



MORAY LOCAL REVIEW BODY

24 SEPTEMBER 2020

SUMMARY OF INFORMATION FOR CASE No LR244

Planning Application 20/00614/APP – Retrospective application to erect a shed for business/office use at Shiva, 20 Shore Street, Lossiemouth, Moray

Ward 5 – Heldon and Laich

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 20 July 2020 on the grounds that:

The proposed shed is contrary to Moray Local Development Plan (Modified Plan) 2020 policy DP1 (i) a) & e) and Moray Local Development Plan 2015 policy IMP1 for the following reasons:-

1. The proposed shed on raised garden ground in a restricted site would be of an inappropriate scale due to its combined height, width and depth. As such this would result in a development that would be out of character with its immediate surroundings, and would have an overbearing and detrimental impact as it removed the majority of the remaining rear garden ground.
2. The proposed shed contains windows on both side elevations which would face directly onto the neighbouring properties to the immediate east and west of the site. These windows are located at head height and would therefore give a direct view into the neighbouring property gardens giving rise to an unacceptable loss of privacy and overbearing loss of amenity to neighbours and would also be contrary to the requirements of policy DP1 i) e), and IMP1.

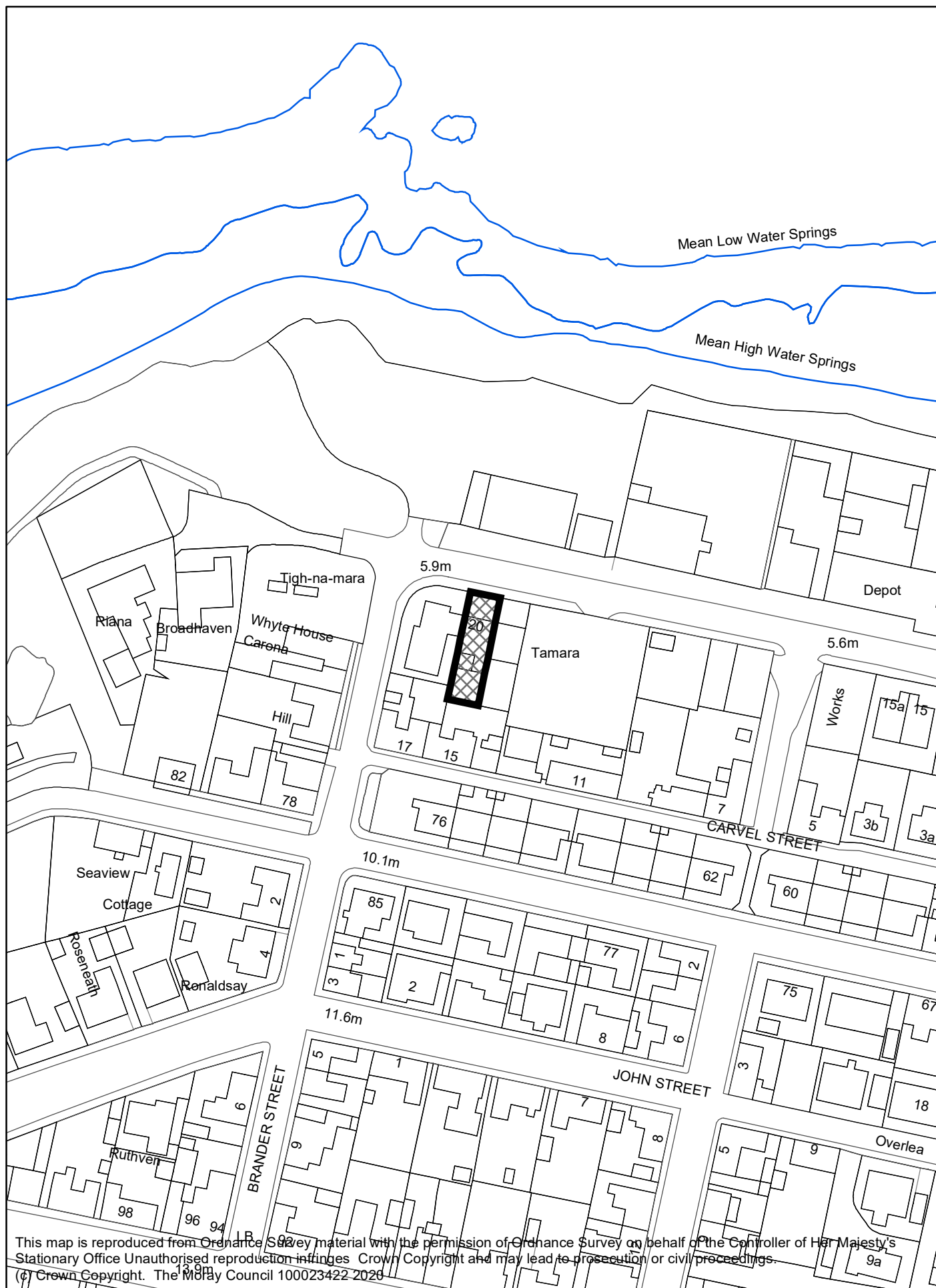
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

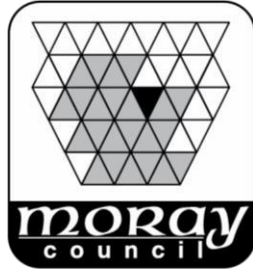
The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

No Further Representations were received in response to the Notice of Review



Location plan for Planning Application Reference Number : 20/00614/APP





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100257093-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- ☐ Application for planning permission (including changes of use and surface mineral working).
- ☒ Application for planning permission in principle.
- ☐ Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

To Erect a shed on pads in my back garden to help promote and build up my business and also to comply with Covid 19 social distancing in the shed.

Is this a temporary permission? *

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) *

☐ Yes ☒ No

Has the work already been started and/or completed? *

☐ No ☒ Yes – Started ☐ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

07/05/2020

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

As the shed wasn't requiring any foundation work carried out, And it doesn't block and views or light to my neighbours and looks into my house, I presumed that because it was in my property and speaking with my surrounding neighbours about the build it was ok.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Shiva
First Name: *	Gordon	Building Number:	20
Last Name: *	Wood	Address 1 (Street): *	Shore street
Company/Organisation	In The Gutters	Address 2:	
Telephone Number: *	07947626079	Town/City: *	lossiemouth
Extension Number:		Country: *	scotland
Mobile Number:	07929871932	Postcode: *	iv31 6pb
Fax Number:			
Email Address: *	inthegutter@yahoo.com		

Site Address Details

Planning Authority:	Moray Council
Full postal address of the site (including postcode where available):	
Address 1:	SHIVA
Address 2:	20 SHORE STREET
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	LOSSIEMOUTH
Post Code:	IV31 6PB

Please identify/describe the location of the site or sites

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Northing	871245	Easting	323355
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

26.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

To use as an office for my business as my family are over grown my house and I require affordable office space for my business.

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? *

☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

☐ Yes ☒ No

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

☐ Yes ☒ No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

- ☐ Yes
☐ No, using a private water supply
☒ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? *

☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? *

☐ Yes ☒ No ☐ Don't Know

Trees

Are there any trees on or adjacent to the application site? *

☐ Yes ☒ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

☐ Yes ☒ No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013? *

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

☐ Yes ☒ No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

☒ Yes ☐ No

Is any of the land part of an agricultural holding? *

☐ Yes ☒ No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Mr Gordon Wood

On behalf of:

Date: 15/05/2020

☒ Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

☒ Yes ☐ No ☐ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- ☒ Site Layout Plan or Block plan.
- ☒ Elevations.
- ☒ Floor plans.
- ☐ Cross sections.
- ☒ Roof plan.
- ☐ Master Plan/Framework Plan.
- ☒ Landscape plan.
- ☐ Photographs and/or photomontages.
- ☐ Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

- | | |
|--|--|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Gordon Wood

Declaration Date: 15/05/2020

Payment Details

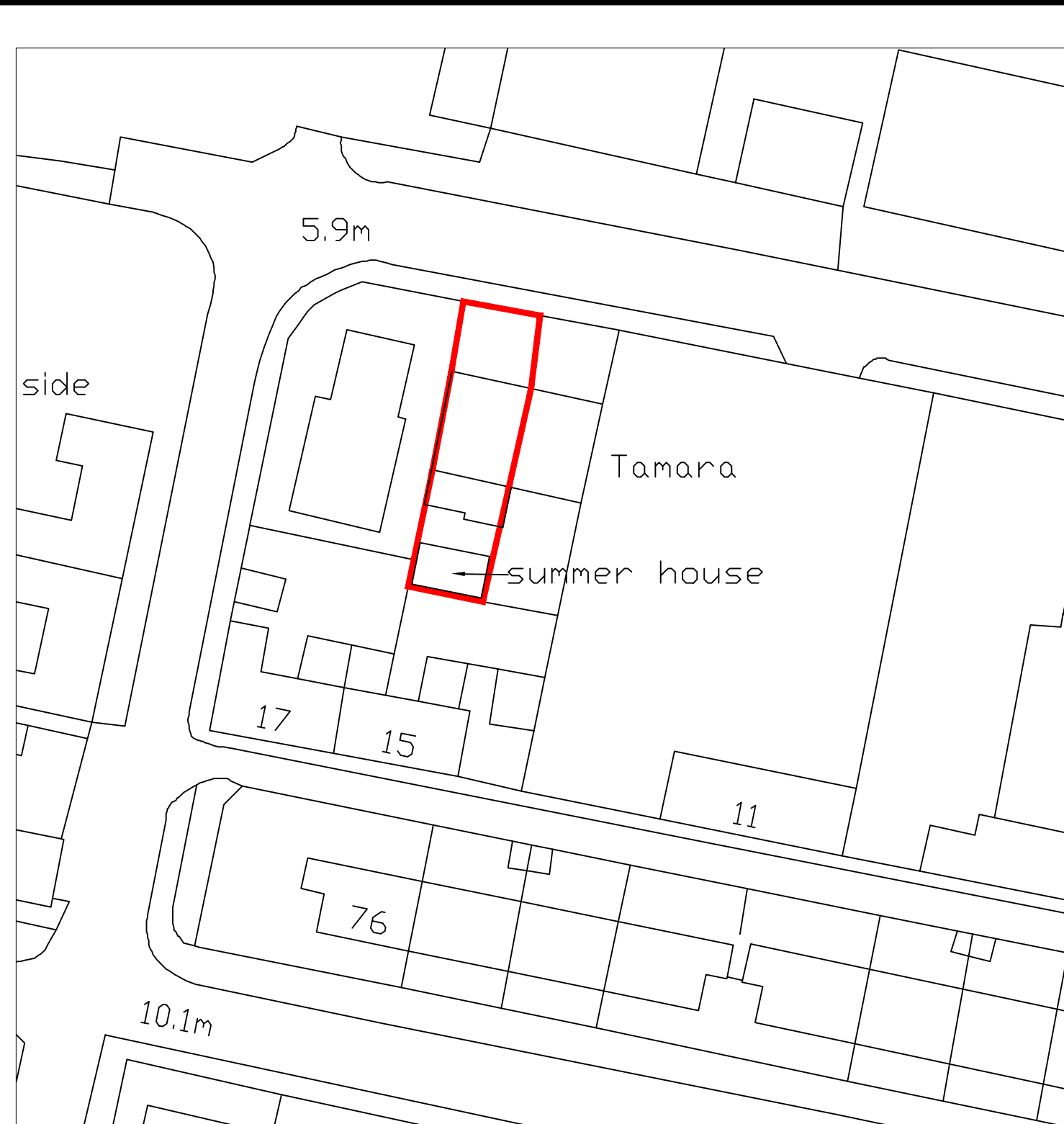
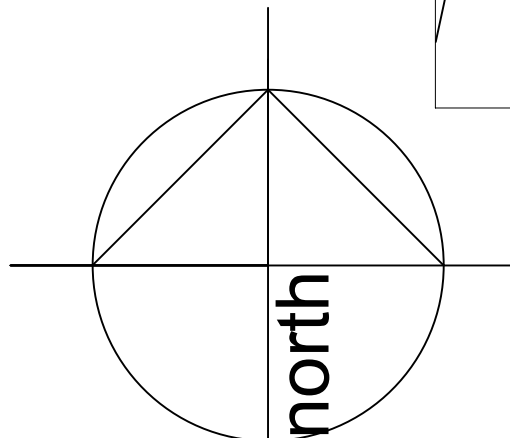
Online payment: 375300

Payment date: 15/05/2020 16:10:35

Created: 15/05/2020 16:10



LOCATION PLAN
scale 1:2500



BLOCK PLAN
scale 1:500

27/5/20 block updated Rev A

project
PROPOSED EXTENSION
address
20 SHORE STREET, LOSSIEMOUTH
client
MR G WOOD
date
APRIL 2016

Details of proposal

These are the answers to you questions.

No.1. It will be used as an office for myself.

No.2. I will be there roughly 3-4hours a day.

No.3. 5 days

No.4. Only myself as staff. Customers maybe a few a week just to show them my work in detail.

There is no extractions as none required.

The purpose is for me to do drawings and estimates on my computer.

Consultee Comments for Planning Application 20/00614/APP

Application Summary

Application Number: 20/00614/APP

Address: Shiva 20 Shore Street Lossiemouth Moray IV31 6PB

Proposal: Retrospective application to erect a shed for business/office use at

Case Officer: Fiona Olsen

Consultee Details

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

Comments

Approved Unconditionally - Adrian Muscutt

Consultee Comments for Planning Application 20/00614/APP

Application Summary

Application Number: 20/00614/APP

Address: Shiva 20 Shore Street Lossiemouth Moray IV31 6PB

Proposal: Retrospective application to erect a shed for business/office use at

Case Officer: Fiona Olsen

Consultee Details

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: ehplanning.consultations@moray.gov.uk

On Behalf Of: Environmental Health C12

Comments

Approved Unconditionally - Douglas Caldwell, EHO

**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No: 20/00614/APP

I have the following comments to make on the application:-

- | | Please
x |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input checked="" type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Reason(s) for objection

Conditions(s)

Further comments(s) to be passed to applicant

Further information required to consider the application

Contact: Will burnish Date 27/5/20
email address: Will.burnish@moary.gov.uk Phone No

Consultee: The Moray Council, Flood Risk Management

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	8th June 2020
Planning Authority Reference	20/00614/APP
Nature of Proposal (Description)	Retrospective application to erect a shed for business/office use at
Site	Shiva 20 Shore Street Lossiemouth Moray IV31 6PB
Site Postcode	N/A
Site Gazetteer UPRN	000133003424
Proposal Location Easting	323355
Proposal Location Northing	871245
Area of application site (M²)	26
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=QAIJZBGJEB00
Previous Application	16/00968/ID 04/00582/FUL 86/00507/FUL
Date of Consultation	25th May 2020
Is this a re-consultation of an existing application?	No
Applicant Name	In The Gutters
Applicant Organisation Name	
Applicant Address	Shiva 20 Shore Street Lossiemouth Moray IV31 6PB
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Fiona Olsen
Case Officer Phone number	01343 563189
Case Officer email address	fiona.olsen@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no

comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

For full terms please visit http://www.moray.gov.uk/moray_standard/page_121513.html

For full Data Protection policy, information and rights please see http://www.moray.gov.uk/moray_standard/page_119859.html

You can contact our Data Protection Officer at info@moray.gov.uk or 01343 562633 for more information.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 20/00614/APP

Retrospective application to erect a shed for business/office use at Shiva 20 Shore Street Lossiemouth Moray for In The Gutters

I have the following comments to make on the application:-

Please

- | | | |
|-----|---|-------------------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below | <input type="checkbox"/> |
| (b) | I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input type="checkbox"/> |
| (c) | I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Condition(s)

1. Notwithstanding the submitted details the existing two car parking spaces shall be retained within the site and made available for use by residents and customers throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

Further comment(s) to be passed to applicant

Planning consent does not carry with it the right to carry out works within the public road boundary.

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

Contact: AG

Date 08 June 2020

email address: transport.develop@moray.gov.uk

Consultee: TRANSPORTATION

Return response to

consultation.planning@moray.gov.uk

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/>. (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
27 May 2020

PLANNING APPLICATION 20/00614/APP Shiva 20 SHORE STREET
LOSSIEMOUTH

Dear Sir or Madam,

Reference the above retrospective planning application, first of all the map that I received does not show the building in the correct position, I have attached a new map with the building marked out in red.

I have also attached a photograph taken from my upstairs window of the building in question and my comments are as follows:

1. Marked on the photo at point 'A' in red this building is less than half a meter from my boundary wall.
2. There is no fire access for such a large building other than through the property owner's house.
3. No drainage was laid as this was built on an existing patio, so where is the water going to go from this large roof?
4. Given that these are enclosed gardens there is bound to be a noise issue.

Yours Sincerely

[REDACTED]

PLANNING APPLICATION No 20/00614/APP



Site Plan for Neighbour Notification purposes only

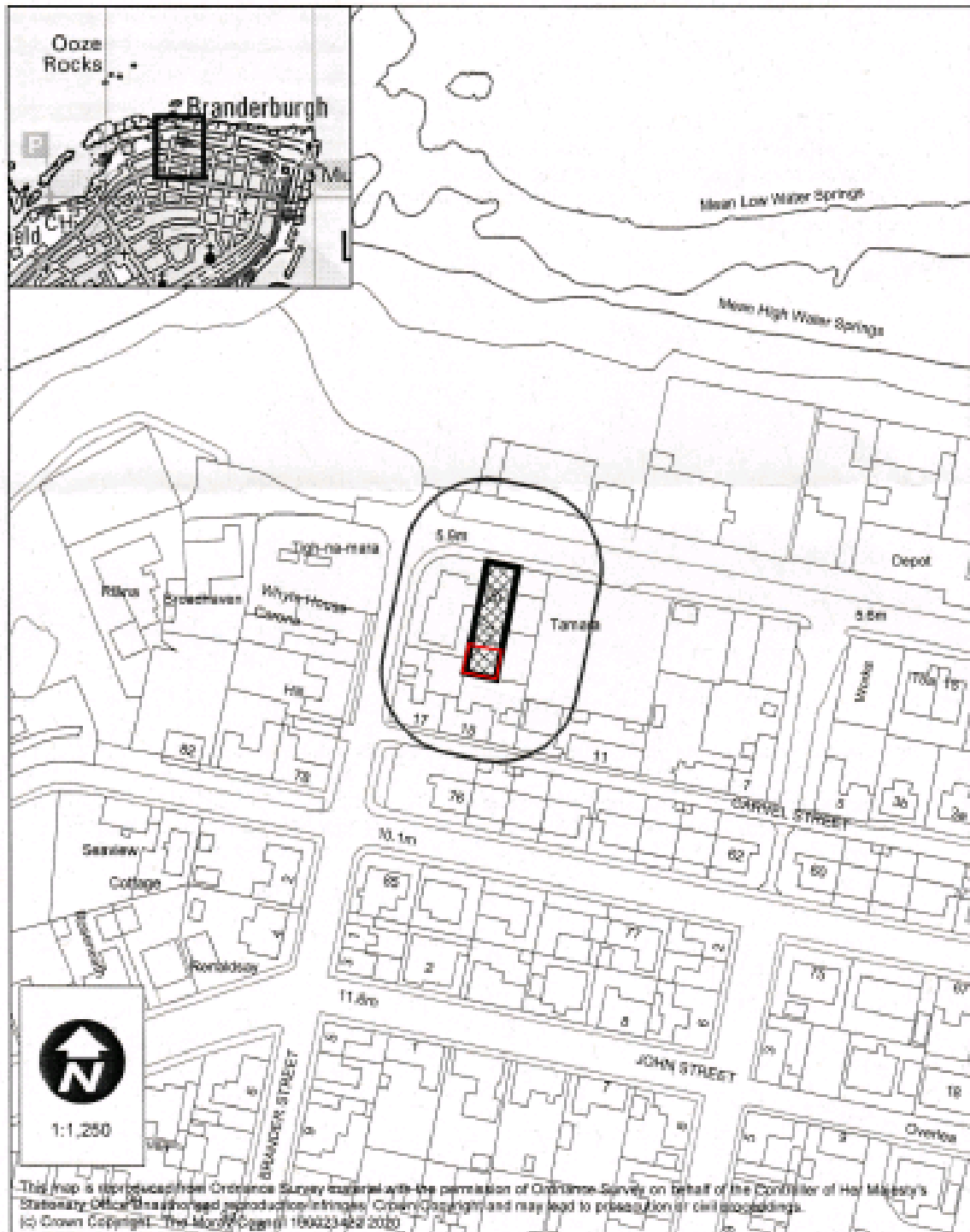
Town and Country Planning

(Development Management Procedure)(Scotland) Regulations 2013



Planning Application Reference Number:

20/00614/APP



29/06/2020

10.1 JUL 2020

MANNAN

DEVELOPMENT MANAGEMENT &
BUILDING STANDARDS

Rodney & Gutterman

20/00614/APP +
20/00576/APP + 20/00876/APP

FULL PROTECTION FOR ALL
WINDHIPS FROM & FROM IN
SITU

COMMUNICATION WITH
ROSEANNA CONNORIAN HAI
ASSUMING REGARDING MOLOS IT
IS QUITE POSSIBLE THAT THEY
WILL HAVE BEEN STARTED
BY THE END OF YOUR PHONE

2

ANTICIPATE THAT AFFECTING
TOWN FOLL PROTECTION

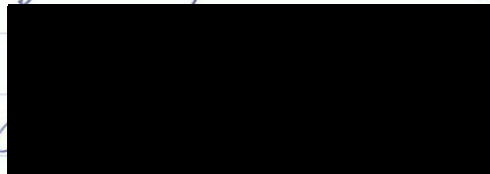
SIMILARLY HERETOFORE
NESTING BIRDS BATS

SOME SPECIES OF BUTTERFLY
ARE UNDER THREAT OF
EXTINCTION THOSE WHICH
DUE TO BURNING THE PINEL
SKIPPER GRIZZLED SKIPPER AND
HIGH BROWN FRITILLARY AND
OTHERS. PLEASE DO WHAT YOU
CAN TO PROTECT THEM IF
TO BE FOUND IN MANY AREAS!

TREES TO BE PLANTED WHEN
EVER POSSIBLE SO TOO WITH
FLOWERS

YOUR ASSISTANCE IN ALL
OF THESE MATTERS IS MUCH
APPRECIATED

Yours fraternally



Stay Safe Stay Well

REPORT OF HANDLING

Ref No:	20/00614/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Retrospective application to erect a shed for business/office use at Shiva 20 Shore Street Lossiemouth Moray		
Date:	20/07/20	Typist Initials:	FJA

RECOMMENDATION

Approve, without or with condition(s) listed below		
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		
Notification to Scottish Ministers/Historic Scotland		
Hearing requirements	Departure	
	Pre-determination	

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Contaminated Land	29/05/20	No Objections
Environmental Health Manager	05/06/20	No Objections
Transportation Manager	08/06/20	No Objections subject to conditions and informatives
Moray Flood Risk Management	27/05/20	No Objections

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
2020 Proposed Local Development Plan		
DP1 Development Principles	Y	
EP12 Management and Enhancement of the		
EP14 Pollution, Contamination & Hazards.		
Moray Local Development Plan 2015		
EP5: Sustainable Urban Drainage Systems		
EP9: Contaminated Land		
T2: Provision of Access		
T5: Parking Standards		
IMP1: Developer Requirements	Y	

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received 2		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		
Issue: Neighbour Notification map does not show building in correct position Comments (PO): Neighbour notification maps do not show the outline of proposed buildings, only the outline of the existing site for information.		
Issue: Building is less than half a metre from boundary wall Comments (PO): The site plan would show the shed being located on (or very close to) the property boundaries.		
Issue: There is no fire access for the building other than through the existing property. Comments (PO): This is not a planning matter and would relate to building standards only.		
Issue: No drainage Comments: The applicant has confirmed that all rainwater will be directed to a rainwater butt within the site which will be used for watering the garden. Moray Flood Risk Management have raised no objections to this.		
Issue: Potential noise issue due to garden being fully enclosed. Comments: Although the shed is proposed for business use, it will only be used for office space and therefore no issues regarding noise are anticipated.		
Issue: Full protection for all wildlife, flora and fauna, including hedgehogs, nesting birds, bats and butterflies Comments: This is for a shed only and is not anticipated to impact upon any protected species. There are no trees on the site.		
Issue: Moles will have legal status by the end of 2020 Comments: This proposal is for a shed only and is not anticipated to impact upon any protected species.		
Issue: Trees and wildflowers to be planted where possible Comments: This is a proposal for a shed only and therefore there is no requirement under the MLDP 2020 for landscaping or planting of trees. There are no existing trees on the site.		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the Adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

On 3 June 2020 the Moray Council Emergency Cabinet resolved to use the Moray Local Development Plan 2020 (MLDP) as a material consideration for Development Management purposes including the determination of planning applications until such time as the MLDP (modified) 2020 is formally adopted, at which point it will replace the current development plan.

This means that whilst applications will continue to be assessed against the policies and proposals of the Moray Local Development Plan 2015, the terms of the Moray Local Development Plan (Modified Plan) 2020 including all policies and designations will also require to be taken into account when decisions are made on proposals after 15 June 2020. As a material consideration, the Moray Local Development Plan (Modified Plan) 2020 represents a more up-to date version of the Council's

intended planning policies and can be used to both support or reject any application.

Proposal

The application seeks planning permission to erect a shed for business/office use at an existing dwellinghouse.

The shed would measure approx. 6.4m x 5m x 3m (to the highest point of the roof) and would be finished in timber cladding with a mono pitch roof over. It would be located on the eastern, southern and western boundaries of the property, being set back approximately 600mm from any mutual neighbouring boundary.

Work has already commenced to build the shed however has been halted due to an Enforcement case being raised. The application is therefore part-retrospective.

Site

The site is located at Shiva, Shore Street, Lossiemouth. The existing property is a semi-detached single storey on the front and one and a half storey on the back dwellinghouse (erected under planning ref 86/00507/FUL). There is a driveway and small patio area to the front and patio area and garden ground to the rear. The garden ground slopes upwards to the south.

There is a neighbouring (attached) property to the east and further neighbouring properties lie to the west and south of the site. The site is bound by the public road to the north and beyond the public road are a series of industrial buildings.

Policy Assessment

Siting and Design (MLDP (Modified Plan) 2020 Policy DP1- (i) a) & e) MLDP 2015 Policy IMP1)

Policy DP1 (i) a) Development Principles of the MLDP (Modified Plan) 2020 requires that the scale, density and character of a development must be appropriate to the surrounding area, DP1 (i) e) states that proposals must also not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. Policy IMP1 Developer Requirements requires development to be sensitively sited and designed, and appropriate to the amenity of the surrounding area and to be acceptable in terms of scale, density and character.

Following assessment the proposed shed on raised garden ground in a restricted site would be of an inappropriate scale due its combined height, width and depth. As such, this would result in a development that would be out of character with its immediate surroundings, and would have an overbearing and detrimental impact, as it removes the majority of the remaining rear garden ground.

The shed is proposed to be erected in the rear garden which slopes upwards to the south. The rear garden has already been developed since the property was built and includes a one and a half storey extension (04/00582/FUL refers) to the rear. Between the extension and the remaining area of garden ground (where the shed is proposed) there are steps leading up to the higher level of garden ground. The shed would therefore sit on a higher level of ground than the existing property and occupy the entirety of any remaining developed rear garden ground. It is also located very close to the property boundary (approx. 600mm on the eastern, southern and western mutual neighbouring boundaries). The proposed shed in these circumstances would therefore result in an overdevelopment of the site and would have an overbearing impact on the existing site and surrounding area.

In terms of orientation and openings on the proposed shed, a 'letterbox' window and single door are proposed on the front (north) elevation facing onto the main property and steps leading up thereto. A second 'letterbox' window is proposed on the side elevation which would face east, directly onto the neighbouring property. A set of two smaller 'letterbox' windows are also proposed on the other side, again facing directly onto the neighbouring property to the west. These 'letterbox' windows are located at head height within the shed and would therefore give a direct view into the neighbouring

property gardens to the east and west giving rise to an unacceptable loss of privacy and amenity to neighbours.

Overall, the development would be inappropriate in terms of its scale and combined proportions on the site, and out of character with adjoining properties contrary to the requirements of policy DP1 i) a & e) of the MLDP (Modified Plan) 2020 and IMP1 of the MLDP 2015.

The shed is proposed to be finished in timber cladding. Although this material would be acceptable for a timber shed, it does not outweigh the aforementioned objections with regard to the size and scale of the proposal. The finish for the roof has not been provided

The shed is proposed for business use. A supporting statement has been provided which outlines that shed will be used as an office space for 3-4 hours a day, 5 days a week. It will only be used by the applicant and customers may attend meeting within the shed from time to time. This level of proposed use is considered in terms of the increase in general activities to be acceptable and would not give rise to any loss of amenity to neighbours. This however would not outweigh the aforementioned objections and therefore refusal is recommended.

Drainage and Flooding, (MLDP (Modified Plan) 2020 policy DP1- iii. and EP12; MLDP 2015 EP5)

The site is located within an area at medium risk of surface water flooding. The applicant has confirmed that any surface water created by the development would be directed to a water butt within the site, to be used for watering flowers. Moray Flood Risk Management have been consulted and raised no objections. The proposal would therefore be in accordance with the requirements of policies DP1,EP12 and EP5.

Access and Parking (MLDP (Modified Plan) 2020 policy DP1 - ii); MLDP 2015 policy T2 and T5)

The site will be accessed via the existing driveway from Shore Street and the parking arrangements will remain unaltered. Moray Council Transportation Section have been consulted and raised no objections subject to a condition relating to the retention of car parking spaces and a series of informatives. The proposal would accord with access and parking requirements of policy DP1-ii, T2 and T5.

Recommendation

Based on the above observations the application is recommended for refusal as it represents an inappropriate form of development for this location which is contrary to the requirements of policy DP1 i) a & e) of the MLDP (Modified Plan) 2020 and IMP1 of the MLDP 2015.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

HISTORY

Reference No.	Description			
16/00968/ID	Proposed extension at 20 Shore Street Lossiemouth Moray IV31 6PB			
	Decision	Permitted Development	Date Of Decision	22/06/16
04/00582/FUL	Extend at 20 Shore Street Lossiemouth Moray IV31 6PB			
	Decision	Permitted	Date Of Decision	31/03/04
	Erect 2 semi-detached dwellinghouse on			

86/00507/FUL	Gap Site Shore Street Lossiemouth Moray			
	Decision	Permitted	Date Of Decision	10/09/86

ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	16/07/20	
PINS	Departure from development plan	16/07/20	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

DOCUMENTS, ASSESSMENTS etc. *		
* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Details of proposal	
Main Issues:	Outlines that shed will be used as an office space for 3-4 hours a day, 5 days a week. Only applicant as staff and customer to attend from time to time.	

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			

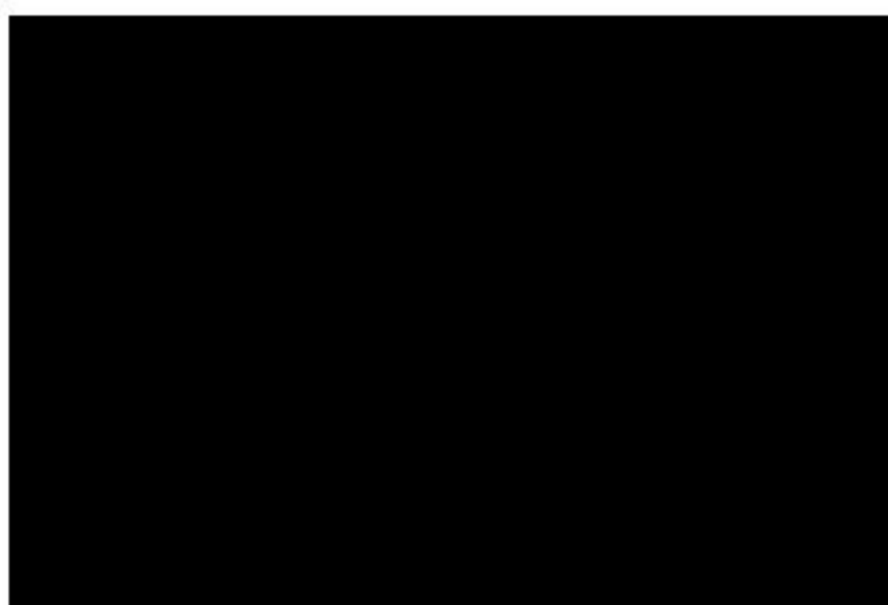


**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Heldon And Laich]
Application for Planning Permission**

TO

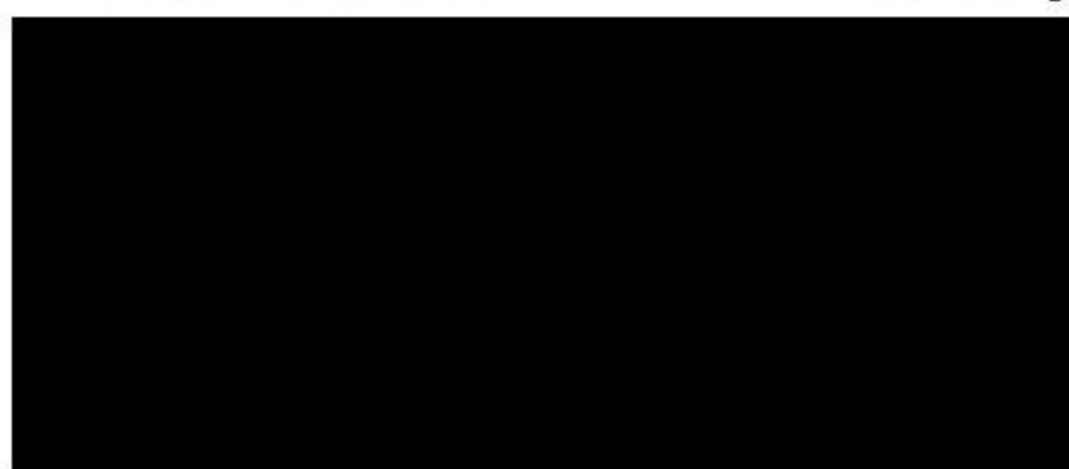


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Retrospective application to erect a shed for business/office use at Shiva 20
Shore Street Lossiemouth Moray**

and for the reason(s) set out in the attached schedule.

Date of Notice: **20 July 2020**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance

Moray Council

Council Office

High Street

ELGIN

Moray IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposed shed is contrary to Moray Local Development Plan (Modified Plan) 2020 policy DP1 (i) a) & e) and Moray Local Development Plan 2015 policy IMP1 for the following reasons:-

1. The proposed shed on raised garden ground in a restricted site would be of an inappropriate scale due to its combined height, width and depth. As such this would result in a development that would be out of character with its immediate surroundings, and would have an overbearing and detrimental impact as it removes the majority of the remaining rear garden ground.
2. The proposed shed contains windows on both side elevations which would face directly onto the neighbouring properties to the immediate east and west of the site. These windows are located at head height and would therefore give a direct view into the neighbouring property gardens giving rise to an unacceptable loss of privacy and overbearing loss of amenity to neighbours and would also be contrary to the requirements of policy DP1 i) e), and IMP1.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
		Site and location plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

N/A

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

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 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100294540-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Shiva"/>
First Name: *	<input type="text" value="Gordon"/>	Building Number:	<input type="text" value="20"/>
Last Name: *	<input type="text" value="Wood"/>	Address 1 (Street): *	<input type="text" value="Shore street"/>
Company/Organisation	<input type="text" value="In The Gutters"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="07947626079"/>	Town/City: *	<input type="text" value="lossiemouth"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="iv31 6pb"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="inthegutter@yahoo.com"/>		

Site Address Details

Planning Authority:

Moray Council

Full postal address of the site (including postcode where available):

Address 1:

SHIVA

Address 2:

20 SHORE STREET

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

LOSSIEMOUTH

Post Code:

IV31 6PB

Please identify/describe the location of the site or sites

Northing

871245

Easting

323355

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

i would like to propose against Fiona Olsens decision to erect my shed/office for my business use. is it possible to have a meeting or someone to come and view it. The windows at head height has had no disagreement with my neighbours and my neighbours have no dispute on the build. they have also been giving 21 days notice without any complaints, but planning has made the decision for them to stop the build. this is not reasonable.

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

all the windows at a height of 6 feet does not invade privacy into my neighbours, even though they have no concerns about the windows. The build itself is wind and water tight and has cost several thousands. every query you have asked for i have done, architect scaled drawing, rain water containment, expensive fire retarded paint, submitting in the papers, all costs because of someone who doesn't live close to me have a dislike and doesnt want me to have a successful business.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☐ Yes ☒ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

please see the notes from the pre applications.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

20/00614/APP

What date was the application submitted to the planning authority? *

21/05/2020

What date was the decision issued by the planning authority? *

15/07/2020

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☐ Yes ☒ No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

Holding one or more hearing sessions on specific matters

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

one outsiders decision should not be made to stop the build for my business to grow

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☐ Yes ☒ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

no they are more than welcome, just give me notice to arrange viewing

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Gordon Wood

Declaration Date: 18/08/2020