



## MORAY LOCAL REVIEW BODY

### DECISION NOTICE

---

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case LR164
  - Application for review by Mr D. Anderson, c/o Mr S. Morrison, Grant & Geoghegan against the decision of an Appointed Officer of The Moray Council
  - Planning Application 16/00513/APP to erect 3(no) holiday chalets at Land at North Covesea Village, Duffus, Elgin
  - Unaccompanied site inspection carried out by the MLRB on 27 September 2016
  - Date of decision notice: 24 October 2016
- 

### Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

#### 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 29 September 2016.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Cowie, M. McConachie, K. Reid and R. Shepherd.

#### 2. MLRB Consideration of Request for Review

- 2.1 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 to erect 3(no) holiday chalets at North Covesea Village, Duffus, Elgin.
- 2.2 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.

- 2.3 The MLRB agreed that it had sufficient information to determine the request for review.
- 2.4 With regard to the unaccompanied site inspection carried out on 27 September 2016, Mrs Gordon, as Planning Adviser to this review, advised that Members of the MLRB were shown the site where the proposed development would take place and provided with a summary of the reasons for refusal and the Applicant's Grounds for Review.
- 2.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal would constitute an unacceptable form of development which fails to comply with Policies ED7: *Rural Business Proposals*, ED8: *Tourism Facilities and Accommodation*, E8: *Coastal Protection Zone* and IMP1: *Developer Requirements* of the Moray Local Development Plan (2015). She stated that the proposal would occupy a conspicuous and prominent, skyline location which lacks existing mature boundaries to provide a suitable degree of enclosure and therefore failing to integrate sensitively into the surrounding landscape.
- 2.6 Referring to Policies ED7 and ED8, the Planning Adviser noted that 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. She further advised that 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.
- 2.7 The Planning Adviser, referring to the Applicant's Grounds for Review, advised that the Applicant had stated that the site is low quality agricultural land that does not contribute meaningfully to the farming enterprise. They advised that farmers need to look at opportunities to diversify their operations to supplement income and that the introduction of a low income tourism enterprise on unworkable agricultural land is considered to fully demonstrate reasonable locational justification. The Applicant stated that it can also be argued that such a diversification is directly related to supporting the farm enterprise.
- 2.8 Stating that the proposal is for 3 small eco-style chalets with a maximum height of 3.3 m, the Applicant advised that the total floor area would occupy less than 5% of the total site area. They noted that the site layout and design has been developed to minimise its impact on the surrounding landscape and that they believed the introduction of 3 small chalets, in the way proposed, would not detract from the open character of views to the coast. The Applicant stated their belief that the proposed chalets will not be viewed on the skyline from any public vantage point and, as a direct result of high quality design and material finishes, the entire development will settle easily into the area straight away. They noted that every effort has been made to reduce visual impact of structures and the implementation of a long term landscaping scheme will ensure the development integrates sensitively.

- 2.9 The Applicant advised that the site is defined by a long established boundary treatment of post and wire fencing that will be replaced by a stone dyke and stated their belief that the issue of prominence is overstated. Noting that the reason for refusal states the proposal fails to take account of environmental considerations and appropriate siting, the Applicant stated that this is not expanded upon and it is unclear exactly what is meant.
- 2.10 Councillor Shepherd, having had the opportunity to visit the site and consider the Applicant's Grounds for Review, stated that he was of the same opinion as the Appointed Officer and moved that the review be dismissed and the Appointed Officer's decision be upheld to refuse planning permission in respect of Planning Application 16/00513/APP.
- 2.11 Councillor Cowie stated he was of the same opinion as Councillor Shepherd and seconded his motion.
- 2.12 The Chair advised that he was also of the same opinion as Councillors Shepherd and Cowie.
- 2.13 There being no one otherwise minded, the MLRB agreed to dismiss Case LR164 and uphold the Appointed Officer's decision to refuse planning permission in respect of Planning Application 16/00513/APP.

**Paul Nevin**  
**Senior Solicitor (Property & 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.