



## MORAY LOCAL REVIEW BODY

30 MAY 2019

### SUMMARY OF INFORMATION FOR CASE No LR222

**Planning Application 18/01576/APP – Convert part of bar to 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin, IV30 4EF**

#### **Ward 6 - Elgin City North**

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 22 February 2019 on the grounds that:

The proposal is contrary to the Moray Local Development Plan 2015 because:

1. The proposal would involve a significant intensification of the use of an existing access where visibility is severely restricted and the access lane is not wide enough to allow two vehicles to pass clear of the public road. This proposal will therefore fail to provide safe entry and exit to the site, giving rise to conditions detrimental to the safety of road users. This is contrary to policies T2, H1 and IMP1.
2. A Noise Impact Assessment has not been provided that demonstrates the occupants of the proposed residential units will not be subject to adverse noise emissions detrimental to their residential amenity from nearby sources (road traffic, the remaining public house, its internal ventilation systems and the car parking area to the rear). This is contrary to policies EP8 and IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policies PP3, DP1, DP2 and EP14).

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**.

Further Representations received in response to the Notice of Review are attached as **Appendix 3**.

The Applicant's response to Further Representations is attached as **Appendix 4**.

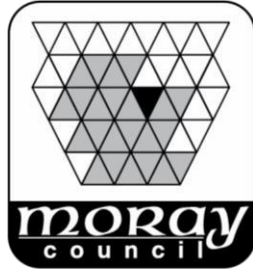




# Location plan for Planning Application Reference Number : 18/01576/APP







## **APPENDIX 1**

# **DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER**



13 DEC 2018

**APPLICATION FOR PLANNING PERMISSION**

Town and Country Planning (Scotland) Act 1997

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

Please refer to the accompanying Guidance Notes when completing this application  
 PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS  
 ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	16/87
Forename	WAGER	Forename	Colin
Surname	MELDRUM	Surname	Keir
Company Name	THE GOLDEN	Company Name	Plans Plus
Building No./Name	PHASANT BAR	Building No./Name	Main Street Offices
Address Line 1	NORTH STREET	Address Line 1	Urquhart
Address Line 2	BISHOPMILL	Address Line 2	By Elgin
Town/City	ELGIN	Town/City	Moray
Postcode	IV30 4EF	Postcode	IV30 8LG
Telephone	01343 547011	Telephone	01343 842635
Mobile	-	Mobile	07766 315501
Fax	-	Fax	n/a
Email	-	Email	ctkplans@aol.com
<b>3. Postal Address or Location of Proposed Development (please include postcode)</b>			
THE GOLDEN PHASANT BAR, NORTH STREET, BISHOPMILL, ELGIN MORAY IV30 4EF.			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
<b>4. Type of Application</b>			
What is the application for? Please select one of the following:			
Planning Permission	<input checked="" type="checkbox"/>		
Planning Permission in Principle	<input type="checkbox"/>		
Further Application*	<input type="checkbox"/>		
Application for Approval of Matters Specified in Conditions*	<input type="checkbox"/>		
Application for Mineral Works**	<input type="checkbox"/>		
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	17/01775/APP	Date:	5/2/18.

**\*\*Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.**

### 5. Description of the Proposal

Please describe the proposal including any change of use:

CONVERT PART OF BAE AREA INTO  
3 NO FLATS

Is this a temporary permission?

Yes ☐ No ☒

If yes, please state how long permission is required for and why:

—

Have the works already been started or completed?

Yes ☐ No ☒

If yes, please state date of completion, or if not completed, the start date:

Date started:

—

Date completed:

—

If yes, please explain why work has already taken place in advance of making this application

—

### 6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes ☐ No ☒

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☐

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☐

Please provide a description of the advice you were given and who you received the advice from:

Name:

—

Date:

—

Ref No.:

—

—

### 7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha):

—

Square Metre (sq.m.)

1003m<sup>2</sup>.

## 8. Existing Use

Please describe the current or most recent use:

PUBLIC BAR.

## 9. Access and Parking

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

Yes ☐ No ☒

*If yes, please show in your drawings the position of any existing, altered or new access and explain 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 changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

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

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

13

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

13

*Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)*

## 10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes ☒ No ☐

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network

☒

No, proposing to make private drainage arrangements

☐

Not applicable – only arrangement for water supply required

☐

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway

☐

Discharge to watercourse(s) (including partial soakaway)

☐

Discharge to coastal waters

☐

*Please show more details on your plans and supporting information*

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)

☐

Other private drainage arrangement (such as a chemical toilets or composting toilets)

☐

*Please show more details on your plans and supporting information.*

Do your proposals make provision for sustainable drainage of surface water?

Yes ☐ No ☒

*Note:- Please include details of SUDS arrangements on your plans*

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

Yes ☒ No ☐

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

#### 11. Assessment of Flood Risk

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

Yes ☐ No ☒

*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 ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

#### 12. Trees

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

Yes ☐ No ☒

*If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.*

#### 13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes ☒ No ☐

*If yes, please provide details and illustrate on plans.*

*If no, please provide details as to why no provision for refuse/recycling storage is being made:*

#### 14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats?

Yes ☒ No ☐

If yes how many units do you propose in total?

*Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.*

**15. For all types of non housing development – new floorspace proposed**

Does your proposal alter or create non-residential floorspace?

Yes ☒ No ☐

If yes, please provide details below:

Use type:

PUBLIC HOUSE

If you are extending a building, please provide details of existing gross floorspace (sq.m):

—

Proposed gross floorspace (sq.m.):

—

Please provide details of internal floorspace(sq.m)

Net trading space:

144 m<sup>2</sup>

Non-trading space:

214 m<sup>2</sup>

Total net floorspace:

358 m<sup>2</sup>

**16. Schedule 3 Development**

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☐ Don't Know ☒

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

**17. Planning Service Employee/Elected Member Interest**

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

Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes ☐ No ☒

If you have answered yes please provide details:

—

**DECLARATION**

I, the ~~applicant~~/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the ~~applicant~~/agent hereby certify that the attached Land Ownership Certificate has been completed ☒

I, the ~~applicant~~/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants

Yes ☐ No ☐ N/A ☒

Signature:

[Redacted Signature]

Name:

CARIN KEIR

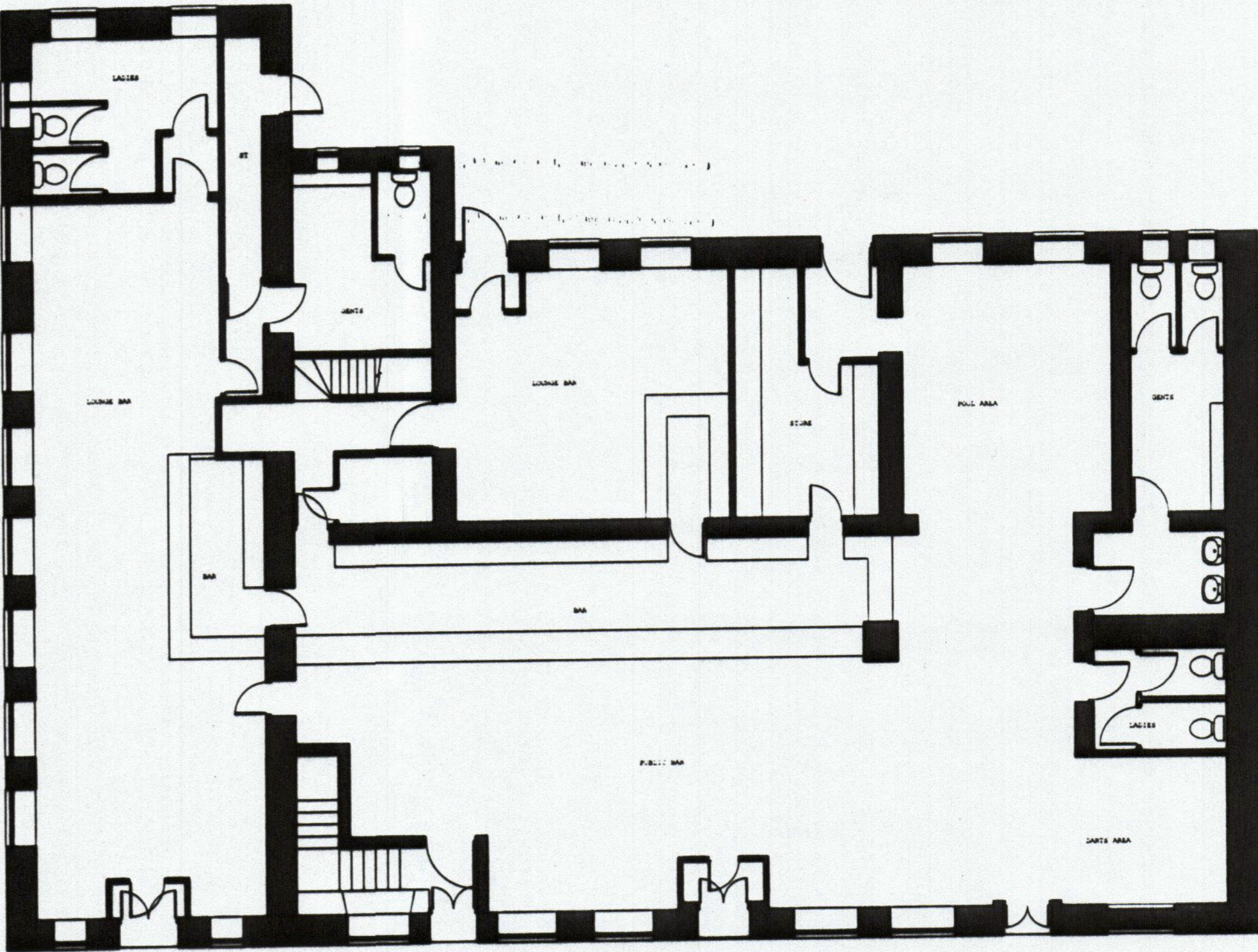
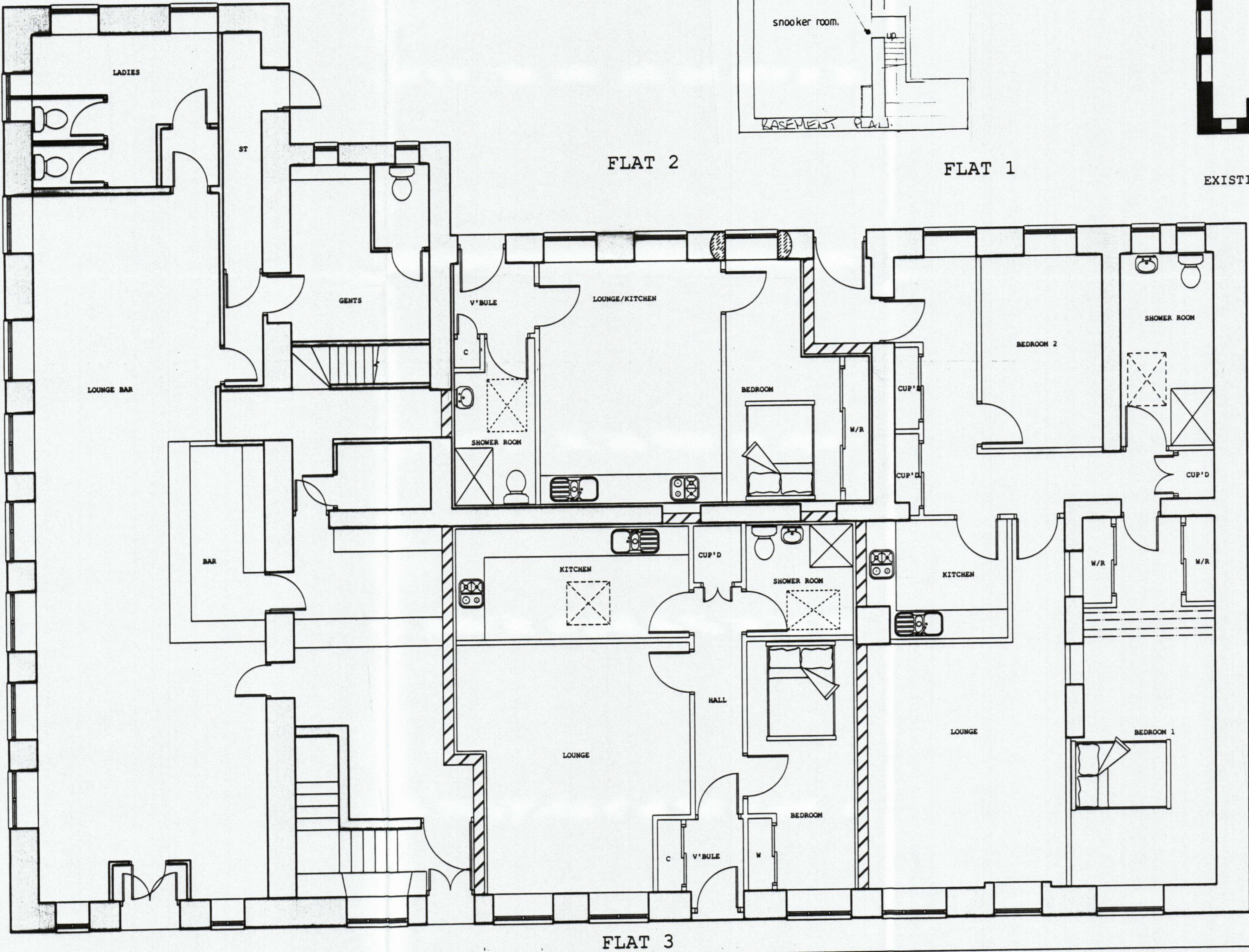
Date:

18/12/18

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.



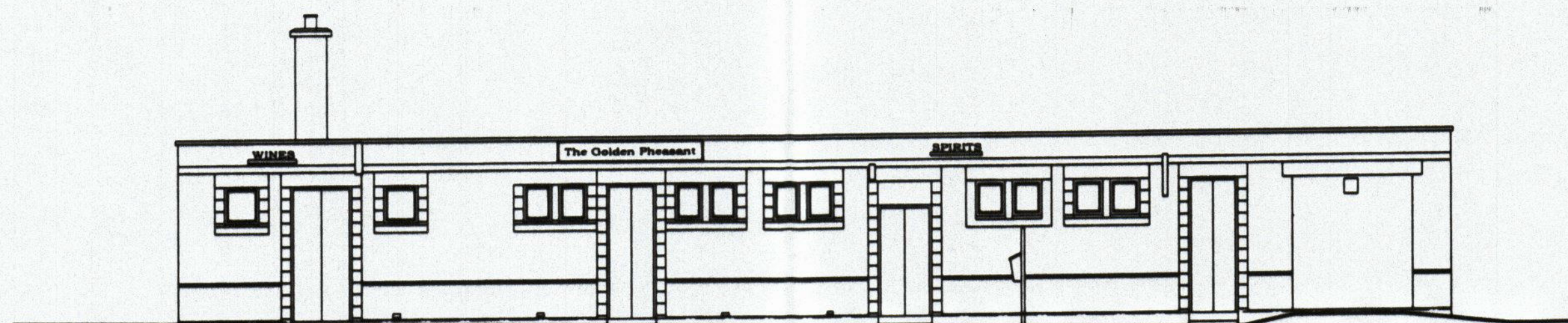
PROPOSED NEW FLOOR PLAN LAYOUT SCALE 1-50.



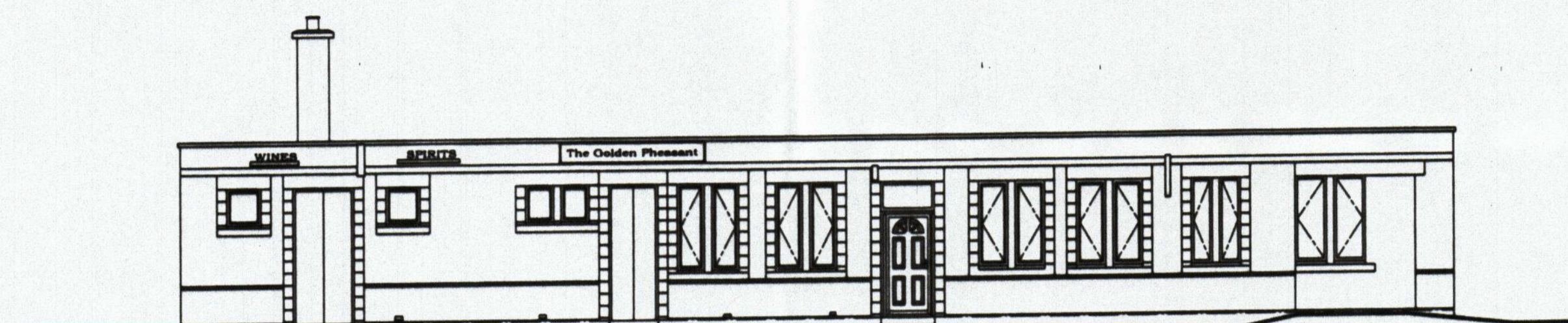
EXISTING FLOOR PLAN LAYOUT SCALE 1-100.

Planning Ref No.		
Building Warrant Ref No.		
Structural Engineer Ref No.		
Revisions and Distributions.		
Date	Revision.	Amended by.
Crown copyright all rights reserved License No. 100041145.		
No works to commence on site until all relevant Local Authority consents have been obtained. No responsibility taken for work commenced before all Local Authority consents have been issued.		
Contractors will have deemed to have visited the site to familiarise themselves with all aspects of the project prior to submitting any quotation for the building operations.		
Any deviation to the approved plans to be reported to this office. Contractors to check all dimensions on site prior to commencement of any building operations.		
Given dimensions only to be used. DO NOT SCALE DRAWINGS.		
Any roof truss or timbers tying into an existing roof to be checked on site by the contractor to ensure heights and ridges meet correctly.		
PLANS PLUS (URQUHART) ARCHITECTURAL DESIGN CONSULTANTS Main Street Offices, Urquhart, By Elgin IV30 8LG. Tel No 01343 842635 / 07766 315501 ctkplans aol.com		
Project	CONVERT PART OF PUBLIC HOUSE TO 3 INDIVIDUAL FLATTED UNITS RETAINING BAR FACILITY AT THE GOLDEN PHEASANT, NORTH STREET, BISHOPMILL, ELGIN.	Project No. 16/87/D/1
Client	MR WALTER MELDRUM.	Scale AS INDICATED.
	Drawn By COLIN T KEIR.	

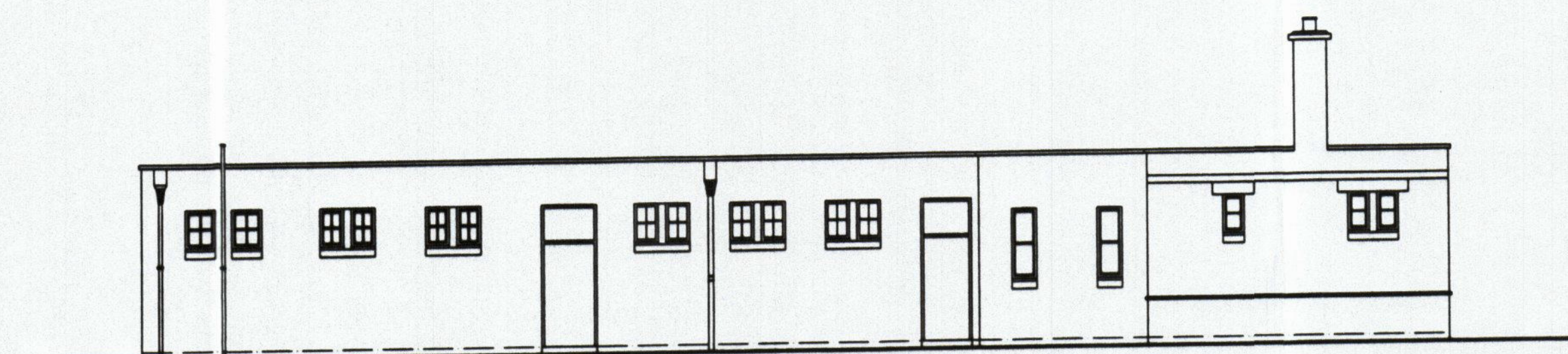




FRONT ELEVATION SCALE 1-100. (EXISTING)



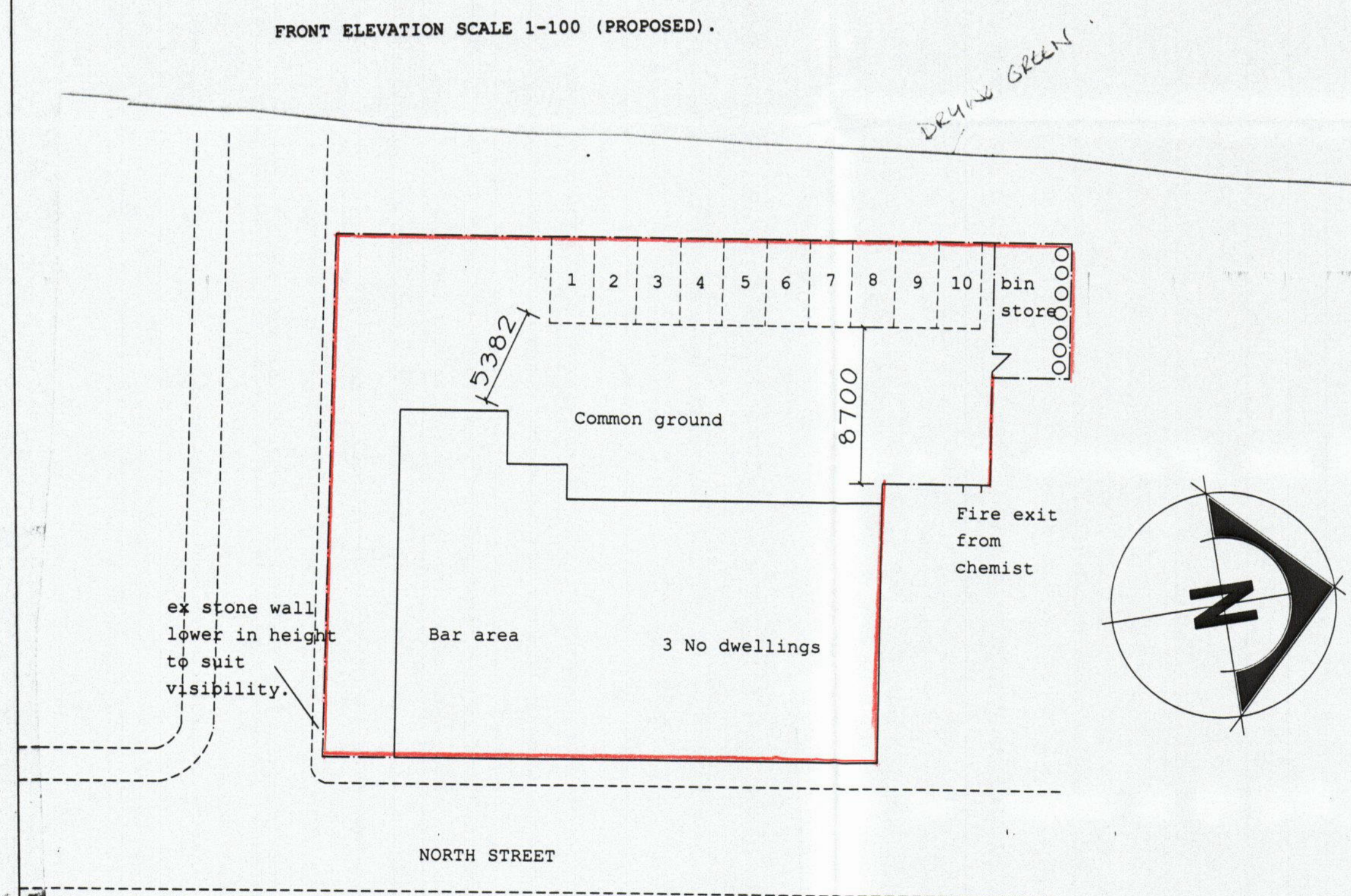
FRONT ELEVATION SCALE 1-100 (PROPOSED).



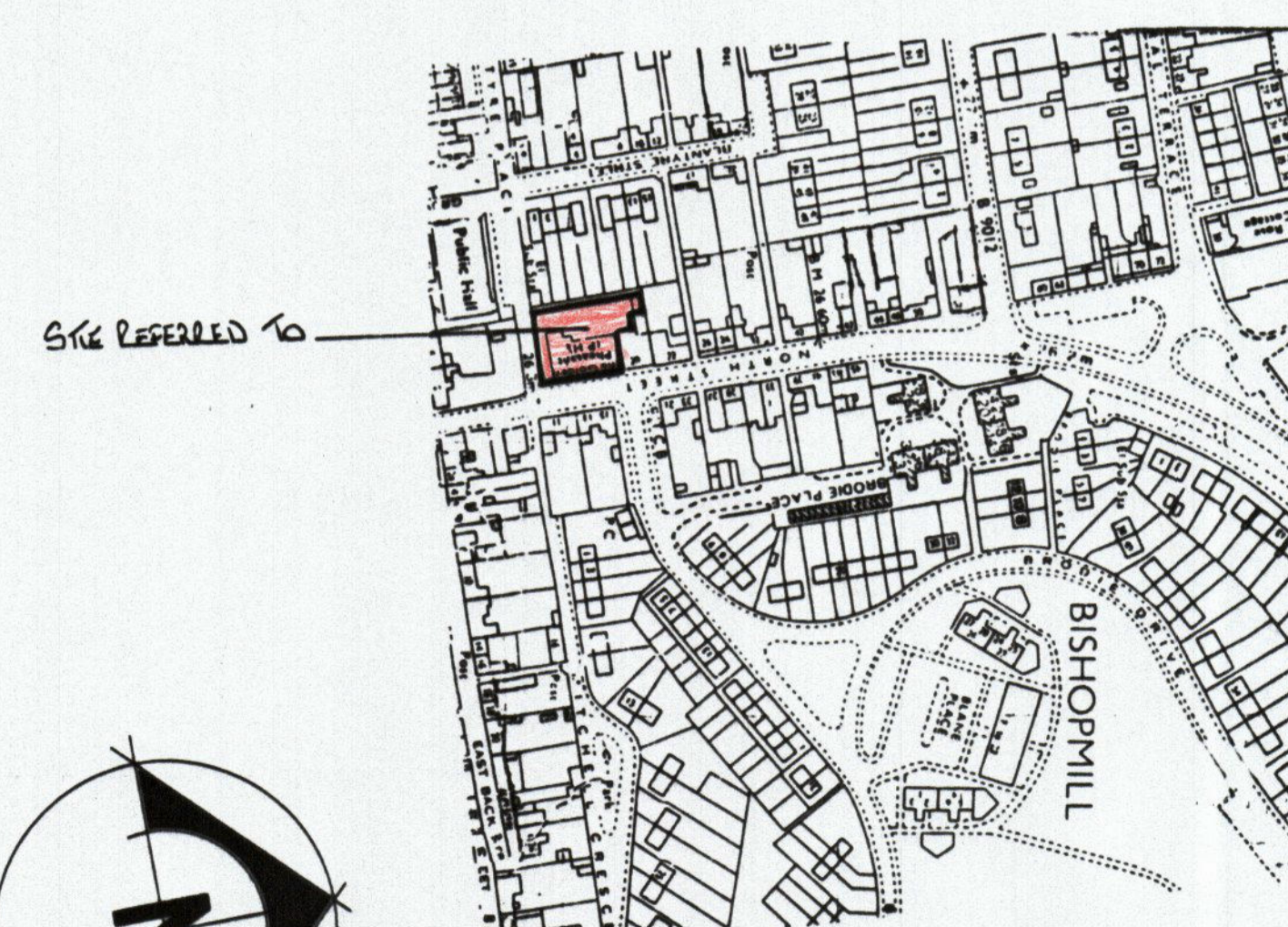
REAR ELEVATION SCALE 1-100. (EXISTING).



REAR ELEVATION SCALE 1-100. (PROPOSED).



SITE PLAN SCALE 1-250



LOCATION PLAN SCALE 1-2500

<b>Planning Ref No.</b>		
<b>Buidling Warrant Ref No.</b>		
<b>Structural Engineer Ref No.</b>		
<b>Revisions and Distributions.</b>		
<b>Date</b>	<b>Revision.</b>	<b>Amended by</b>
Crown copyright all rights reserved License No. 100041148.		
No works to commence on site until all relevant Local Authority consents have been obtained. No responsibility taken for work commenced before all Local Authority consents have been issued.		
Contractors will have deemed to have visited the site to familiarise themselves with all aspects of the project prior to submitting any quotation for the building operations.		
Any deviation to the approved plans to be reported to this office. Contractors to check all dimensions on site prior to commencement of any building operations.		
Given dimensions only to be used. DO NOT SCALE DRAWINGS.		
Any roof truss or timbers tying into an existing roof to be checked on site by the contractor to ensure heights and ridges meet correctly.		
PLANS PLUS (URQUHART) ARCHITECTURAL DESIGN CONSULTANTS Main Street Offices, Urquhart, By Elgin IV30 8LG. Tel No 01343 842635 / 07766 315501     citplans@aol.com		
<b>Project</b>	CONVERT PART OF PUBLIC HOUSE TO 3 INDIVIDUAL FLATTED UNITS RETAINING BAR FACILITY AT THE GOLDEN PHEASANT, NORTH STREET, BISHOPMILL, ELOIN.	<b>Project No.</b>  16/87/D/2
<b>Client</b>	<b>Drawn By</b>  MR WALTER MELDRUM. COLIN T KEIR.	<b>Scale</b>  AS INDICATED.



**From:** DeveloperObligations  
**Sent:** Fri, 11 Jan 2019 13:49:37 +0000  
**To:** Andrew Miller  
**Cc:** DC-General Enquiries  
**Subject:** 18/01576/APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin  
**Attachments:** 18-01576-APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill.pdf

Hi

Please find attached the developer obligations assessment that has been undertaken for the above planning application. A copy of the report has been sent to the agent.

Regards  
Hilda

**Hilda Puskas** | Developer Obligations Officer (Development Planning & Facilitation) |  
Development Services  
[hilda.puskas@moray.gov.uk](mailto:hilda.puskas@moray.gov.uk) | [website](#) | [facebook](#) | [moray council planning facebook](#) | [twitter](#) |  
[newsdesk](#)  
01343 563265

**moray**  
council





# Developer Obligations: ASSESSMENT REPORT



**MORAY**  
council

**Date:** 11/01/2019

**Reference:** 18/01576/APP

**Description:** Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill

**Applicant:** Mr Walter Meldrum

**Agent:** Plans Plus

This assessment has been carried out by Moray Council. This assessment is carried out in relation to policy IMP3 Developer Obligations of the Moray Local Development Plan 2015 (LDP) and associated Supplementary Guidance (SG) on Developer Obligations which was adopted on 1 March 2018.

The LDP and SG can be found at [http://www.moray.gov.uk/moray\\_standard/page\\_100443.html](http://www.moray.gov.uk/moray_standard/page_100443.html)

## Summary of Obligations

Primary Education ( <i>Contribution towards extension at Bishopmill Primary School</i> )	
Secondary Education	Nil
Transport	Nil
Healthcare ( <i>Contribution towards extension at Maryhill Practice and 5 Additional Dental Chairs</i> )	
Sports and Recreation	Nil
<b>Total Developer Obligations</b>	

## Breakdown of Calculation

Proposals are assessed on the basis of Standard Residential Unit Equivalents (SRUE) which is a 3-bedroomed residential unit. This application is considered to comprise of the following:

1 x 2-bed= 0.8 SRUE

2 x 1-bed= 1.2 SRUE

This assessment is therefore based on 2 SRUE.

## Developer Obligations Discount for Small Scale Development

A discount of 70% will be applied to the contribution for small scale developments to reflect their small scale nature.



Moray Council **DEVELOPER OBLIGATIONS**

Please note that 1 bed units are not included within any calculations for education infrastructure mitigation as 1-bed units are not assumed to generate any pupils.

## INFRASTRUCTURE

### Education

#### Primary Education

This development will generate 0.24 primary pupils (0.8 SRUE x 0.3 primary pupils per SRUE).

The pupils generated by this development are zoned to Bishopmill Primary School. The school is currently operating at 94% functional capacity. Contributions towards education are sought where a primary school is operating at, or above 90% functional capacity. Therefore, a contribution will be sought towards an extension at Bishopmill Primary School on the following basis:

[REDACTED]

[REDACTED]

**Contribution towards Primary Education =**

[REDACTED]

#### Secondary Education

The pupils generated by this development are zoned to Elgin Academy. The school is currently operating at 84% capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary.

**Contribution towards Secondary Education = Nil**

### Transport

The Moray Council Transportation Services has confirmed that no developer obligations will be sought for this proposal.

**Contributions towards Transport = Nil**

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities. The recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development (based on the average household size of 2.17 persons -Census 2011).

Maryhill Practice is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Maryhill Practice is currently working beyond design capacity and existing space will be required to be extended and that 5 Additional Dental Chairs will be required.

Contributions are calculated based on a proportional contribution of [REDACTED] per SRUE for the health centre and additional dental chairs each.

[REDACTED]





Contribution towards Healthcare= 

Sports and Recreational Facilities

*Sports and Recreation Facilities*

Existing sports provision within Elgin is considered to be adequate to serve the needs of the residents anticipated to be generated by this development. Therefore, in this instance, no contribution will be required.

**Contribution for Sports and Recreation Facilities = Nil**



## TERMS OF ASSESSMENT

This assessment report is valid for a period of 6 months from the date of issue.

Please note that any subsequent planning applications for this site may require a re-assessment to be undertaken on the basis of the policies and rates pertaining at that time.

## PAYMENT OF CONTRIBUTIONS

Remittance of financial obligations can be undertaken either through the provision of an upfront payment or by entering into a Section 75 agreement. The provision of an upfront payment will allow a planning consent to be issued promptly. However, where the amount of developer contributions are such that an upfront payment may be considered prohibitive a Section 75 will likely be required. The payment of contributions may be tied into the completion of houses through a Section 75 Agreement or equivalent, to facilitate the delivery of development. Please note that Applicants are liable for both the legal costs of their own Legal Agent fees and Council's legal fees and outlays in the preparation of the document. These costs should be taken into account when considering the options.

## INDEXATION

Developer obligations towards Moray Council infrastructure are index linked to the General Building Cost Price Index (BCPI) as published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) from Q3, 2017 and obligations towards NHS Grampian infrastructure are index linked to All in Tender

Price Index (TPI) as published by the Royal Institute of Chartered Surveyors (RICS) from Q2, 2017.



# **Consultee Comments for Planning Application 18/01576/APP**

## **Application Summary**

Application Number: 18/01576/APP

Address: The Golden Pheasant North Street Bishopmill Elgin Moray IV30 4EF

Proposal: Convert part of bar area into 3no flats at

Case Officer: Andrew Miller

## **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**

No Objections

Adrian Muscutt



## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Environmental Health Manager

**Planning Application Ref. No: 18/01576/APP**

**Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill  
Elgin for Mr Walter Meldrum**

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

- |   | <b>Please</b>            |
|---|--------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below   | <b>x</b>                 |
| (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 type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/> |

#### **Reason(s) for objection**

Having regard to the resubmission application this Section notes that the outstanding requirement for a detailed Noise Impact Assessment in terms of PAN 1/2011 and requested during the previous consultation response with application 17/01775/APP, has not been provided and on this basis as well as the reasons stated in the previous decision notice issued , this Section recommends refusal of the application.

**Contact: Douglas Caldwell**  
**email address:**  
**Consultee:**

**Date: 24.01.2019**  
**Phone No** .....

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</b>
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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.



## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No: 18/01576/APP**

**Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin for Mr Walter Meldrum**

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 checked="" 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 type="checkbox"/>            |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

*This proposal is to convert part of an existing large bar area into 3no flats, with the retention of a smaller bar area.*

*Access to the proposed development's off street parking is via a gated access onto the A941 North Street, approximately 10 metres from the centreline of the North Street/ Blantyre Place junction, at a location which has high volumes of passing traffic as well as pedestrian activity. A bus stop/bay sits immediately outside the site and local shops (including a convenience store, chemist, Public Hall, Chinese take-away and chip shop) are located in close proximity.*

*The footway along the frontage of the site (over which vehicles access the parking to rear) is narrow and both the pedestrian and vehicular visibility splays for vehicles exiting the site onto the Public Road are severely restricted to the north.*

*Additionally the restricted width of the access road to the rear parking also means that when a vehicle entering the site meets a vehicle exiting the site one of the vehicles has to undertake a reversing manoeuvre to allow the other vehicles to pass.*

*A pedestrian visibility splay is required to allow drivers to see pedestrians as they emerge from their access road or driveways and to allow pedestrians to see the vehicle.*

#### Additional information

*The applicants supporting statement for this proposal includes various comments, statements and comparisons with other sites/locations. Transportations key considerations/ concerns with this proposal have been expanded upon below:*

- *Transportations key concern with any ‘intensification of use’ of this access is the lack of visibility splay to the north, and most importantly the inability for exiting drivers to see pedestrians travelling southbound along the adjacent (narrow) footway. The obstruction to the visibility splay to the north is the building itself. Whilst removal of a section of the existing boundary wall to the south may provide additional access width (which in turn would allow vehicles to exit slightly further away from the building and slightly improve the existing pedestrian visibility splay to the north) there is no scope to provide a pedestrian visibility splay (2.4m x 5.0m taken from the back of the footway). Similarly the width of the access would result in conflict between entering and exiting vehicles, where one of the vehicles would need to reverse (most likely to be the entering vehicle). Again whilst removal of a section of the existing boundary wall to the south may provide additional access width there would be insufficient scope to widen the access to provide enough space for two vehicles to pass each other.*
- *The vehicular visibility splay is also restricted (2.4m x 43m taken from the edge of the carriageway).*
- *The applicant states “**Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar**”. This confirms that any trips associated with the proposed flats would be ‘new’ trips and that this proposal would as a consequence intensify the use of this access.*
- *This particular site location has a significant number of passing vehicles and pedestrians. The footway is narrow, and there are two road junctions immediately adjacent. A signalised pedestrian crossing and bus stop are also present on either side of the access. Because of the number of individual movements/ interacting elements in this vicinity there is significant potential for conflict, particularly with exiting drivers concentrating on finding gaps in the traffic rather than considering the potential for a pedestrian to step in front of them.*
- *In the instance of a pedestrian having to instinctively step out of the path of an exiting vehicle they would be stepping out directly onto the carriageway and potentially into the path of an oncoming northbound vehicle.*
- *A condition could not be applied which would limit the non-car ownership of the residents (non- enforceable).*
- *A condition to restrict exiting vehicles to left turn only would not mitigate against the lack of pedestrian visibility splay. It would also be non-enforceable.*
- *Finally there is sufficient space to accommodate the required number of parking/cycle spaces, and provision of bin storage, to meet the development parking standards.*

### **Reason(s) for objection**

The proposed development, if permitted, would involve the intensification of use of an existing vehicular access onto the A941 North Street, where visibility is severely restricted by the adjacent building, and in addition the access is of insufficient width to allow two vehicles to pass clear of the public road. Transportation considers that the proposal, if permitted, would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

**Contact: DA/AG**  
**email address: Transport.develop@moray.gov.uk**  
**Consultee: TRANSPORTATION**

**Date 29 January 2019**

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</b>
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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.



4<sup>th</sup> January 2019

Moray Council  
Council Office High Street  
Elgin  
IV30 9BX



Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Steps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - DevelopmentOperations@scottishwater.co.uk  
www.scottishwater.co.uk

Dear Local Planner

**IV30 Elgin North Street The Golden Pheasant**  
**PLANNING APPLICATION NUMBER: 18/01576/APP**  
**OUR REFERENCE: 771248**  
**PROPOSAL: Convert part of bar area into 3no flats at**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

#### **Water**

- This proposed development will be fed from Glenlatterach Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity at this time so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water. The applicant can download a copy of our PDE Application Form, and other useful guides, from Scottish Water's website at the following link  
[www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms/pre-development-application](http://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms/pre-development-application)

#### **Foul**

- There is currently sufficient capacity in the Moray West Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

**The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.**

### **Surface Water**

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

### **General notes:**

- **Scottish Water asset plans can be obtained from our appointed asset plan providers:**

**Site Investigation Services (UK) Ltd**

**Tel: 0333 123 1223**

**Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)**

**[www.sisplan.co.uk](http://www.sisplan.co.uk)**

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.
- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- **Please find all of our application forms on our website at the following link**  
<https://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms>

### **Next Steps:**

- **Single Property/Less than 10 dwellings**

For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

- **10 or more domestic dwellings:**

For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

- **Non Domestic/Commercial Property:**  
 Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)
- **Trade Effluent Discharge from Non Dom Property:**  
 Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether or not the discharge from your premises is likely to be considered to be trade effluent, please contact us on 0800 778 0778 or email

TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found using the following link <https://www.scottishwater.co.uk/business/our-services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h>

Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk)

Yours sincerely

**Angela Allison**

Angela.Allison@scottishwater.co.uk

## **REPORT OF HANDLING**

<b>Ref No:</b>	18/01576/APP	<b>Officer:</b>	Andrew Miller
<b>Proposal Description/ Address</b>	Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin		
<b>Date:</b>	22/02/19	<b>Typist Initials:</b>	FJA

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Planning And Development Obligations	11/01/19	Obligation sought towards Primary Education (extension at Bishopmill Primary) and Healthcare (extension at Maryhill Practice and 5 additional dental chairs).
Environmental Health Manager	24/01/19	Object on the basis that a Noise Impact Assessment has not been provided to demonstrate the impact of noise from road traffic (including car park), ventilation systems and the public bar upon the occupants of the proposed houses.
Transportation Manager	29/01/19	Object - The proposed development, if permitted, would involve the intensification of use of an existing vehicular access onto the A941 North Street, where visibility is severely restricted by the adjacent building, and in addition the access is of insufficient width to allow two vehicles to pass clear of the public road. Transportation considers that the proposal, if permitted, would likely give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

Scottish Water	04/01/19	No objections but advise a pre-development enquiry is submitted to Scottish Water to assess capacity for water supply. Sufficient capacity in the Moray West WWTW for foul drainage.
Contaminated Land	09/01/19	No objections.

## DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth	N	MLDP 2015
PP3: Placemaking	N	MLDP 2015
H1: Housing Land	Y	MLDP 2015
EP10: Foul Drainage	N	MLDP 2015
EP8: Pollution	Y	MLDP 2015
T2: Provision of Access	Y	MLDP 2015
T5: Parking Standards	N	MLDP 2015
IMP1: Developer Requirements	Y	MLDP 2015
IMP3: Developer Obligations	N	MLDP 2015
PP3 Infrastructure & Services	Y	Proposed MLDP 2020
DP1 Development Principles	Y	Proposed MLDP 2020
DP2 Housing	Y	Proposed MLDP 2020
EP14 Pollution, Contamination & Hazards.	Y	Proposed MLDP 2020

## REPRESENTATIONS

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require applications for planning permission to be determined in accordance with the development plan (i.e. the Moray Local Development Plan 2015 (MLDP)) unless material considerations indicate otherwise.

On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to the Proposed MLDP 2020, with the 2015 MLDP being the primary consideration.

The main planning issues are considered below.

### **Site**

The site comprises part of a public house in a flat roofed single storey sandstone building. It has a parking area to the rear which is accessed to the south side of the building. It is located on North Street in Bishopmill, Elgin, on the northern corner of its junction with Blantyre Place. The surrounding area has a mix of commercial uses and residential, the commercial uses being mainly retail and hot food takeaways situated on North Street.

### **Proposal**

Planning permission is sought for the conversion of part of the public house to form three residential units. The public house currently has two bars, the current lounge bar in the southern part of the building would remain. The remainder of the building would be subject to the conversion, 2 one bedroom houses and 1 two bedroom house. To accommodate the houses, existing windows will be enlarged to the front and rear, though one door opening on the northern side of the front elevation will be turned into a window opening.

The existing vehicular access (from North Street) to the side would be utilised, with 10 parking spaces provided to the rear yard area along with a bin store.

### **Principle of Development (H1)**

The site does not fall within any specific land use designation in the MLDP, therefore the proposal is considered to be "windfall" development. Such development is generally supported by policy H1, however development should not adverse impact on the surrounding environment, adequate servicing and infrastructure should be provided, and the requirements of policy PP2, PP3, and IMP1 should be met. Given the mix of uses in the surrounding area, the change of use of part of the licenced premises to residential is considered to be acceptable. However, as detailed below, the proposal is considered to result in an adverse impact on road safety and fails to provide a suitable level of amenity for the proposed residents of this development. The proposal therefore does not comply with policy IMP1 and subsequently fails to accord with policy H1.

### **Design (IMP1)**

The proposed alterations to the building to accommodate the proposed use are minimal, and these are considered suitable for the original architecture of the building and the character of the surrounding area. The alterations are therefore considered to comply with policy IMP1 in this regard.

### **Access (T2, H1 and IMP1)**

Policy T2 of the MLDP requires all development to be served by a safe and suitable access arrangement. Both policies H1 and IMP1 require development to be served by adequate infrastructure at a level appropriate to development. As described above, access would be taken via the existing access to the side of the building. The current access is on to a road (North Street), which has relatively high volumes of vehicular traffic and pedestrian movements, close to a bus stop, a signalised pedestrian crossing and a number of local shops and takeaways. The access is also

immediately adjacent to a busy junction (Blantyre Place). At present, the access is not intensively used (during site inspection this was closed off by gates) and crosses the pavement.

The Transportation Manager has objected to the application, raising concerns regarding the intensified use of the existing access arrangements. The position of the building (immediately abutting the pavement) as well as the high wall between the site and the junction to the south currently offers insufficient visibility for vehicles exiting the site with regard to visibility of pedestrians and vehicles using North Street. In addition, the width of the current access to the rear is insufficient to enable two vehicles to pass. Should two vehicles meet, one will have to undertake a reversing manoeuvre.

It is noted that this proposal is identical to an application that was previously refused and a subsequent review of that decision dismissed by the Local Review Body (ref 17/01775/APP). The statement accompanying the application raised a number of points, which are addressed as follows:

- *The applicant is willing to lower part of the boundary wall to the south to improve visibility.* Whilst this would improve visibility to the south, the visibility issues to the north still remain. The Transportation Manager has stated that removal of part of the wall would offer a slightly greater width of access however this is still insufficient to enable two vehicles to pass and visibility would be no different should the wall be sufficiently lowered or removed for part of its length closest to the public road.

- *There would be a lower parking requirement applied to the current use (entirely public house) compared with the proposed residential units and smaller public house.*

The supporting statement notes that the area to the rear of the public house is not currently in use as parking, therefore the proposed development of residential units would result in an intensification of use of the existing junction.

*A site to the north was recently granted planning permission for the erection of a house with access directly to North Street, with minimal visibility. There is a need for consistency in decisions.*

Each application is considered on its own merits and there are different circumstances in this case. The pavement to the frontage is narrow, there are two road junctions immediately adjacent and a signalised pedestrian crossing and bus stop are also present on either side of the access. As a result, there are a number of individual movements/interacting elements in this vicinity with significant potential for conflict, particularly with existing drivers concentrating on finding gaps in traffic rather than considering the potential for a pedestrian to step in front of them.

- *Occupants of the proposed residential units would not have a car.* There is no control over this matter and no condition/agreement can be put in place to limit the car ownership of the occupants.
- *Signage requiring left turn only for existing vehicles can be provided.* This would not mitigate against the visibility requirements for pedestrians nor could a condition be placed requiring such a sign to be put in place (non-enforceable).

Taking account of these considerations, the proposal is considered to be contrary to policies T2, H1 and IMP1, on the basis the proposal would likely give rise to conditions detrimental to the safety of road users.

### **Parking (T5)**

Sufficient parking is shown on the site plan, in line with the Council's parking standards. This is in compliance with policy T5.

### **Noise (EP8 & IMP1)**

The Council's Environmental Health Service has highlighted the potential for the amenity of the occupants of the proposed residential units to be adversely impacted upon from noise generated by road traffic, the remaining public house, internal ventilation systems and the car parking area to the rear. A Noise Impact Assessment was not provided with the application that demonstrates the impact

these noise sources will have on the amenity of the occupants of the proposed residential units is unknown. The proposal is therefore contrary to policies EP8 and IMP1.

It is noted that a Noise Impact Assessment was not provided with the previous application (17/01775/APP) and this formed part of the reason for refusal of that application and the subsequent dismissed review.

### **Drainage and Water Supply (EP5, EP10)**

The development would connect to the public water supply and sewerage system. Scottish Water has not objected to the proposal, and the proposal is considered to comply with policy EP10 with regard to foul drainage.

As the only changes to the building are mainly internal with minor external changes, the proposal will not result in any change to existing surface water drainage arrangements. As such, the proposal does not conflict with policy EP5.

### **Developer Obligations (IMP3)**

In order to mitigate any adverse impact a development may have upon existing infrastructure and facilities, policy IMP3 puts in place the provision to seek developer obligations appropriate to reduce, eliminate or compensate for the impact. Following assessment in accordance with the Council's Supplementary Guidance on Developer Obligations (adopted March 2018), obligations have been sought in this instance to mitigate the impact on Primary Education (extension at Bishopmill Primary) and Healthcare (extension to Maryhill Practice and 5 additional dental chairs). As this application has been recommended for refusal, these obligations were not pursued. Were this application to be approved, then obligations should be sought by means of an appropriate agreement.

### **Implications of the Proposed Moray Local Development Plan 2020**

As noted above under Legislative Requirements, given the minimal weight that is applied to the Proposed Plan, the implications of this are not considered to alter the above assessment. However it is noted that the development would fail to comply with the relevant policies of the Proposed Plan (policies PP3, DP1, DP2 and EP14) on the basis of the foregoing evaluation under the adopted MLDP 2015.

### **Recommendation**

Refusal

## **OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

## **HISTORY**

Reference No.	Description			
17/01775/APP	Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin Moray			
	Decision	Refuse	Date Of Decision	05/02/18

## **ADVERT**

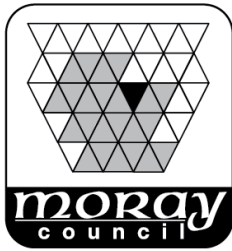
Advert Fee paid?	N/A		
Local Newspaper	Reason for Advert	Date of expiry	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	CONT SOUGHT

<b>DOCUMENTS, ASSESSMENTS etc. *</b> <i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Supporting Statement	
Main Issues:	Letter from applicant's agent outlining the main reasoning behind the proposal and the proposal itself, as well as the suitability of the proposed vehicular access arrangements and citing of examples of precedent.	

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**

**[Elgin City North]  
Application for Planning Permission**

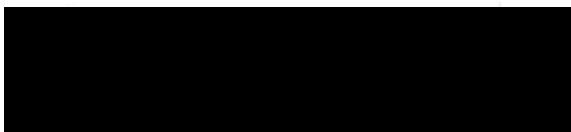
TO     Mr Walter Meldrum  
         c/o Plans Plus  
         Main Street  
         URQUHART  
         By Elgin  
         Moray  
         IV30 8LG

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:-

**Convert part of bar area into 3no flats at The Golden Pheasant North Street  
Bishopmill Elgin**

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

Date of Notice:                      **22 February 2019**



**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department  
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 proposal is contrary to the Moray Local Development Plan 2015 because:

1. The proposal would involve a significant intensification of the use of an existing access where visibility is severely restricted and the access lane is not wide enough to allow two vehicles to pass clear of the public road. This proposal will therefore fail to provide safe entry and exit to the site, giving rise to conditions detrimental to the safety of road users. This is contrary to policies T2, H1 and IMP1.
2. A Noise Impact Assessment has not been provided that demonstrates the occupants of the proposed residential units will not be subject to adverse noise emissions detrimental to their residential amenity from nearby sources (road traffic, the remaining public house, it's internal ventilation systems and the car parking area to the rear). This is contrary to policies EP8 and IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policies PP3, DP1, DP2 and EP14).

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
16/87/D/1		Existing and proposed floor plans
16/87/D/2		Elevations 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](http://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**



# NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

**IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.**

**PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>**

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	16/87
Forename	WALTER.	Forename	COLIN.
Surname	MEERUM.	Surname	KEIR.
Company Name	GOLDEN PHOENIX	Company Name	PLANS PLUS.
Building No./Name	NORTH STREET	Building No./Name	MAIN STREET OFFICES
Address Line 1	BISHOPMILL.	Address Line 1	URQUHART
Address Line 2	EGGW	Address Line 2	BY EGGW
Town/City	MOLAY	Town/City	MOLAY
Postcode	IV30 4EF.	Postcode	IV30 8LG.
Telephone	—	Telephone	01343 842635.
Mobile	—	Mobile	07766 315501.
Fax	—	Fax	—
Email	—	Email	ckplans@aol.com

3. Application Details	
Planning authority	MOLAY COUNCIL.
Planning authority's application reference number	8/01576/APP.
Site address	<div style="border: 1px solid black; padding: 10px; min-height: 100px;"> <p>THE GOLDEN PHOENIX, NORTH STREET BISHOPMILL, EGGW, IV30 4EF.</p> </div>
Description of proposed development	<div style="border: 1px solid black; padding: 10px; min-height: 50px;"> <p>CONVERT PART OF BAR TO 3 NO FLATS.</p> </div>

Date of application

12/12/18

Date of decision (if any)

20/2/19

**Note.** This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

#### 4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)



Application for approval of matters specified in conditions



#### 5. Reasons for seeking review

Refusal of application by appointed officer



Failure by appointed officer to determine the application within the period allowed for determination of the application



Conditions imposed on consent by appointed officer



#### 6. 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.

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure



If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

#### 7. Site inspection

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

Can the site be viewed entirely from public land?

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



If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

NO

## 8. Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE SEPARATE SHEET .

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☐

No ☒

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

## 9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

PLAN AND ELEVATIONS OF APPROVED HOUSE AT NO 42 NORTH ST.  
REVIEW STATEMENT, APPLICATION FORMS  
REFURB PLANS, REASONS FOR REFUSAL DOCUMENT,  
SUPPORTING STATEMENT WITH APPLICATION.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

## 10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form



Statement of your reasons for requesting a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



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 from that earlier consent.

## DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:

[Redacted Signature]

Name:

CAROL KERR.

Date:

7/3/19.

Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



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Main Street, Urquhart, Elgin, Moray, IV30 8LG

## **PLANNING REFERENCE NUMBER 18/01576/APP**

### **CONVERT PART OF BAR AREA TO 3 NO. FLATS RETAINING SMALL BAR AREA AT THE GOLDEN PHEASANT, NORTH STREET, ELGIN.**

**CLIENT .....MR WALTER MELDRUM.**

### **REVIEW STATEMENT.**

#### **BACKGROUND.**

This is a long established public bar in the Bishopmill area of Elgin for nearly 60 years. In its hey day it boasted a large public bar, lounge bar and cocktail bar all of which were used by locals and some from further afield. The Bars survived on bar sales only and there has not been food served here previously. Over the years there have been various factors which have lead to our client having to do something with this fairly large building. The cost of drinking has soared in a public bar and with cheap alcohol available from supermarkets locals have turned their back on their local in an attempt to save money. The virtual zero tolerance on drink driving has also impacted on trade as no one now drives to the pub and drinks. Extremely high rates based on floor area are crippling this business and change has to happen in order for it to survive.

#### **PROPOSAL.**

It is proposed to reduce the size of the bar to around a third of its area at present and form 3 No flats out of the remaining floor area. There would be 2 No one bedroom flats and a 2 bedroom unit for the applicant to live in. At present the gates to the rear car parking area have been closed for some years due to the fact that only locals frequent the bar and they all live within walking distance of the business. It was felt that the one bedroom flats may have appealed to single people who may not even have had vehicles but it is conceded that there can be no control over this.



## **SUPPORTING EVIDENCE**

Based on Transportation's assessment for car parking for the remainder of this Public house, a third of the bar area being retained requires 7 spaces to be provided. This means that at its current level the full bar area supports 21 spaces. On site this is actually 18 spaces but none the less represents a REDUCTION of vehicle movements in real terms. The requested car parking has been achieved.

**One vital question has to be asked and answered. Why does application number 16/01268/APP NOT APPEAR on the Moray Council web site?**

This is an APPROVED application to demolish an old bakers shop, divide the ground and erect a new dwelling house. The reason we have cited this application is because the proposal intensifies the frontage of the plot so that only a 3m wide access is left for vehicles to enter and exit the plot. The plot is beside a major junction controlled by traffic lights and vehicles have to pass over a pedestrian footpath. This situation actually makes the entry and exit to and from this site far worse than the site my client has applied for. This site has **NO VISIBILITY** in either direction before a vehicle is at least 1m over the pavement. There was at least half the width of the plot open when the bakers shop was there but in the report on the handling of this application there were no objections or conditions imposed on the development by Transportation other than during construction. Yet despite a reduction in vehicular movements by turning two thirds of the bar into 3 small flat units, my client's proposal is refused. As stated previously the 2 bedroom flat will be for the applicant's use leaving only 2 one bedroom flats for rent. **NO ONE DRIVES TO THIS PUBLIC HOUSE.** My client envisages no more vehicles using this access than there has been over the last 10 years where no accidents have been reported. There appears to be a case of double standards being applied here where the house approved under 16/01268/APP can infill the frontage of their site and leave just 3m for access and this can be deemed acceptable **(and kept from public view)** yet have to cross a pavement. It is quite clear that at the Golden Pheasant, you come to an end of the pavement and you are aware that an access exists.

My client is prepared to have "no right turn" signs displayed at the exit point from his premises to ensure traffic always turn left when leaving.



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Main Street, Urquhart, Elgin, Moray, IV30 8LG

**The questions we have to ask are**

**What makes this site different to the Golden Pheasant site?**

**Why is increasing the frontage with buildings, thus narrowing the access to 3m deemed to be acceptable.?**

**Why were no visibility issues raised during the determination of this application?**

**Are the circumstances now more or less identical although there is no pavement in front of the Golden Pheasant?**

**Why is this application hidden from public view?**

## **NOISE POLLUTION.**

It is accepted that a sound report had not been obtained prior to the determination of this application. However, we have provided evidence that a sound report was requested but as we had already been informed that the likely outcome of the application was to be a refusal, it seemed ridiculous to expose our client to fees in excess of £5,000 at this time. Should this Review be viewed sympathetically, a sound report will be put in place.

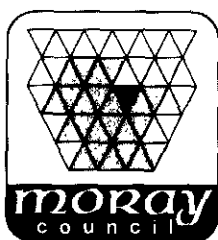
## **CONCLUSIONS.**

To summerise this project is quite simple. Sound tests can and will be provided. In our opinion should the application be looked at favourably a condition can be attached to an consent. The access/exit arrangement has been in situ for around 60 years but not as long as the junction opposite at Brodie Drive. We are not aware of any accidents in this area either at Brodie Drive or at The Golden Pheasant. Another access on to North Street just along the road has been made worse, yet approved.



**If the bar is not reduced in size then rates will close this building down. If the business folds we are effectively saying that there is no other use for it as any change of use will require a parking element and will be automatically refused if Transportation remain consistent with their requirements. This is an existing access and in its day there probably was a lot of traffic movement. This does not happen now. The only person to use the parking is the applicant. By him using one of the flats this means that there is no intensification of the access at all. This means we are off setting the bar usage against 2 one bedroom flats.**

**Without a common sense approach to this project, this building will close and be left derelict with no alternative use due to an existing access. Our client is trying to keep a business going through difficult trading times for the Public House industry and it will be a sad day if this icon has to close over an existing access.**



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

**REFUSAL OF PLANNING PERMISSION**

**[Elgin City North]  
Application for Planning Permission**

TO     Mr Walter Meldrum  
         c/o Plans Plus  
         Main Street  
         URQUHART  
         By Elgin  
         Moray  
         IV30 8LG

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:-

**Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin**

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

Date of Notice:                    **22 February 2019**



**HEAD OF DEVELOPMENT SERVICES**  
Environmental Services Department  
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 proposal is contrary to the Moray Local Development Plan 2015 because:

1. The proposal would involve a significant intensification of the use of an existing access where visibility is severely restricted and the access lane is not wide enough to allow two vehicles to pass clear of the public road. This proposal will therefore fail to provide safe entry and exit to the site, giving rise to conditions detrimental to the safety of road users. This is contrary to policies T2, H1 and IMP1.
2. A Noise Impact Assessment has not been provided that demonstrates the occupants of the proposed residential units will not be subject to adverse noise emissions detrimental to their residential amenity from nearby sources (road traffic, the remaining public house, it's internal ventilation systems and the car parking area to the rear). This is contrary to policies EP8 and IMP1.

The proposal also fails to comply with the requirements of the Proposed Moray Local Development Plan 2020 (policies PP3, DP1, DP2 and EP14).

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
16/87/D/1		Existing and proposed floor plans
16/87/D/2		Elevations site and location plan

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

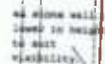
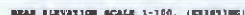
N/A

**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](http://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.





SITE PLAN SCALE 1"=250'

**Town & Country Planning  
(Scotland) Act, 1997**  
as amended

**REFUSED**

22 February 2019  
Development Management  
Environmental Services  
The Mayor Council



LOCATION FILE SCALE 1-1000

Filing Ref No.		
Filing Name Ref No.		
Company Name Ref No.		
Address and Description.		
Date.	Remarks.	Amount
<p>Every employer of motor transport vehicles No. 1000001 and above is licensed to give work of transportation. Such authority however must be obtained by responsibility from the competent official of the State Authority concerned from 1960 (1960).</p> <p>Companies will need license to have started this line in Indonesia. Therefore all efforts of the project prior to submitting any application for the building construction.</p> <p>Any facilities for the transport plan to be reported to this office. Furthermore to obtain all documents or data prior to commencement of any building construction.</p> <p>From documents, July 14th 1960, No 1001700001 documents.</p> <p>Any brief form or document, which may be submitted only to be submitted on 1001 to the concerned to obtain license and design work correctly.</p> <p><b>PLANS PLUS (URQUAHAT)</b>  <b>ARCHITECTURAL</b>  <b>DESIGN CONSULTANTS</b>          1001 1001 1001 1001 1001 1001 1001 1001 1001 1001          Tel No 1001 1001 1001 1001 1001 1001 1001 1001 1001 1001</p>		
Received	<p>Received from the public          To the Director, Building, and the Director          the Ministry of the Interior          Ministry of the Interior, Building, and the Director</p>	
Project	Project No.	Name
for the building of the building	for the building of the building	for the building of the building

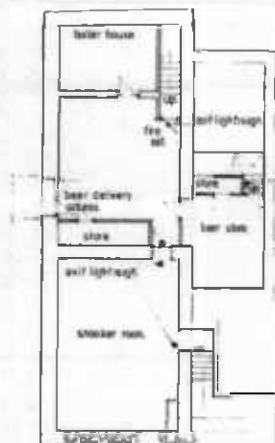


**REFUSED**

22 February 2019

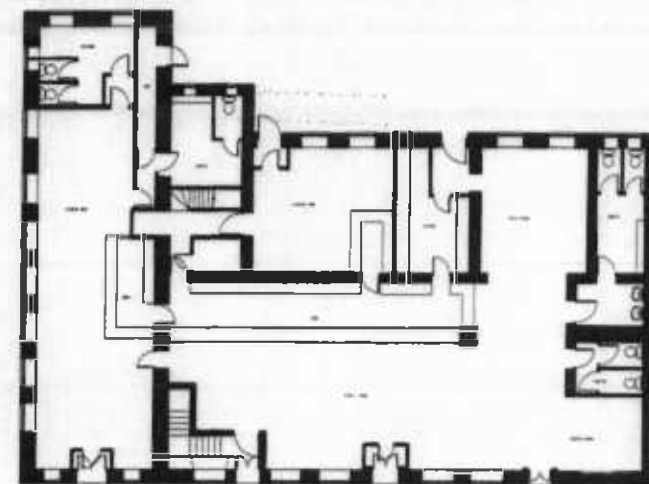
Development Management  
Environmental Services  
The Mayor's Council

PROPOSED NEW FLOOR PLAN LAYOUT SCALE 1-50.

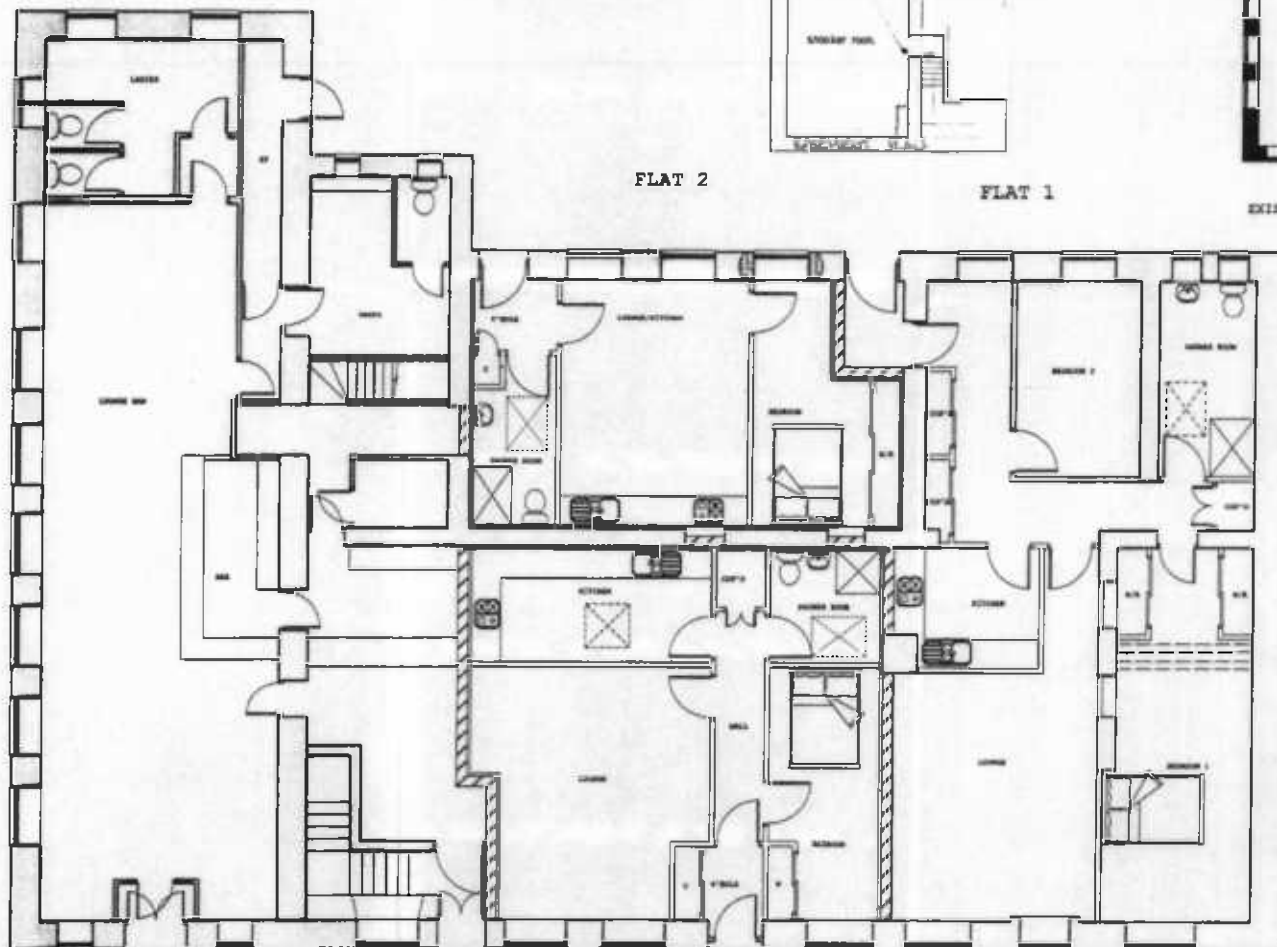


FLAT 2

FLAT 1



EXISTING FLOOR PLAN LAYOUT SCALE 1-100.



FLAT 3

[illegible]





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Main Street, Urquhart, Elgin, Moray, IV30 8LG

Development Control Manager  
Development Services  
The Moray Council  
High Street  
ELGIN

Our Ref CTK/CK/16-87 **(Please quote on all future correspondence)**  
Your Ref  
Date 11 December 2018

Dear Sir,

**CONVERT PART OF BAR TO 3 NO FLATS RETAINING SMALL BAR AT  
THE GOLDEN PHEASANT, NORTH STREET, BISHOPMILL, ELGIN.**

Please find enclosed our application for planning permission for the above. This is a re-application within 12 months of the original decision which we understand does not require a planning fee.

Over the last 20 years there has been a significant downturn in the pub trade leading many licensed premises to close their doors all together. Our client is trying to keep part of the business as a going concern but this is a large building to heat and maintain for the select clientele. It appears that the building can accommodate 3 flatted units and still retain a bar sufficient for our client's needs.

The bar does not have any cooking facilities therefore it is solely used as a drinking premises. Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar. The drink driving laws now make taking the car to the pub a no go option. The car park area can comfortably accommodate 13 spaces, 6 of which would be allocated to the flats and the remainder would be associated with the bar. Areas for bin storage can also be provided.



The majority of the works required would be internal with only windows to the front and the rear of the building requiring cill levels to be dropped. Existing lintels would be retained. Doors would be replaced to reflect a more domestic appearance. The windows would open inwards where facing on to North Street so as not to hurt any passer by should they be opened.

The proposed 2 bedroom flat is to be occupied by the applicant as his main residence and he will continue to run the bar as he does now. Two individuals who frequent the bar have already asked to be considered for the 2 proposed one bedroom flats. Neither of these potential tenants have cars but we appreciate that things could change and there is no control over this situation changing. It does demonstrate however that over the years the decline in the pub game has been significant and with the virtual zero tolerance on drink driving, the parking at the rear of the building has virtually become redundant. The applicant is the sole user of the car park at present. Should this application be approved we would not see this situation changing.

Had an application be made to make this building into a public house, Transportation would have insisted on parking based on the floor area of the proposed bar. This would have meant that the amount of vehicular traffic would far exceed the requirement for the small bar area retained along with the 3 flats proposed. In reality, there is a reduction in the intensification of the vehicular movements from these premises. My client is also prepared to lower the wall to the South of the access even further to increase the visibility to see vehicles approaching from the near side of the road. He is also prepared to have signage to encourage any vehicle to turn left only when exiting the site. The visibility to the North is restricted but is no worse than if you were exiting from Mitchell Crescent or Brodie Drive. This is the character of the area. The most important point is that this is an existing access with a reduced number of vehicle movements due to the change of use.

We would also like to cite precedent. We refer you to planning application 16/01268/APP approved on the 20<sup>th</sup> September 2016. This was the demolition of an old bakery shop which occupied approximately half the width of the site. Consent was granted for a new dwelling house to be built hard to the rear of the pavement and increase the width of the building to the full width of the plot less 3 meters for the access.



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Main Street, Urquhart, Elgin, Moray, IV30 8LG

This means that vehicles exiting the site are travelling between 2 buildings, 3 meters wide, with no visibility to the North or the South of the plot. Visibility was available to an extent but by allowing this dwelling house it has created a situation far worse than exists at present at the Golden Pheasant. On top of this there are the traffic lights at the Morriston Road junction just meters away. As this is a busy junction, vehicles often are waiting across this access/exit yet Transportation deemed this acceptable with no objections raised to the actual access. Any vehicle leaving this site would have to project their vehicle out before anything would come into view. At the Golden Pheasant existing access there is at least visibility to the South side which can and will be improved upon.

It seems strange that two proposals so close to each other have different outcomes. Whilst making visibility worse by allowing a house to be built both hard on the pavement and right across the site, this is not deemed worthy of any objection from Transportation whereas an existing access is being improved and managed it was initially rejected. This is not consistent decision making and the similarities between the two projects are there for all to see. Our proposal improves visibility and reduces the number of vehicle movements whilst an approved application makes visibility worse as stated above and increases the vehicular movements from the site. We say increases because although there was an access to the rear of the shop, patrons always parked on the street. This was the same practice when Taylor the butcher operated from the same building.

WE ask only for consistency in decision making.

We trust you will give all of the above and enclosed due consideration before determining this application. If you need any further information, please do not hesitate to contact the writer.

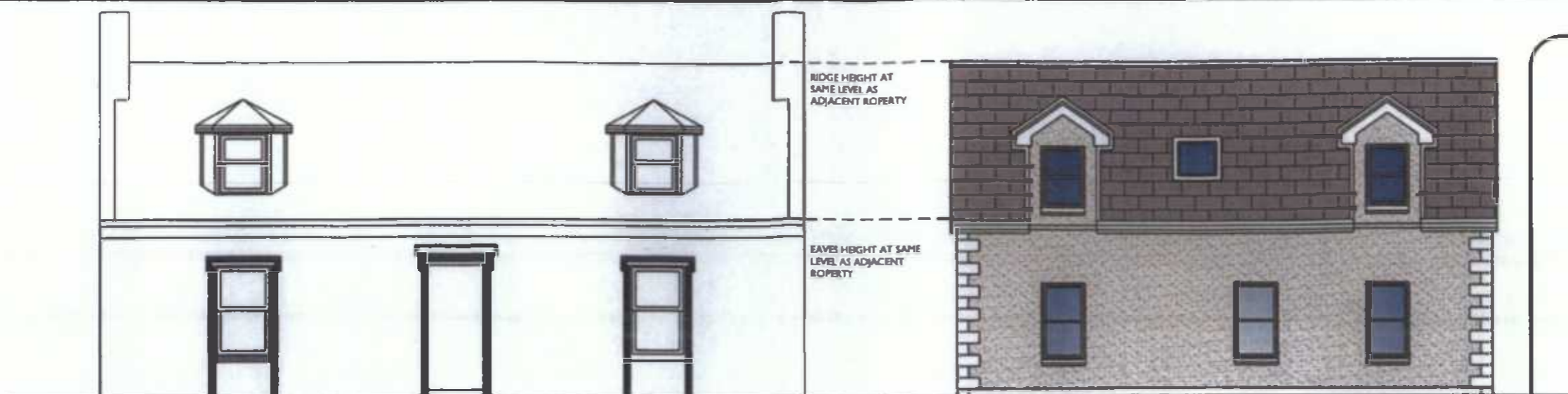
Yours Faithfully

Colin T Keir

enc.







Town & Country Planning  
(Scotland) Act, 1997  
as amended

**APPROVED**

20 September 2016

Development Management  
Environmental Services  
The Moray Council



EXTERNAL FINISHES  
ROOF - SLATE FINISH  
ROUGHCAST FINISH



STREET VIEW  
with dormer style shown

Mr & Mrs D Logie

Proposed new dwellinghouse  
with all associated works  
42A North Street, Elgin

LOG01  
july 16  
1:100

2()



## **REPORT OF HANDLING**

<b>Ref No:</b>	16/01268/APP	<b>Officer:</b>	Derek Wilson
<b>Proposal Description/ Address</b>	Demolish bakery and shop unit and erect dwellinghouse with associated works at 42A North Street Elgin Moray IV30 4EF		
<b>Date:</b>	15.09.2016	<b>Typist Initials:</b>	LMC

### **RECOMMENDATION**

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

### **CONSULTATIONS**

Consultee	Date Returned	Summary of Response
Aberdeenshire Council Archaeology Service	31/08/16	No objections
Environmental Health Manager	16/08/16	No objections
Contaminated Land	17/08/16	No objections
Transportation Manager	30/08/16	No objections with conditions and informatives
Scottish Water		No response at time of report

### **DEVELOPMENT PLAN POLICY**

Policies	Dep	Any Comments (or refer to Observations below)
EP2: Recycling Facilities	N	
PP1: Sustainable Economic Growth	N	
PP3: Placemaking	N	
H1: Housing Land	N	
EP5: Sustainable Urban Drainage Systems	N	
EP9: Contaminated Land	N	
T2: Provision of Access	N	
T5: Parking Standards	N	
IMP1: Developer Requirements	N	

REPRESENTATIONS		
Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

<b>OBSERVATIONS – ASSESSMENT OF PROPOSAL</b>
--

### The Proposal

#### **Description**

- This is an unused shop and bakery building occupying a site of approximately 500sqm with access to the A941 (North Street) to the east.
- The building is to be demolished and the plot reduced in size to 322sqm. The new house is to be built on part of the existing footprint in an L shape with the frontage to the road being increased. The reduction in depth still allows for on- site car parking as the new house will cover approximately 40% of the new site. The remainder of the site is to become garden ground for No. 51 Blantyre Street.
- The site is not classed as vacant/derelict and the adjacent uses are characterised by a mix of residential and small scale commercial uses. Some traditional buildings have been modified from retail to housing use and the vernacular of stone and slate within low rise buildings with roof dormers has generally been retained.
- No. 42 North Street (immediately south) is a Category C listed building (under ownership of the applicant) and the design of this proposal should reference this.
- The proposal will be a one and a half storey house with front dormers for the two first floor bedrooms. The height has been designed to reference the listed building at No. 42 and ensure a continuous roofline on the streetscape. The principal elevation has only windows to the street and will be wider than the existing shop, using land defined by a wall (to be demolished) and the current building. The established building line to the street will be retained and the main fenestrated gable will address the access and the listed building with the northerly gable blank.
- Vehicle and pedestrian access to the site will remain unaltered.
- The roof will be of slate finish and the walls roughcast. Five photovoltaic panels will be attached to the southerly rear roof. Details of windows and rainwater goods have not been supplied.
- The house will connect to the public water supply system and the public drainage network.

#### **Appraisal**

Section 25 of the Town and Country Planning (Scotland) etc. Act 1997 requires applications to be determined in accordance with the current Moray Local Development Plan 2015 unless material considerations indicate otherwise. The planning issues for this proposal are the following:

#### **Analysis**

The Moray Local Development Plan (MLDP) 2015 is broadly supportive of development within settlement boundaries with new housing on land not designated for residential or alternative uses being acceptable. The proposal must not adversely impact upon the surrounding environment and adequate servicing and infrastructure must be available. This site is acceptable as a windfall site within the Elgin settlement under Policy H1 Housing Land. The principle elevation fronts the street although the door will be accessed from the yard area. Under PP3 this is acceptable as a private

back as it does not compromise clearly defined public and private spaces. The door position is a positive consideration in terms of pedestrian movement on the adjoining footway.

The salvage of re-usable materials from the dountakings is desirable for sustainable design and construction. It is expected that if there is a sufficient useable quantity of stone this will form the facing of the principle elevation. An informative encouraging their re-use is attached to this permission.

The orientation and positioning of the windows will not result in overlooking of neighbouring properties, nor will the height cause loss of amenity due to shadowing. The design of the proposal has taken account of protecting the privacy and amenity of the house from existing buildings which have windows facing on to the site.

The established character in the adjoining area is traditional cottage style houses with some mid-20th Century retail buildings fronting the street. This proposal is sympathetic to the housing and will re-establish a street line in this current fracture and will enhance the established settlement pattern.

In so far as Policy PP1 is relevant, applies and is met, the proposal is supported in terms of its location seeking to safeguard and improve the quality of the surrounding natural and built environment.

### **Access/Parking**

The proposal is to re-use the existing access to the shop yard for the new house. The development is located adjacent to the A941, which is a traffic sensitive route, and in close proximity to a signalised junction. Therefore under Policy T2 a construction traffic management plan (CTMP) is sought to ensure that suitable arrangements are made to manage traffic during the development of the site. This must ensure safe entry and exit including appropriate visibility for all vehicles during and after construction. In addition the development must provide two parking spaces based on the number of bedrooms proposed to comply with the Council's current parking standards, Policy T5. The Transport Manager has not objected to the proposal and it is recommended that conditions regarding vehicle safety via the CTMP, accessing, proceeding, manoeuvring and parking are attached to ensure the development complies with policies.

Adequate provision is made within the rear curtilage of the proposal site for an acceptable system under EP2 Recycling Facilities. No front door on to the pavement is proposed for pedestrians who will use the wider vehicular driveway which allows better visibility.

### **Drainage and Water Supply**

Policy IMP1 requires new development to make acceptable water, drainage and waste management provision including the use of sustainable urban drainage systems for dealing with surface drainage.

Policy EP5 requires a method of dealing with surface water which should avoid pollution and promote amenity. The house will be connected to the public water supply and Scottish Water has not responded within the statutory consultation period raising objections. The house will be connected to the public drainage network with the detailed drainage arrangements being addressed separately through submission of a Building Warrant.

### **Conclusion**

Policy IMP1 requires new development to be sensitively sited, designed and serviced appropriate to the amenity of the area. The proposals, in light of the above comments, are considered to satisfy the requirements of this policy and have no overall adverse impact upon the overall amenity of the surrounding area including any nearby property.

**REASONS FOR DECISION**

The Council's reasons for making this decision are:-

The development proposal complies with the requirements of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

**HISTORY**

Reference No.	Description			
16/01085/APP	Demolish bakery and shop unit and erect dwellinghouse with associated works at 42A North Street Bishopmill Elgin Moray IV30 4EF			
	Decision	Withdrawn	Date Of Decision	08/08/16
15/01621/PE	Demolish shop and erect dwellinghouse at 42A North Street Bishopmill Elgin Moray IV30 4EF			
	Decision	ID/PE Answered	Date Of Decision	11/03/16
14/00554/PPP	Demolish existing bakery and shop unit and erect 6 flat development at 42A North Street Bishopmill Elgin Moray IV30 4EF			
	Decision	Withdrawn	Date Of Decision	21/05/14

**ADVERT**

Advert Fee paid?	N/A		
Local Newspaper	Reason for Advert	Date of expiry	

**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?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

**S.75 AGREEMENT**

Application subject to S.75 Agreement		NO
Summary of terms of agreement:		

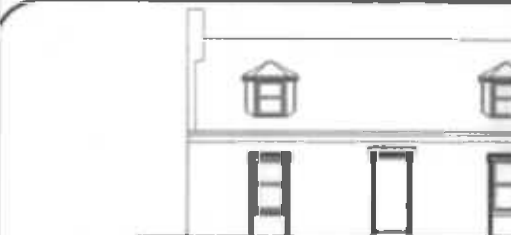
Location where terms or summary of terms can be inspected:


**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)
















North County Planning  
Shedden Ave. 100  
Barnsley

**APPROVED**

17 December 2012


Development Manager  
Development Services  
The Barnsley Council






**EXTERNAL FINISHES**  
**ROOF - SLATE FINISH**  
**ROUGHCAST FINISH**

**House Elevations**



**STREET VIEW**  
with dormer style shown

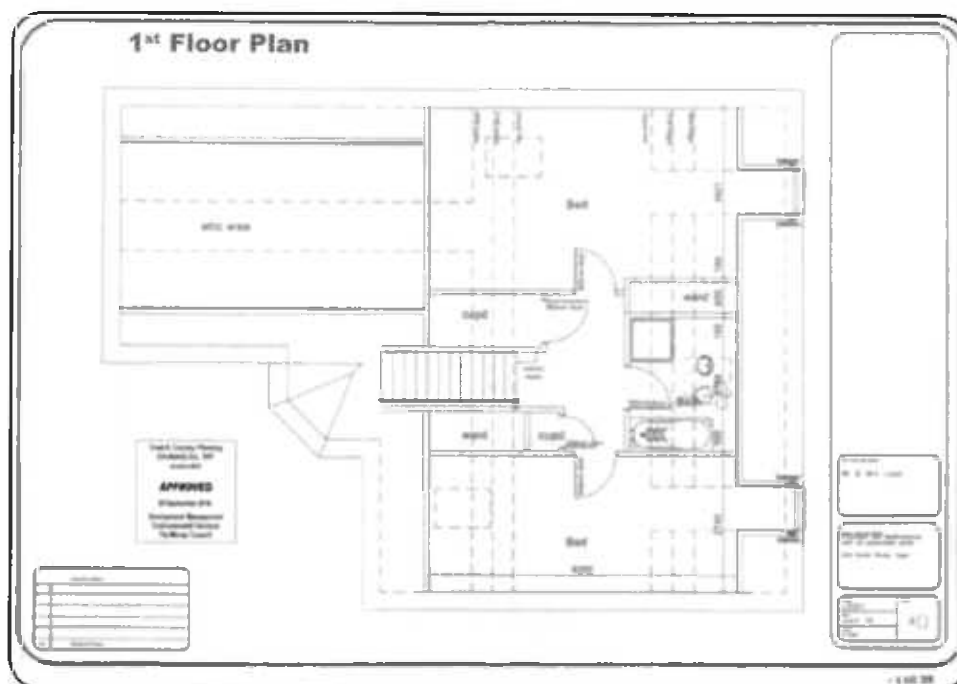


20



grampian  
**property**  
centre

O/S Ref- 100047337 GRA272



**Note 1**

For full details, these can be obtained via the Moray Council website. Planning Reference Number 16/01268/APP

**Note 2**

These particulars are provided for the guidance of enquirers only and while believed to be correct are not guaranteed. All measurements are approximate. The mention of any appliances and/or services in these details have not been tested or checked that they are connected, and does not imply that these are in full and efficient working order.

**Note 3**

Further particulars may be obtained from the selling agents with whom offers should be lodged.

**Entry**

By mutual agreement

**Offers**

All offers should be submitted in writing in normal Scottish Legal form to the selling agent.

**FREE MARKET APPRAISAL**

We are pleased to offer a Free without obligation Market Appraisal on your own home. We will give advice on the asking price and how we market it professionally. Please call on 01343 549944.

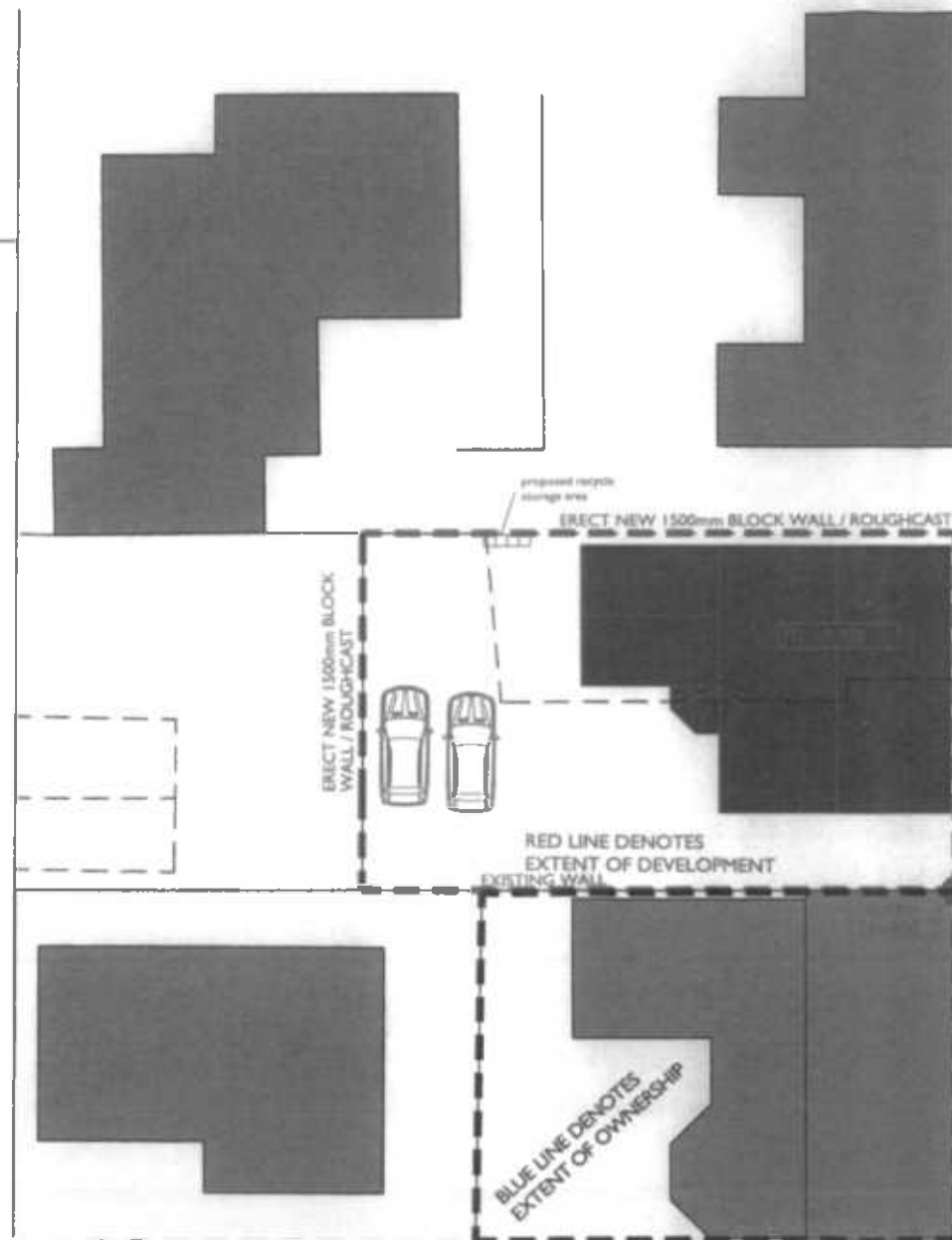
# grampianpropertycentre

52 High Street / Elgin / Moray / IV30 1BU

Tel: 01343 549944 / Fax: 01343 552378 / Email: [info@gpc-elgin.co.uk](mailto:info@gpc-elgin.co.uk) / [www.gpc-elgin.co.uk](http://www.gpc-elgin.co.uk)

73 High Street / Forres / Moray / IV36 1AE

Tel: 01309 696296 / Fax: 01309 675293 / Email: [info@gpc-forres.co.uk](mailto:info@gpc-forres.co.uk) / [www.gpc-forres.co.uk](http://www.gpc-forres.co.uk)



Existing bakery & shop to be removed  
(shown dotted)

Parking provision for a minimum of two vehicles

Utilise existing vehicular access from adopted highway  
The width of vehicular access shall be between 3 m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Section of access over the public footpath / verge shall be to The Moray Council specification and surfaced in bitmac.

No water shall be permitted to drain onto the public footpath / carriageway

No Boundary fences, hedges, walls or any obstruction whatsoever over 1.0m in height and fringing onto the public road shall be within 2.4m of the edge of the carriageway

Town & Country Planning  
(Scotland) Act, 1997  
as amended

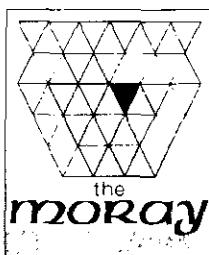
**APPROVED**

20 September 2016

Development Management  
Environmental Services  
The Moray Council

General Notes		
1	note supplementary altered	4/8/16
No	Revision/Notes	Date
<p>Draw Name and Address</p> <p>Mr &amp; Mrs D Logan</p>		
<p>Project Name and Address</p> <p>Proposed new dealership with all associated works at 42A North Street, Elgin</p>		
LOG01	Rev	1(1)
JULY 16		
1:200		





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

**PERMISSION FOR DEVELOPMENT**

**[Elgin City North]  
Application for Planning Permission**

TO



With reference to your application for planning permission under the above-mentioned Act as amended, the Moray Council in exercise of its powers hereby **GRANT** planning permission for the following development:-

**Demolish bakery and shop unit and erect dwellinghouse with associated works at 42A North Street Elgin Moray IV30 4EF**

*in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, and where appropriate, subject to the condition(s) and reason(s) as set out in the attached schedule.*

This permission does not carry with it any necessary consent or approval to the proposed development under the building regulations or other statutory enactments and the development should not be commenced until all consents have been obtained.

Date of Notice: **20 September 2016**



**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department  
The Moray Council  
Council Office  
High Street  
ELGIN  
Moray  
IV30 1BX

## IMPORTANT NOTE

**YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES**

### SCHEDULE OF CONDITIONS

By this Notice the Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

#### CONDITION(S)

Permission is granted subject to the following conditions: -

- 1 No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Council as Roads Authority. The Construction Traffic Management Plan shall include the following information:
  - a) duration of works;
  - b) construction programme;
  - c) number of vehicle movements (i.e. materials, plant, staff, components);
  - d) schedule for delivery of materials and plant;
  - e) full details of temporary arrangements to safeguard pedestrian movements along North Street during the construction period;
  - f) full details of any temporary construction access;
  - g) measures to be put in place to prevent material being deposited on the public road;
  - h) traffic management measures to be put in place during works including any specific instructions to drivers;
  - i) parking provision, turning, loading and unloading areas within the site for construction traffic; and thereafter, development shall not proceed except in accordance with these approved details unless otherwise agreed in writing with the Council as Planning Authority.
- 2 The width of the vehicular access shall be a minimum of 3.0 metres and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. The part of the access over the public footway shall be to The Moray Council specification and surfaced with bituminous macadam.
- 3 Two car parking spaces shall be provided within the site prior to the occupation or completion of the development, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.
- 4 A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.
- 5 No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

- 6 Unless otherwise agreed with the Council (as Planning Authority) the development shall not commence until samples of the proposed roughcast has been submitted to and approved by the Head of Development Services.
- 7 Unless otherwise agreed with the Council (as Planning Authority) the development shall not commence until details of the design and materials of the proposed windows and rainwater goods have been submitted to and approved by the Head of Development Services.

The Council's reason(s) for imposing the above condition(s) are:-

- 1 To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.
- 2 To enable acceptable vehicular access to the development in the interests of road safety.
- 3 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.
- 4 To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road.
- 5 To ensure acceptable development that does not create any hazard to road users in the interests of road safe.
- 6 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
- 7 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.

#### **REASON(S) FOR DECISION**

The Council's reason(s) for making this decision are:-

The development proposal complies with the requirements of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise.

#### **LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
1(1)		Site plan
2()		Elevations
4()		First floor plan
4()		Ground floor plan
LP		Location plan

## **IMPORTANT NOTES ABOUT THIS DECISION**

### **DURATION OF THIS PERMISSION**

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

### **COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT**

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

### **NOTIFICATION OF INITIATION OF DEVELOPMENT**

S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

### **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

### **NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT**

Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete.

When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

#### **ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

The following notes are provided for your information including comments received from consultees:-

THE BUILDING STANDARDS MANAGER, has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

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.

If required, street furniture will need to be repositioned at the expense of the developer. Advice on this matter can be obtained by emailing [road.maint@moray.gov.uk](mailto:road.maint@moray.gov.uk). This will be particularly relevant to the lamppost and the road signage immediately adjacent to the proposed front elevation.

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

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into their property.

The applicant shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

In the interests of the Council's Vision for Moray the MLDP 2015 promotes sustainable development. Where possible the salvaging and re-using of appropriate materials from the downtakings is encouraged; in this case the wall material of the shop building. It is encouraged that this material (primarily any dressed stone) be reused as facing for the principle elevation of the house thus

retaining consistency of character in the streetscape and avoiding removal of material from the site during the development works.

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

None

**DETAILS WHERE DIFFERENT TIME-PERIOD(S) FOR DURATION OF PLANNING  
PERMISSION IMPOSED (S.58/59 of 1997 ACT)**

None

**TERMS OF S.75 AGREEMENT RELATING TO THIS APPLICATION**

The terms, or summary of terms of the Agreement can be inspected at:-

None

**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, The 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.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

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.

# The Moray Council

## NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 16/01268/APP

Date issued:

I hereby give notice that works as detailed under the above planning application will  
commence on: .....

Signed: ..... Date: .....

### THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

.....  
.....  
.....

2. The full name and address of the landowner, if a different person:

.....  
.....  
.....

3. Where a site agent is appointed, their full name and contact details:

.....  
.....  
.....

4. The date of issue and reference number of the grant of planning permission:

.....  
.....

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office,  
High Street  
Elgin IV30 1BX

Or email to: - [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

## **IMPORTANT**

**It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**

# **The Moray Council**

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

**Section 27B Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No: 16/01268/APP**

**Date issued:**

I hereby give notice that works as detailed under the above planning application  
will be completed on: .....

Signed: ..... Date: .....

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office  
High Street  
Elgin IV30 1BX

Or email to: - [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

### **IMPORTANT**

**It is important that the Environmental Services Department is  
advised when the development has been completed as failure to do  
so may result in enforcement action be taken.**

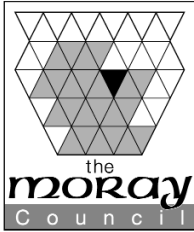
**Please complete and return this form.**



## **APPENDIX 3**

# **FURTHER REPRESENTATIONS FROM INTERESTED PARTIES**





## **ENVIRONMENTAL SERVICES**

**Diane Anderson**

**Senior Engineer**

PO Box 6760  
Elgin, Moray IV30 9BX

Telephone: 01343 563782

Fax: 01343 563990

email: [diane.anderson@moray.gov.uk](mailto:diane.anderson@moray.gov.uk)

Website: [www.moray.gov.uk](http://www.moray.gov.uk)

Our reference: DA/LRB222

Your reference: LR222

Chief Legal Officer  
Per Ms L Rowan  
Committee Services  
The Moray Council  
High Street  
ELGIN  
IV30 1BX

09 April 2019

Dear Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**REQUEST FOR REVIEW: PLANNING APPLICATION 18/01576/APP CONVERT PART OF BAR AREA  
INTO 3NO FLATS AT THE GOLDEN PHEASANT NORTH STREET BISHOPMILL ELGIN**

I refer to your letter dated 27 March 2019.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully

**Diane Anderson**  
**Senior Engineer**



---

## **Local Review**

**LRB Ref 222**

**Planning Application Reference 18/01576/APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin**

### **Response from Transportation, Moray Council**

1. This document is in response to the Notice of Review and the Statement of Case submitted by Mr Walter Meldrum and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 18/01576/APP to convert part of the existing bar area into 3no flats at The Golden Pheasant, North Street, Elgin.
3. Transportation received the consultation for planning application 18/01576/APP on 4th January 2019. A copy of the final consultation response dated 29th January 2019 is attached (TMC01).
4. The existing public house fronts directly onto North Street, which forms part of the Primary Road Network in Elgin. North Street experiences high volumes of passing traffic as well as pedestrian activity; it is both a walking route from local housing to Elgin Town Centre and provides access to a number of local facilities (convenience store, chemist, take-away restaurants etc.). The footway at this location is narrow, approximately 1.4 metres in width, and a bus stop is located on the frontage of the site. Photographs taken during Transportation's site visit are attached (TMC02).
5. To the rear of the public house there is a surfaced parking area, accessed via a gated access approximately 10 metres from the centreline of the North Street/Blantyre Place junction. A photograph taken during Transportation's site visit showing the access is attached (TMC02). It should be noted that is sufficient space to accommodate the required number of parking/cycle spaces, and provision of bin storage, to meet the development parking standards for this proposal.
6. Whilst the vehicle to vehicle inter-visibility from this access is restricted by the existing building (vehicular visibility splay), Transportation's primary concern at this location is the restricted visibility for vehicles exiting the proposed development onto the footway, i.e. the restricted sightlines between drivers of exiting vehicles and pedestrians (pedestrian visibility splay). Pedestrian visibility splays are required to allow drivers to see pedestrians as they emerge from their access road or driveways and to allow pedestrians to see the vehicle.
7. To the south of the access the footway is slightly wider than to the north, and whilst the visibility between drivers and passing pedestrians is restricted by a boundary wall, the Appellant has previously confirmed that the height of the wall could be lowered to improve the visibility splay to the south. However to the north of the access, the existing building severely restricts the visibility between exiting drivers and pedestrians walking along the narrow footway.
8. The width of the footway and proximity to a road with high volumes of passing traffic would also mean that pedestrians would be likely to walk closer to the building, and away from the edge of the road. This further reduces the available sightlines between exiting vehicles and passing pedestrians. A photograph taken during Transportation's site visit showing the view to the north at a distance of 2.4 metres back from the edge of the public carriageway is attached (TMC02).

---

## Local Review

LRB Ref 222

### Planning Application Reference 18/01576/APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin

9. The Appellant's statement makes a comparison to a nearby Planning Permission to demolish a former bakers shop, and erect a new dwelling in its place. Each application is assessed on its own merits. The proposal in question (Planning permission 16/01268/APP refers) differs in a number of ways to this proposal;
- The redevelopment of the former bakers is for the replacement of a shop with parking and servicing area with a single dwelling, whilst this proposal is for a change of use to 3 flatted units (plus some of the Pub to remain in use).
  - The position of the access onto North Street is not immediately adjacent to any Public Road junctions, or a Bus Stop, as would the case for the access serving the proposed flats.
  - If necessary, at the access to the former bakers, there is space available for pedestrians to step onto the carriageway out of the path of an exiting vehicle, due to the parked vehicles either side of the access offering protection; whereas pedestrians in the same situation at the access to the rear of the proposed flats would have to step out onto the carriageway directly into passing traffic.
  - It should be highlighted that the redevelopment of the former bakers would require the widening of the former access; thereby improving the visibility at the access when compared to the previous use for the bakers shop, which had a high wall at the back of the footway.
10. At the Golden Pheasant the width of the access leading to the rear parking area is narrow, with insufficient width for two vehicles to pass each other, over a distance of approximately 18 metres. The potential conflict between a vehicle entering the access at the same time as a vehicle exiting, may result in the entering vehicle reversing back onto the public road to enable the other vehicle to exit.
11. The Appellant has previously stated that *'the gates to the rear car parking area have been closed for some years'* and more recently the appellants latest submission in support of the Local Review states *'Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar'* which highlights that the access has not been in recent use as part of the operation of the public house and that any change in use requiring parking provision (such as the proposed change of use to flats) would result in an increase of vehicles using this access.
12. The existence of the access at this location is a matter of fact. However the proposed change of use would result in the intensification of the use of this access, which in turn would be to the detriment of road safety.
13. It is not considered possible to restrict /limit car ownership for occupants of the flats by the use of Planning Conditions. National Planning Policy Framework ('Decision-making' paragraph 55) states that *"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."* A condition to restrict /limit car ownership for the occupants of the flats would not be enforceable and therefore would fail to meet National Planning Policy Framework paragraph 55.

---

## Local Review

LRB Ref 222

### Planning Application Reference 18/01576/APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin

14. This proposal is essentially the re-submission of a previous application which was 'refused' and taken to Local Review. At the previous Local Review Councillors queried whether the lowering of the adjacent boundary wall to the south, and/or restricting existing vehicle movements to left turn only would resolve Transportation's concerns, but ultimately upheld the officer's recommendation.
15. For the benefit of clarity Transportation would not support a left turn only exit as this could not be enforced, and whilst lowering the existing boundary wall to the south would indeed improve visibility to the south for exiting vehicles, the severely restricted pedestrian and vehicular visibility splay to the north would still remain the same. The visibility splay to the north is restricted by the existing building and therefore without removing part of the building the required visibility splay would not be achievable.
16. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Moray Local Plan Policy T2 Provision of Access and IMP1 Developer Requirements are not satisfied.

Transportation

09 April 2019

#### Documents

TMC01	Transportation Consultation Response dated 29 January 2019
TMC02	Site Photographs



# Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	18th January 2019
<b>Planning Authority Reference</b>	18/01576/APP
<b>Nature of Proposal (Description)</b>	Convert part of bar area into 3no flats at
<b>Site</b>	The Golden Pheasant North Street Bishopmill Elgin Moray IV30 4EF
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133039109
<b>Proposal Location Easting</b>	321469
<b>Proposal Location Northing</b>	863610
<b>Area of application site (Ha)</b>	m <sup>2</sup>
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=PJO78DBG0FU00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=PJO78DBG0FU00</a>
<b>Previous Application</b>	17/01775/APP
<b>Date of Consultation</b>	4th January 2019
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Walter Meldrum
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	The Golden Pheasant North Street Bishopmill Elgin Moray IV30 4EF
<b>Agent Name</b>	Plans Plus
<b>Agent Organisation Name</b>	Plans Plus
<b>Agent Address</b>	Main Street URQUHART By Elgin Moray IV30 8LG
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Andrew Miller
<b>Case Officer Phone number</b>	01343 563274
<b>Case Officer email address</b>	andrew.miller@moray.gov.uk

<b>PA Response To</b>	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](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](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto: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: 18/01576/APP**

**Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin for Mr Walter Meldrum**

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 checked="" 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 type="checkbox"/>            |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

*This proposal is to convert part of an existing large bar area into 3no flats, with the retention of a smaller bar area.*

*Access to the proposed development's off street parking is via a gated access onto the A941 North Street, approximately 10 metres from the centreline of the North Street/ Blantyre Place junction, at a location which has high volumes of passing traffic as well as pedestrian activity. A bus stop/bay sits immediately outside the site and local shops (including a convenience store, chemist, Public Hall, Chinese take-away and chip shop) are located in close proximity.*

*The footway along the frontage of the site (over which vehicles access the parking to rear) is narrow and both the pedestrian and vehicular visibility splays for vehicles exiting the site onto the Public Road are severely restricted to the north.*

*Additionally the restricted width of the access road to the rear parking also means that when a vehicle entering the site meets a vehicle exiting the site one of the vehicles has to undertake a reversing manoeuvre to allow the other vehicles to pass.*

*A pedestrian visibility splay is required to allow drivers to see pedestrians as they emerge from their access road or driveways and to allow pedestrians to see the vehicle.*

#### Additional information

*The applicants supporting statement for this proposal includes various comments, statements and comparisons with other sites/locations. Transportations key considerations/ concerns with this proposal have been expanded upon below:*

- *Transportations key concern with any ‘intensification of use’ of this access is the lack of visibility splay to the north, and most importantly the inability for exiting drivers to see pedestrians travelling southbound along the adjacent (narrow) footway. The obstruction to the visibility splay to the north is the building itself. Whilst removal of a section of the existing boundary wall to the south may provide additional access width (which in turn would allow vehicles to exit slightly further away from the building and slightly improve the existing pedestrian visibility splay to the north) there is no scope to provide a pedestrian visibility splay (2.4m x 5.0m taken from the back of the footway). Similarly the width of the access would result in conflict between entering and exiting vehicles, where one of the vehicles would need to reverse (most likely to be the entering vehicle). Again whilst removal of a section of the existing boundary wall to the south may provide additional access width there would be insufficient scope to widen the access to provide enough space for two vehicles to pass each other.*
- *The vehicular visibility splay is also restricted (2.4m x 43m taken from the edge of the carriageway).*
- *The applicant states “**Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar**”. This confirms that any trips associated with the proposed flats would be ‘new’ trips and that this proposal would as a consequence intensify the use of this access.*
- *This particular site location has a significant number of passing vehicles and pedestrians. The footway is narrow, and there are two road junctions immediately adjacent. A signalised pedestrian crossing and bus stop are also present on either side of the access. Because of the number of individual movements/ interacting elements in this vicinity there is significant potential for conflict, particularly with exiting drivers concentrating on finding gaps in the traffic rather than considering the potential for a pedestrian to step in front of them.*
- *In the instance of a pedestrian having to instinctively step out of the path of an exiting vehicle they would be stepping out directly onto the carriageway and potentially into the path of an oncoming northbound vehicle.*
- *A condition could not be applied which would limit the non-car ownership of the residents (non- enforceable).*
- *A condition to restrict exiting vehicles to left turn only would not mitigate against the lack of pedestrian visibility splay. It would also be non-enforceable.*
- *Finally there is sufficient space to accommodate the required number of parking/cycle spaces, and provision of bin storage, to meet the development parking standards.*

### **Reason(s) for objection**

The proposed development, if permitted, would involve the intensification of use of an existing vehicular access onto the A941 North Street, where visibility is severely restricted by the adjacent building, and in addition the access is of insufficient width to allow two vehicles to pass clear of the public road. Transportation considers that the proposal, if permitted, would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

**Contact: DA/AG**  
**email address: [Transport.develop@moray.gov.uk](mailto:Transport.develop@moray.gov.uk)**  
**Consultee: TRANSPORTATION**

**Date 29 January 2019**

<b>Return response to</b>	<b><a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a></b>
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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.



LRB Ref 222  
TMC02 Site Photographs



'Golden Pheasant', North Street – including parking out with parking bays



Access to parking area at rear of 'Golden Pheasant'

LRB Ref 222  
TMC02 Site Photographs



Available visibility to north of access at 2.4 metres, from the edge of the carriageway.

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## **APPENDIX 4**

# **APPLICANT'S RESPONSE TO FURTHER REPRESENTATIONS**





# design consultants

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Legal and Democratic Services  
Moray Council  
High Street  
Elgin  
Moray  
IV30 1BX

Our Ref CTK/CK/16-87

Date 16 April 2019

Dear Sir/ Madam,

**CONVERT PART OF BAR TO 3 FLATS AT THE GOLDEN PHEASANT,  
NORTH STREET, BISHOPMILL, ELGIN.  
LRB REF 222 AND PLANNING NUMBER 18/01576/APP.**

We are in receipt of your email dated 15<sup>th</sup> April 2019 and the attached comments from Transportation. There are a number of points contained within their correspondence which we feel are inaccurate and detrimental to our client's Review.

Paragraph 9 a) The Bakers shop and parking referred to was never used as parking. People using the baker and previous butchers shop always parked on the street. It is only since the introduction of the traffic lights at the Morryston Road junction has parking on the street in this location become difficult.

9 b) The bus stop has been in this location for some time we believe. Buses stop here frequently and would no doubt cause visibility to be restricted. Yet, despite this occurring, there are no historic records of accidents due to vehicles accessing or exiting from the Golden Pheasant.

9 c) With respect this is hypothetical. We have to assume that in order for pedestrians to be safe there will always be vehicles parked either side of this blind 3m wide exit/access to the new house. Because of the introduction of new traffic lights at the Morryston Road junctions cars now wait alongside each other with the inside line turning left and the outside line heading



towards Lossiemouth. This is a far more busy and intense junction than the one from Blantyre Place. **Fact.**

9 d) It appears that when the bakers shop is demolished the stone wall and access drive are going to be infilled completely by the house frontage less 3 meters for the drive. This means that vehicles exiting the house plot will only have a 3 meter drive to exit with and a house either side where the frontage is hard to the rear of the pavement. This means that the visibility in both North and South directions is identical to that of the Golden Pheasant access/exit to the North. To the South, the wall can be lowered to achieve visibility whereas the house plot visibility is curtailed in both directions by houses. This point is a red herring because the visibility has actually been made worse by the approved development to the point where visibility is twice as bad than the Review site. **Yet this is acceptable.**

10. Again this is supposition. Worst case scenarios yet the comparison with the house plot uses supposed vehicles always being parked on the street either side of the drive to assist pedestrians. Any pedestrian walking past this new development will not be aware of vehicles exiting the house until the nose of the car is well beyond the rear of the pavement. Yet this is deemed acceptable. When passing the Golden Pheasant, heading south towards town, you come to the end of a pavement which highlights that an entrance exists. This has been here for so long all the locals know about the entrance unlike the hidden entrance we have been referring to to the North.

11/12 Again, can we say with respect that our words are being manipulated to Transportation's own benefit. The car park has been closed to the public but the owner still uses the access for parking his car. Car parking has always been associated with a public house. If we were to apply for a new bar we feel confident that Transportation would insist that there was associated car parking or the application would be refused. 17 spaces were required to service this bar but only 13 are required for the remaining bar and the 3 small scale flats. **FACT. This represents a reduction of potential vehicle movements.**

12/13. Yes this is an existing access and Transportation are trying to imply that there will be an intensification of the access by having the 3 flats. The 2 bedroom flat is for the owner and the two 1 bedroom flats would be made available for rent. The access will be extremely low usage and a considerable reduction to the history of previous use over the years. By permitting the



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house site to the North, the consent has made an access situation far worse than was originally there. It will be tight for one car to negotiate but 2 cars cannot pass here either.

**We would like to finish with the following statement which we think is vital to this Review.**

Transportation have allowed a house to be approved to the North of our client's site aware that they were creating a tunnel drive with no visibility at the exit point on to North Street. There was an access previously which has been made worse by having the house next to existing houses right at the heel of the existing pavement. In essence, this is more of a danger to pedestrians than at the Golden Pheasant.

The Pheasant has a long established access point with a history of little or no accidents at this location. This proposal is in fact a REDUCTION in vehicle movements with the comment being manipulated to make this appear to be an increase. Going by assumptions made by Transportation, it could be said that the people who rent the 2 one bedroom flats will not have cars.

**The enormity of the outcome of this decision is this. Road Safety is important as are people's livelihoods. Refusing this application renders this building redundant. It cannot be used for any other purpose as any change of use would require parking. Parking can be provided but not with this access. Should our client retire he cannot sell the building for anything other than a bar and as we all know, bars are closing regularly due to drink driving laws and high costs of drinking outside the home. The building becomes derelict and valuable rates are lost to Moray Council.**

Yours faithfully



COLIN T KEIR

