim of bringing a new type of visitor to the already popular Covesea area. The proposed development would provide access to educational and play experiences based on low impact, sustainable living. The principal facilities would be three chalets with their own flushing toilets, showers and kitchens. The hut units would be built with recycled, locally sourced materials where possible. Access to the campsite would be from the existing track.

The applicant is committed to providing visitors to Moray with a unique, low impact, low density and environmentally friendly holiday experience in this relatively remote and beautiful coastal location.

The vision for the proposal at Covesea is twofold:

For the guest:

- To provide high quality, affordable and accessible accommodation in sustainably built, low impact eco chalets;
- To provide a unique, safe and regulated holiday experience;
- To provide unique, high quality, accessible and low impact self-catering units in contemporary chalets which reflect the heritage and characteristics of the area.
- To educate and inform guests about the natural and cultural heritage resources of the surrounding environment and coastline.

For the Moray community:

- To provide economic and employment opportunities to help catalyse a buoyant and diverse economy;
- To value, safeguard and enhance the natural and cultural heritage resources and environment of the surrounding coastline;
- To minimise environmental impact whilst generating economic and year round benefits for the community.
- To develop a business model that can be replicated in other regions of Moray.

### **The Site**

The site itself slopes gently to the north and is surrounded by rolling and undulating farmland- the topography restricts views of the site from the south. The site is bound by the access that serves it and Covesea village to the west and post and wire fencing to the north, east and south. The site has long been separated from and does not form part of the larger agricultural operation to the south.

The eastern boundary of the site falls away sharply to the golf course, driving range and clubhouse and the Moray Coastal Trail runs past the northern boundary of the site.

There are no National or International environmental designations covering the site (although there is an SSSI nearby) and it does not appear on SEPA's flood maps. There does not appear to be any historic interest in the site itself but Covesea Village is identified as being of local historic significance (17th-century burgh of barony).

### **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 2) 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 3) 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 4) 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 5)**

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 in adequate 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 6, page 17) 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 ED7 Rural Business Proposals (Appendix 6, page 18) aims to support economic development and to sustain employment in rural areas. It states that new economic activities in the countryside will be permitted if they meet all of the following criteria;

- There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement;
- There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved;
- Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land;
- There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Policy ED8 (Appendix 6, page 18) 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.

Following on from that, policy E8 (Appendix 6, page 21) 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 6, page 22). 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 6, page 23)
- Policy T5 – Parking Standards (Appendix 6, page 24)
- Policy EP5 – Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS) (Appendix 6, page 25)
- Policy EP10 – Foul Drainage (Appendix 6, page 26)

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;

- Demonstration of locational need;
- Layout and Design;
- Infrastructure and servicing.

The matters identified above are also addressed in the original planning statement (Appendix 7) and although it is necessary to restate much of the same information in this document for review, the approach employed by the appellant is detailed in the document so it is recommended that this is read in conjunction with these grounds for appeal.

### **Demonstration of locational need**

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.

This presumption in favour of economic development in rural areas is transposed into a local context through policies ED7 Rural Business Proposals and ED8 Tourism Facilities and Accommodation. These policies recognise 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.

ED8 advises in the first instance that locational need must be demonstrated. The submitted planning statement sets out the positive case for the development in this regard, for example the



unique combination of beautiful views over the Firth, the privacy, screening and shelter afforded by the surrounding undulating landscape, the vast potential to develop recreational activities from this location and the opportunity afforded by the location to deliver a unique visitor experience, educating and promoting responsible low impact tourism.

However, in demonstrating a locational need it is also necessary to consider the existing use of the site. This is low quality agricultural land that does not contribute meaningfully to the overall enterprise. In this coastal location with the site sloping towards the sea, it would be irresponsible land husbandry to remove natural vegetation as the exposed topsoil would be blown away and washed away by the rain. This would lead to reduced soil fertility and degrade the land currently in productive use. The subject site has historically been fenced off from the rest of the landholding- this fact is very much at odds with the appointed officers assertion in the handling report that the boundaries are not mature (Appendix 8).

In the current uncertain economic climate, farmers need to look at opportunities to diversify their operations in order to supplement their income and in this case the introduction of a low impact tourism enterprise on unworkable agricultural land is considered to fully demonstrate a reasonable locational justification. In the spirit of policy E8, it can also be reasonably argued that such diversification is directly related to the farm enterprise.

#### Layout and design

The subject site's position in a Coastal Protection Zone (CPZ) means it falls to be assessed against policy E8 which seeks specifically to protect and enhance the Moray coast for its landscape, nature conservation, recreational and tourism benefits and lists low intensity tourist use as an acceptable type of development.

The proposed development is for 3 small eco-style chalets with a maximum height of 3.3 metres; the total floor area of which will occupy less than 5% of the overall site area. Given the capacity of the chalets, the proposed development would involve an extremely low number of traffic movements on an intermittent basis. Members of the public frequently use the site as currently as informal parking so it can reasonably be estimated that vehicles movements to the site would actually reduce overall when the site comes into use (it should be noted that there are numerous informal car parking areas up the coast, several within the appellants control).

The site layout and building design has been developed to minimise its impact on the development site and the surrounding landscape, for example;

- The material finish of locally sourced larch and woodland green recycled metal has been selected to merge with the landscape and meet high environmental standards;
- The chalets have been located to minimise visibility from public vantage points to the south and to take advantage of the spectacular views to the north. The chalets will be virtually invisible from the main road to the south;
- A landscaping scheme will be implemented using native species trees and shrubs to further integrate the structures into the site;
- Breaking of the existing ground finish will be kept to a minimum. The intention is for the site to look established and part of the landscape from the start;

- Footpaths between chalets formed by overlaying the existing ground cover with grass reinforcement mesh. This technique is used to form footpaths without disrupting the existing ground finish;
- The accommodation has been provided on the level area of the site making the development accessible to all;
- Car parking screened with low level earth mounding and shrubs. The mounding will be formed to provide natural appearance and planted with turf;
- Dry stone dyke bounding the site;

The proposal seeks to upgrade the existing access which serves Covesea Village as depicted in the submitted plans to provide for both pedestrian and vehicular access to the north.

Furthermore, as stated in the original submission, the applicant's vision is to inform, educate, protect and enhance the area so that visitors value the Moray landscape, its history, nature and its future. Education will be a large component of the development both economically and culturally- as a successful farmer the appellant has worked in harmony with these resources all of his life and fully recognises the value of the natural and built environment in the area. Guests and visitors who are educated about nature, culture and the built environment are likely to respect nature and history. He plans to run regular educational courses ranging from guided walks to dry stone dyke building- offering a tailored Moray experience, not just a holiday.

This ethos essentially aims to actively and meaningfully contribute to the protection and enhancement of the landscape, nature conservation as well as recreational and tourism interests. Put simply, if a golf course is considered to be a low intensity recreational activity bearing in mind the requirements for a club house with associated car parking and the intensive management of the land required to make the course attractive to customers, then the proposed development must also fit into this category.

It is noted that SNH's Moray and Nairn Landscape Character Assessment (Appendix 9) characterises the area of which the subject site forms part as 'Hard Coastal Shore' and that this landscape character type is sensitive to new built form which detracts from the open character of views to the coast from adjacent areas. However, there are very few views of the site from public vantage points so in the absence of receptors, the appellant would contend that the introduction of 3 small chalets in the way proposed would not detract from the open character of views to the coast, as it does not appear in any.

Finally, and in terms of recreational and tourism interests, the natural amenities the subject site benefits from offers visitors to Moray a high quality, unique experience and would undoubtedly improve Moray's role and image as a tourist destination. It is ideally located to develop recreational activities such as power kiting, kite surfing, wind surfing, canoeing as well as being adjacent to the Moray Coastal Trail and the Covesea Links Golf Course.

#### 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 an existing road and the case officer's report of handling 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.

### **Reasons for Refusal**

The previous sections have shown that the proposal meets the terms set out in national and local planning policy, particularly policies ED7, ED8 and E8; however the following comments relate specifically to the reasons for refusal as they are set out in the decision notice.

The central theme running through the reasons for refusal is that of prominence. The first reason for refusal cites policy IMP1 Developer Requirements and goes as far as to state that the proposed structures would occupy a conspicuous and prominent, skyline location which lacks existing mature boundaries.

The proposed chalets will not be viewed on the skyline from any public vantage points and as a direct result of the high quality design and material finish of the entire development will settle easily into the area straightaway. Despite this, every effort has been made to reduce the visual impact of the structures and the implementation of a long term landscaping scheme will ensure that the development will integrate sensitively into the surrounding landscape.

The second reason for refusal again relates to prominence and lack of enclosure, this time in terms of policies ED7 and ED8. In terms of enclosure, the site is relatively flat and low lying compared with the undulating character of surrounding topography and it is defined by a long established boundary treatment. The appellant contends that the site does benefit from enclosure from the surrounding landscape and the proposed replacement of post and wire fencing with dry stone dyke will add to this and make a historically accurate contribution to the site and the surrounding landscape.

This reason for refusal also states that the proposal fails to take account of environmental considerations and appropriate siting, but unfortunately the appointed officer does not expand on these expansive issues so it is not clear exactly what is meant. It should be noted that the appointed officer did not raise siting as an issue during the course of the application and the proposal does not give rise to concerns related to neighbouring amenity (privacy, overlooking, prejudice to sunlight/ daylight) and it has been established that there are no environmental designations (National or International) covering the site.

In the absence of any indication from consultees to the contrary, an unacceptable environmental impact is not a competent reason for refusal. The initial site walkover did not uncover any obvious

signs of animals, birds or plants, protected or otherwise, but the advice of SNH will be sought before work commences. The appellant has confirmed he will discharge his responsibilities under the Habitats Regulations 1994 (as amended) in terms of protected species.

Furthermore, sustainability is a key theme of this development and the appellant's vision is to create self-catering chalets which feature innovative technologies that will run in parallel with traditional low tech solutions such as the use of wood fired stoves for space and water heating to minimise the use of LPG and bought in solid fuels. Recycling and energy efficiency will also be prominent at the site. All of this points to an environmentally accountable proposal.

The final reason for refusal states that by virtue of its built form and prominence within the coastal landscape, the proposed development compromises the objectives of the Coastal Protection Zone as set out in policy E8. The first thing to state in response is that policy E8 does not preclude built form, and Moray Council has previously approved built form in Coastal Protection Zones according to the circumstances so this is not the established position of the Local Authority.

The issue of prominence has been over stated by the appointed officer, and these reasons demonstrate a distinct absence of a legitimate planning argument which leads logically to a refusal recommendation. It has been dealt with in detail in these grounds of appeal and members are respectfully invited to visit the site and make their own minds up on the issue of prominence and landscape/ visual impact in the circumstances.

If the appointed officer were of the opinion that the proposed development would have such a detrimental impact on the surrounding landscape then it is not clear why policy E7 Areas of Great Landscape Value (Appendix 6, page 20) is not referred to in the reasons for refusal. Although the subject site is not in an AGLV, the designation surrounds the site so its omission from the schedule of reasons is certainly noteworthy by its absence. It cannot reasonably be concluded by the Council that the introduction of built form on to a site, literally metres away from an Area of Great Landscape Value, has an unacceptable detrimental impact upon landscape character without citing the very policy that seeks to protect it.

Moray Council has seen fit to designate the majority of the coast line as an Area of Great Landscape Value to ensure that the landscape is not damaged by inappropriate development, and to encourage positive land management. These designations play an important role in developing an awareness of the landscape qualities that make particular areas distinctive, and promote a communities sense of pride in their surroundings.

In this context, and with the vision of the appellant in mind, the proposed development is fully in accordance with policy E7.

## **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 policies ED7 Rural Business Proposals and 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 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.