

Statement of Reasons for Seeking Review

Application Ref No: 15/02188/APP

Change of use of vacant land to provide fenced enclosure for ancillary use to existing business on site adjacent to Seaview Caravan Park, Findhorn Road, Kinloss.

Background:

The applicant acquired the land relating to the application in May 2008, see title plan [Appendix A] provided by the Land Register of Scotland, with the title deeds showing incorporation of this land into the overall feu since 1905.

In 2012, the applicant obtained Planning Permission for an 11 month license for 38no static stances at Seaview Caravan Park on the land to the east of the public road ref 12/00987/APP. Condition 1 of the planning consent states that the use was for holiday purposes. The permission was also to change 8 towing caravans to 8 static caravans.

The work to upgrade the caravan park, including the change to static caravans, was begun in 2014 and is ongoing. If ancillary machinery and storage for maintenance has to be located as existing within the grounds of the caravan park, and not as proposed within the adjacent site, it will not be possible to fully utilise the full 38 stances in accordance with the license already approved. This is critical to the viability of the business.

Proposals:

The proposals are shown within drawing no.15/45/02 [Appendix B] as submitted with the application. The application is for retrospective consent as the owner of the land had not anticipated that planning permission was required due to the land being within his ownership and no building being involved.

The application is to obtain retrospective consent for fencing which has been erected by the application for storage ancillary to the adjacent business use. It utilises the existing access constructed by the MOD for purposes of maintaining the surface water outfall from Kinloss Barracks which passes through the applicants land.

The area which would be enclosed within the application has been reduced from that currently erected. Note the locations on the plan showing fencing removed. This reduced area for the fencing, together with the proposed indigenous, is intended to minimise visual impact. The existing natural scrub and tree belt to the north and west sides of the area would also be retained, with the only removal of trees to date having been that undertaken by the MOD to form the new access.

Grounds for Appeal:

Three reasons for refusal were included within the determination. These are all disputed.

- 1a) Although the proposal is deemed to ... *result in a permanent loss of an area within the Coastal Protection Zone*, Policy E8 of the Moray Local Development Plan relating to the CPZ does not preclude development within this area. The policy therefore recognises that someone who owns land may be able to utilise this land within the area whilst the area remains within the CPZ. This identifies that refusal may not apply where there is an existing use. In this instance it would be argued that the existing use relates to the adjacent Caravan Park which is utilised by tourists or holiday use in accordance with the existing permission. The policy also refers to tourist use.
- 1b) Although the subject site is claimed to ... *undermine and detract from the unspoilt character of the area contrary to CPZ and IMP1*, Scottish Natural Heritage have stated [Appendix C] that **'It is very likely, given the scale of the proposal, that the proposal can be carried out in such a way as that there would be no impact on any of the interests of the above protected areas'**. The proposed areas

referred to are the Moray and Nairn Coast Ramsar site and Culbin Sands, Culbin Forest and Findhorn Bay Site of Special Specific Interest, in addition to the CPZ.

- 2 In relation to siting, design and associated activity, during consultation it was required to provide further advice to Scottish Natural Heritage on potential impact. This was provided by the applicant and in response, Scottish Natural Heritage confirmed [Appendix D] that **'Given the additional information provided, I agree that there will be no adverse impacts on any of the interests of the following protected areas: Moray and Nairn Special protection Area, Moray and Nairn Coast Ramsar site and Culbin Sands, Culbin Forest and Findhorn bay Site of Special Scientific Interest'**. This advice has however been ignored in determining the application and assessing under policies E8, and IMP1.

In relation to policies ED7 and ED8, these advise that rural business proposals will be permitted provided that there is a locational justification, capacity in the local infrastructure, account taken of environmental considerations and careful control over siting, design, landscape and visual impact. All of these criteria are satisfied in that a) the ancillary provision is required next to the existing business, b) there is capacity in the local infrastructure, c) environmental considerations have been taken into account to the satisfaction of Scottish Natural Heritage and d) Scottish Natural heritage have advised that given the scale of the proposal, the proposal can be carried out in such a way that there will be no impact on any interests of the protected areas.

With the reduction in extent of fencing proposed within the application, compared to that erected, and once the indigenous planting proposed is established, the area of the fenced enclosure will be fully within the existing small woodland and not extending into the open marshland. The new planting would be selected to accord, and be in keeping with, the existing natural screening to minimise any visual impact.

- 3 The applicant has control over the land outwith the cycle track and verge to provide a visibility splay of 2.4 x 215m. The trees obstructing views on cyclists are within the applicant's ownership, see Appendix A, and are included within the application boundary.

A business case was included with the application and this has been supported by Richard Lochhead MSP in a letter submitted during consideration of the application [Appendix E]. Despite inclusion as a reason for refusal, the justification for Policy ED7 within the Development Plan states that... *'the Council would wish to support economic development and to sustain employment in rural areas. In addition, there are already many long established, traditional business operations in rural areas which may have expansion requirements and for whom re-location is not a realistic option'*.

The critical policy relating to this proposal is E8, and that the site is within the Coastal Protection Zone. It is likely that, if not for this zoning, the proposal would not have been opposed. For example under Policy ED8 the Council are generally to support proposals which contribute toward Morays role as a tourist area.

It has to be argued that the consultation with Scottish Natural Heritage should have removed concerns in relation to the impact on the CPZ. There is clear agreement that with the information provided, there will be no adverse impact on any of the interests within the protected area. The proposal should be approved with appropriate conditions to control the level and type of landscaping required and measures to ensure that the additional information provided to Scottish Natural Heritage can be enforced.

It is requested therefore that the appeal is upheld.