



MORAY COUNCIL LOCAL REVIEW BODY

Review Decision Notice

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 095
 - Site address: Burnside Caravan Park, Keith Road, Fochabers
 - Application for review by Christies Parks Ltd, 6 Lennox Crescent, Fochabers, IV32 7ES against the decision by an Appointed Officer of The Moray Council.
 - Planning Application 13/00280/APP for change of use of part of A96 trunk road to holiday park extension with 27 pitches operating 12 months per year.
 - Unaccompanied site inspection carried out by the MLRB on 20 February 2014
 - Date of decision notice: 7 April 2014
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Decision

The MLRB agreed to uphold the original decision of the Planning Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision of the Moray Local Review Body (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 27 February 2014.
- 1.3 The Review Body was attended by Councillors C. Tuke (Chair), B. Jarvis (Vice Chair), G. Alexander and J. Mackay.

2. Proposal

- 2.1 This is an application for planning permission for a change of use of part of A96 trunk road to a holiday park extension with 27 pitches, operating 12 months per year at Burnside Caravan Park, Keith Road, Fochabers.

3. MLRB Consideration of Request for Review

- 3.1 There was a submitted a 'Summary of Information' report setting out the reasons for refusal, together with a copy of the Report of Handling and a copy of the Notice of Review and supporting documents.
- 3.2 In response to a request for advice on suspensive conditions and requesting further information, the Planning Adviser and Legal Adviser advised that all conditions required to meet a test to ensure its validity and noted that Transportation Scotland had stated that a suspensive condition in regard to changing the cycleway would be unreasonable as it would require legislative changes.
- 3.3 The MLRB agreed that it had sufficient information to determine the request for review.
- 3.4 With regard to the unaccompanied site inspection carried out on 20 February 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to the requirements of the Moray Local Plan 2008 Policies T2, T5, T7, IMP1 and ED9 on the basis that the development would result in increased vehicle interference with users of the cycleway within the site, to the detriment of the free flow and safety of cyclists and pedestrians.
- 3.6 Referring to the Appellant's grounds for review, the Planning Adviser advised that the Appellant had stated that the development would not result in increased interference with the safety and free flow of cyclists as the proposed cycle path will be separate from the access track and service vehicles would not have to share the cycle track as they do presently. The Appellant emphasised that the proposal represented economic development for Moray and that it would attract a significant number of extra tourists to the area, which would benefit other businesses.
- 3.7 The Chair, expressing his regret at having to turn down a development like that being proposed, stated that the decision of the Appointment Officer was the correct one in the circumstances and moved that the appeal be dismissed and the Appointed Officer's decision be upheld to refuse the application.
- 3.8 Councillors Alexander, Jarvis and Mackay stated they were of the same view of the Chair and expressed regret at turning away development like that being proposed.
- 3.9 Thereafter, the MLRB agreed to dismiss the appeal and uphold the Appointed Officer's decision to refuse the application.

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 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008

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.