



MORAY LOCAL REVIEW BODY

18 JANUARY 2024

SUMMARY OF INFORMATION FOR CASE No LR296

Planning Application 23/01024/APP – Retrospective consent to erect a 4.5m height flagpole in the grounds of Alba, 195 Findhorn, Forres

Ward 8 - Forres

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 29 August 2023 on the grounds that:

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

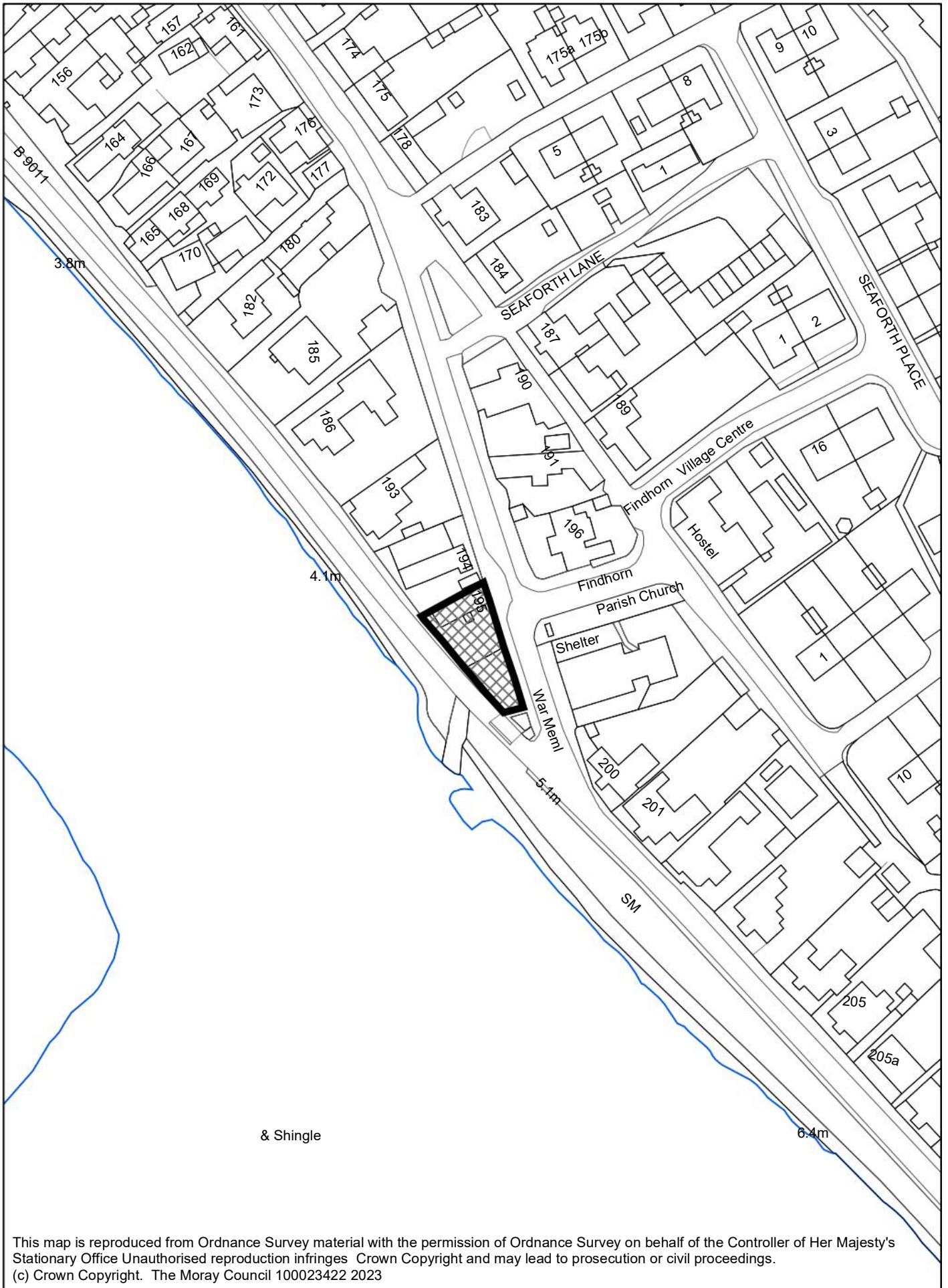
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

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

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



**Location plan for Planning Application Reference Number :
23/01024/APP**





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100632603-001

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

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

Locate 4.5m height flagpole in grounds of 195 Findhorn.

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

No Yes - Started Yes – Completed

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

01/04/2023

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

The location of the Flagpole was clearly identified on the Planning Consent Drawings issued by The Moray Council Ref 22/01191/APP, no further information was requested by the Planing Officer and therefore the Applicants believed that Consent had thereby already been issued.

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Coast2Coast Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Greig	Building Name:	The Sail Loft
Last Name: *	Munro	Building Number:	156
Telephone Number: *	01309692240	Address 1 (Street): *	Findhorn
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Forres
Fax Number:		Country: *	Moray
		Postcode: *	IV36 3YL
Email Address: *	info@Coast2CoastArchitects.co.uk		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Alba
First Name: *	Andrea	Building Number:	195
Last Name: *	Robertson	Address 1 (Street): *	Findhorn
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Forres
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV36 3YN
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

ALBA195

Address 2:

FINDHORN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

FORRES

Post Code:

IV36 3YN

Please identify/describe the location of the site or sites

Northing

864199

Easting

304114

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

≤ Yes No

Trees

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

≤ Yes No

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

Access and Parking

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

≤ Yes No

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

Planning Service Employee/Elected Member Interest

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

≤ Yes No

Certificates and Notices

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

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

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Greig Munro

On behalf of: Mrs Andrea Robertson

Date: 19/06/2023

Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

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

- a) Have you provided a written description of the development to which it relates?. * Yes No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * Yes No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.? * Yes No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. Yes No
- e) Have you provided a certificate of ownership? * Yes No
- f) Have you provided the fee payable under the Fees Regulations? * Yes No
- g) Have you provided any other plans as necessary? * Yes No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

Existing and Proposed elevations.

Existing and proposed floor plans.

Cross sections.

Site layout plan/Block plans (including access).

Roof plan.

Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. Yes No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * Yes No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

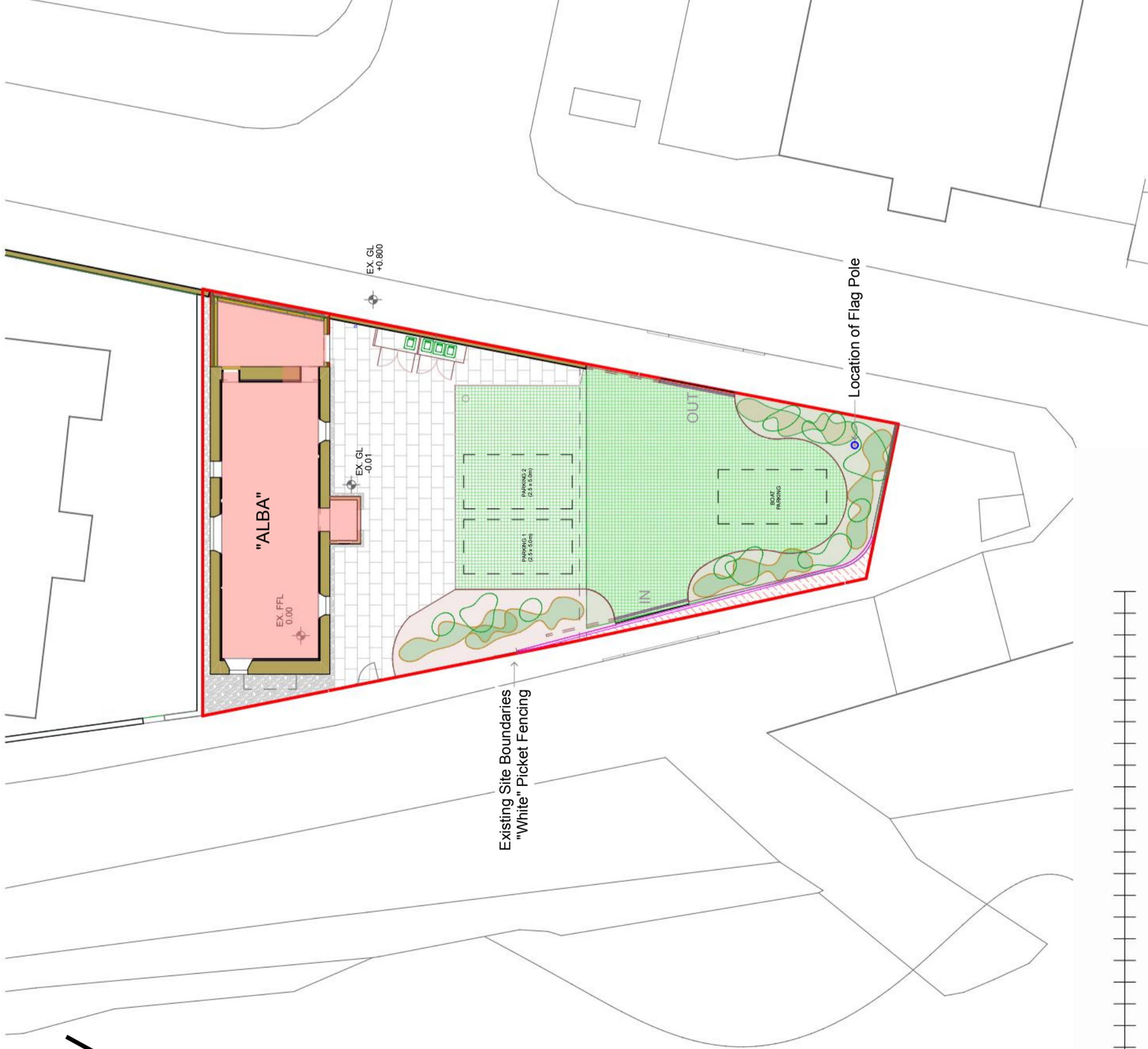
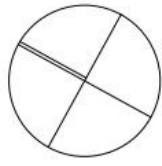
Declaration Name: Mr Greig Munro

Declaration Date: 19/06/2023

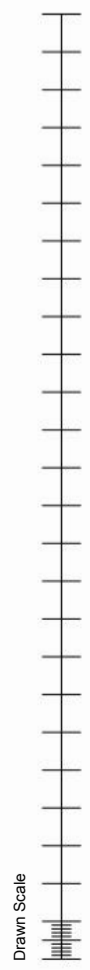
Payment Details

Telephone Payment Reference: agm

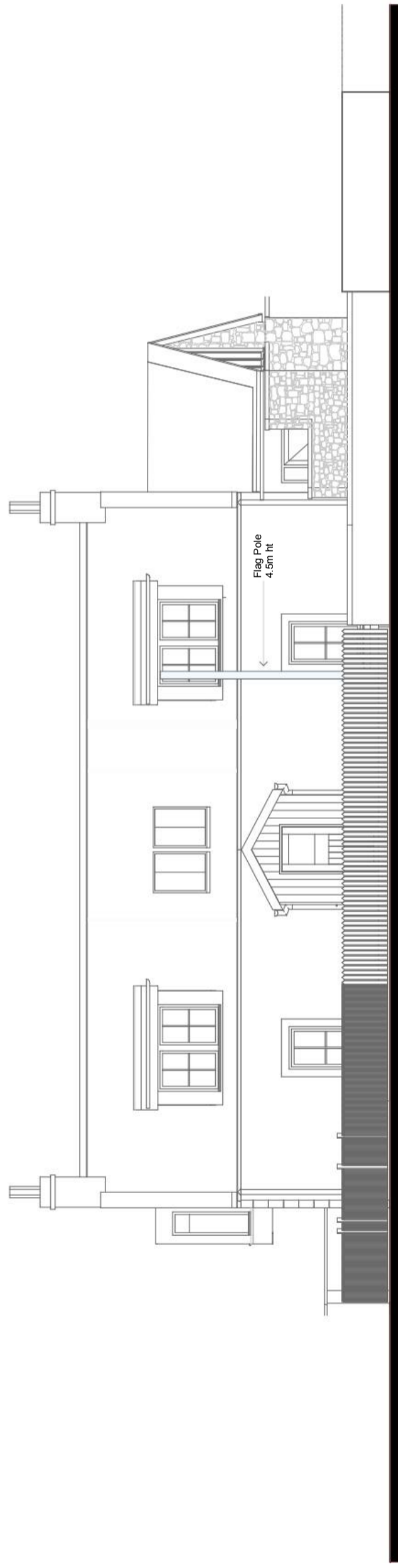
Created: 19/06/2023 09:37



Title: Block Plan of Site
 Drawing No: L_23_P_02
 Scale: 1:200
 Date: 16th June 2023
 Client: Mrs Andrea & Mr Craig Robertson
 Project: Alterations to "Alba"
 Address: 195 Findhorn, Moray IV36 3YN



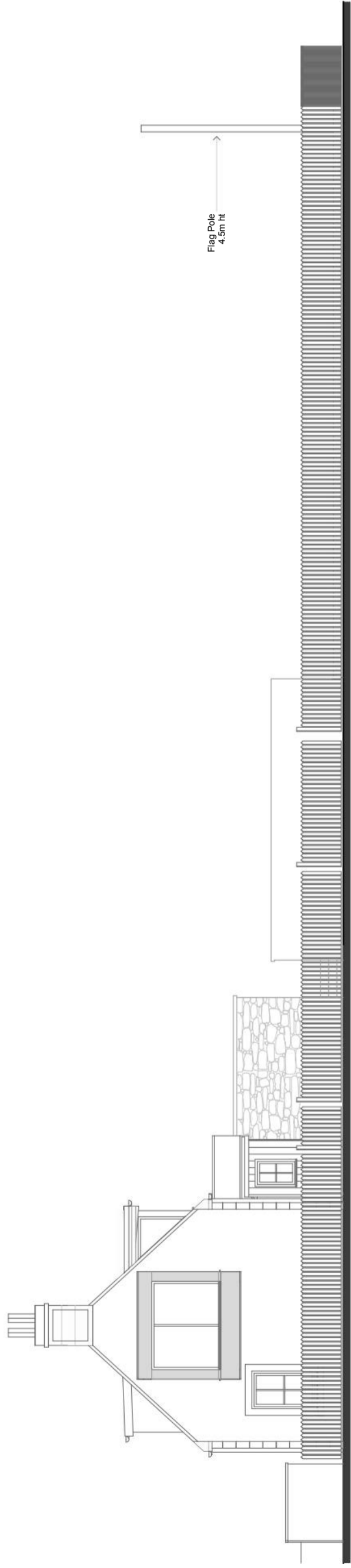
Drawn Scale



SW2

SW Front (Approach) Elevation

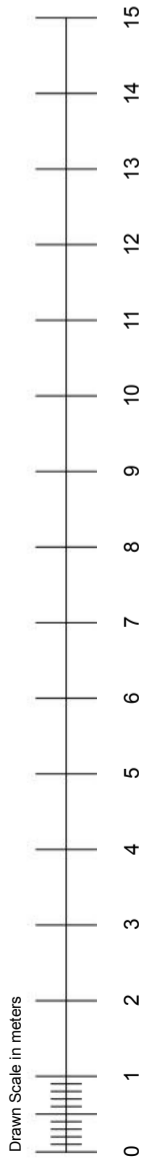
1:100



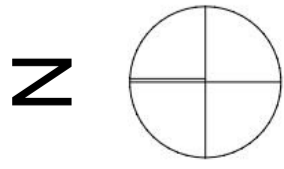
W

Side (Bay) Elevation

1:100



Title: Front & Side Elevations
Drawing No: L_23_P_03
Scale: 1:100
Date: 16th June 2023
Client: Mrs Andrea & Mr Craig Robertson
Project: Alterations to "Alba"
Address: 195 Findhorn, Moray IV36 3YN



Title: Location Plan

Drawing No: L_23_P_01

Scale: 1:2500

Date: 16th June 2023

Client: Mrs Andrea & Mr Craig Robertson

Project: Alterations to "Alba"

Address: 195 Findhorn, Moray IV36 3YN



Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/01024/APP
Nature of Proposal (Description)	Retrospective consent to erect a 4.5m height flagpole in grounds of
Site	Alba 195 Findhorn Forres Moray IV36 3YN
Site Postcode	N/A
Site Gazetteer UPRN	000133044612
Proposal Location Easting	304114
Proposal Location Northing	864199
Area of application site (M²)	
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RWJFDDDBGH9E00
Previous Application	22/01191/APP 22/00693/APP 20/00651/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Andrea Robertson
Applicant Organisation Name	
Applicant Address	Alba 195 Findhorn Forres Scotland IV36 3YN
Agent Name	Coast2Coast Architects
Agent Organisation Name	
Agent Address	The Sail Loft 156 Findhorn Forres Moray IV36 3YL
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Emma Mitchell
Case Officer Phone number	01343 563326

Case Officer email address	emma.mitchell@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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

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

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

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

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

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

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 23/01024/APP

**Retrospective consent to erect a 4.5m height flagpole in grounds of Alba 195 Findhorn
Forres Moray for Mrs Andrea Robertson**

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

Please

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

Transportation has no objections to the retrospective flag pole. Note – it is expected that the flag pole be maintained appropriately throughout its lifetime to ensure that it does not fall onto the adjacent public footway/carriageway.

Contact: AG
email address: transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 30 June 2023

Return response to	consultation.planning@moray.gov.uk
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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.

Comments for Planning Application 23/01024/APP

Application Summary

Application Number: 23/01024/APP

Address: Alba 195 Findhorn Forres Moray IV36 3YN

Proposal: Retrospective consent to erect a 4.5m height flagpole in grounds of

Case Officer: Emma Mitchell

Customer Details

Comment Details

Commenter Type: Community Council

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Community Council/Association Consult

Comment: The Findhorn and Kinloss Community Council, in their role as statutory consultees, object to planning application 23/01024/APP for retrospective consent to erect a 4.5 m flagpole in the grounds of Alba, 195 Findhorn.

The reasons for the Community Council objections are as follows:

The flagpole is erected at the southern boundary of the property adjacent to the War Memorial and in front of the Findhorn Church door. The Community Council unanimously agreed that the siting was insensitive and disrespectful.

The flagpole occupies a prominent site at the entrance to the old village and any flag flown could be viewed as a collective, village message which is thought to be unacceptable.

Flags have been known to cause offence to residents and visitors and the flagpole cannot be missed by anyone entering the village.

The flagpole is situated in the Conservation area and not in keeping with the local area.

Comments for Planning Application 23/01024/APP

Application Summary

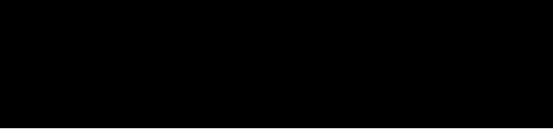
Application Number: 23/01024/APP

Address: Alba 195 Findhorn Forres Moray IV36 3YN

Proposal: Retrospective consent to erect a 4.5m height flagpole in grounds of

Case Officer: Emma Mitchell

Customer Details



Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Height of proposed development
- Inappropriate materials/finishes
- Over-development of site
- Poor design
- Precedent

Comment: I concur wholeheartedly with the (unexpected) comments of the Community Council; they have already succinctly stated our intent.

The flagpole is erected at the southern boundary of the property immediately adjacent to the War Memorial and in front of the Findhorn Church door. The siting is insensitive and disrespectful.

The imposing flagpole occupies a prominent site at the entrance to the old village and any flag flown could be viewed as a collective, village message which is considered to be unacceptable. Inappropriate messaging.

Flags have been known to cause offence to residents and visitors and the grandiose flagpole and associated large flag cannot be missed by anyone entering the village.

The flagpole is situated in the Conservation area and not in keeping with the local area.

Comments for Planning Application 23/01024/APP

Application Summary

Application Number: 23/01024/APP

Address: Alba 195 Findhorn Forres Moray IV36 3YN

Proposal: Retrospective consent to erect a 4.5m height flagpole in grounds of

Case Officer: Emma Mitchell

Customer Details



Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Community Council/Association Consult

Comment: I don't object to a flagpole in general but this is too big and makes a statement relating to the village as a whole rather than the property. I support the comments from the Community Council.

REPORT OF HANDLING

Ref No:	23/01024/APP	Officer:	Emma Mitchell
Proposal Description/ Address	Retrospective consent to erect a 4.5m height flagpole in grounds of Alba 195 Findhorn Forres Moray		
Date:	23/08/2023	Typist Initials:	DJP

RECOMMENDATION

Approve, without or with condition(s) listed below	N	
Refuse, subject to reason(s) listed below	Y	
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
Transportation Manager	30/06/23	No objection.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
National Planning Framework (NPF)		
NPF4 - Natural Places	Y	
NPF7 - Historic assets and places	Y	
NPF14 - Design, quality and place	Y	
NPF23 - Health and safety	N	
Moray Local Development Plan 2020 (MLDP)		
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP9 Conservation Areas	Y	

REPRESENTATIONS

Representations Received	YES
Total number of representations received - FOUR	
Names/Addresses of parties submitting representations:	
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.	

Summary and Assessment of main issues raised by representations
<p>Issue:</p> <ul style="list-style-type: none"> • Community Council unanimously agreed that the siting was insensitive and disrespectful. It is immediately adjacent to the War Memorial and in front of the Findhorn Church door. • The imposing flagpole occupies a prominent site at the entrance to the old village and any flag flown could be viewed as a collective, village message which is unacceptable. • Flagpoles can cause offence to residents and visitors and this large flagpole cannot be missed by anyone entering the village. • The flagpole is in a Conservation Area and is not in keeping with the local area. • It is too big and makes a statement relating to the village as a whole rather than the property.
<p>Comments (PO):</p> <ul style="list-style-type: none"> • Please see observations section as to why the flagpole is not acceptable in terms of planning policy.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Proposal

- Retrospective planning permission is sought for a flagpole at Alba 195 Findhorn.
- The flagpole is 4.5 m high and is located at the top of the front garden.

Site Characteristics

- The flagpole is located in the front garden of 195 Findhorn which is positioned at the entrance to Findhorn Conservation Area.
- A traditional cottage sits on the rear of the site that has recently be renovated, a white picket fence surrounds the fence.
- A Street light, road signs and a War Memorial are all located immediately out with the front of the garden of 195 Findhorn surrounding the flagpole.
- The site is located within the Culbin to Burghead Coastal Special Landscape Area.

Policy

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

The proposal was advertised as a departure from policies NPF 4, 7 and 14 and MLDP 2020 PP1, DP1, EP3 and EP9 for the reasons given below.

Siting and Design (NPF 7 & 14 / MLDP PP1, DP1 & EP9 and the Findhorn Conservation Area Character Appraisal)

Policy 14 aims to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Policy PP1 Placemaking seeks to ensure that new development is designed to create successful healthy places that improve people's wellbeing, safeguard the environment and support economic development, promote character and identity and biodiversity. Policy DP1 Development Principles

sets out the need for the scale, density and character to be appropriate to the surrounding area to create a sense of place, integrated into the surrounding landscape with no adverse impact upon neighbouring properties in terms of privacy, daylighting, or overbearing loss of amenity. Policy 7 states that development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations under policy 7 include the architectural and historic character of the area, existing density, built form and layout and context and siting, quality of design and suitable materials. Policy 7 also states that non-designated historic assets and their setting should be protected and preserved in situ wherever feasible. Policy EP9 aims to protect and enhance all aspects of the Conservation Area.

The Findhorn Area Character Appraisal states that The Findhorn Conservation Area is a fine example of a traditional Sea town settlement in Moray. It has a unique and distinctive "sense of place" and has a rich and well maintained townscape. The built form is characterised by small traditional single storey properties to larger 19th century houses that are two/three and half storeys in height. The majority of buildings within the Conservation are unlisted however these buildings are still of significant architectural merit and townscape value that must be protected. Extensions to dwellings should be sympathetic to the original building in terms of design and materials and add visual interest. Contemporary designs can add value and character to the townscape and be of a material finish that still respects the architectural authenticity and character of the original building. There is limited amounts of open space within the village therefore it is important that it is well maintained and kept free from any inappropriate development.

In considering an application for planning permission in a conservation area, the 1997 Act directs planning authorities to ensure that new development will preserve and enhance the character and appearance of an area. The aim is to ensure that new development will enhance an area's quality and therefore the experience of visitors and residents alike. The design of new development should therefore be derived from a thorough understanding of the special qualities of the conservation area, which led to its designation in the first place. The character of the conservation area in this instance is defined by single and one and a half storey stone gabled houses tightly situated together with very small garden areas. The start of the Conservation Area in this location is cluttered with numerous different items of street furniture including a lamppost (6m in height), road signs and a War Memorial all of which would be viewed with the flagpole.

The flagpole is currently viewed with the existing road signs, a lamppost and a War Memorial all which immediately are out with the garden of Alba 195 Findhorn. The flagpole is in a prominent position and is one of the first items to be viewed when entering the Findhorn Conservation, it unacceptably adds to the visual clutter that is already present in this location and is not acceptable.

The proposal, which is highly visible in this prominent location creates visual clutter and would introduce a visually intrusive development in a historic streetscape. The proposal fails to preserve and/or enhance the established character of the Conservation Area due to its prominent location at the entrance of the Conservation Area. The development does not adopt the highest standards of design due to its inappropriate size and prominent location. It therefore fails to accord with the requirement of the above policies.

Special Landscape Area (SLA) (NPF 4 and LDP EP3)

The aim of these policies is to protect landscapes from inappropriate development. Policy EP3 stipulates that proposals within Special Landscape Areas must not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation review and adopt the highest standards of design in accordance with policy DP1 and other relevant policies and minimise the adverse impacts on the landscape and visual qualities the area is important for. Policy 4 states that development proposals that effect a site designated as a landscape area in the Local Development Plan will only be supported if they do not have significant adverse effects on the integrity of the area or the qualities for which it has been identified or any significant adverse effects on the integrity of the

area are clearly outweighed by social, environmental or economic benefits of at least local importance.

For the reasons set out above the proposal prejudices the Coastal Special Landscape Area it is located in (Culbin to Burghead) due to not adopting the highest standards of design in terms of its scale in its prominent location. To summarise the flagpoles prominent location at the entrance of the Findhorn Conservation Area is unacceptable due to it adding to visual clutter, it therefore has a significant adverse effect on the qualities of the SLA.

In light of the above the proposal will negatively affect the integrity of the area and the qualities in which it has been identified for and this is not outweighed by social, environmental or economic benefits of at least local importance therefore the proposal is contrary to policy EP3 of the MLP and policy 4 of NPF.

Recommendation

Refuse

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY			
Reference No.	Description		
22/01191/APP	Proposed vehicular entry and exit to garden of Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 11/10/22
22/00693/APP	Vary condition imposed on 20/00651/APP to a change of roof finish on roof structure from zinc standing seam to natural slate at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 22/07/22
20/00651/APP	Upgrade existing oriel window front and rear dormers replace kitchen extension flat roof with pitched roof and replace porch at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 02/10/20

08/02458/FUL	Installation of oil tank and external oil fired condensing boiler system at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Permitted	Date Of Decision	09/12/08
95/00318/FUL	Install new window in west elevation at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Permitted	Date Of Decision	19/05/95
93/00576/FUL	Erect a porch and window replacement at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Refuse	Date Of Decision	29/07/93

ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Forres Gazette	Departure from development plan	25/07/23	
PINS	Departure from development plan	25/07/23	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

DOCUMENTS, ASSESSMENTS etc. *		
<i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
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)			

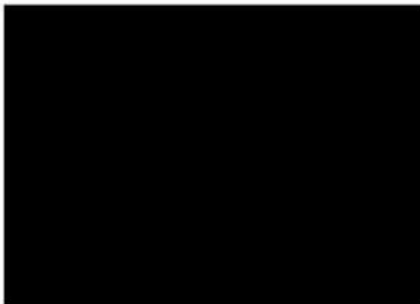


**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Forres]
Application for Planning Permission**

TO



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

Retrospective consent to erect a 4.5m height flagpole in grounds of Alba 195 Findhorn Forres Moray

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

Date of Notice: **29 August 2023**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance

Moray Council

Council Office

High Street

ELGIN

Moray

IV30 1BX

IMPORTANT

YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
L_23_P_02		Block plan
L_23_P_03		Elevations
L_23_P_01		Location plan

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

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, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS

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 & Mrs	Ref No.	
Forename	Craig & Andrea	Forename	Jane
Surname	Robertson	Surname	Shepherd
Company Name		Company Name	TheTownPlanner Ltd
Building No./Name		Building No./Name	The Craigies
Address Line 1		Address Line 1	Grant Road
Address Line 2		Address Line 2	
Town/City		Town/City	Granttown on Spey
Postcode		Postcode	PH26 3LA
Telephone		Telephone	01479 872 953
Mobile		Mobile	
Fax		Fax	
Email		Email	jane@thetownplanner.co.uk
3. Application Details			
Planning authority	Moray Council		
Planning authority's application reference number	23/01024/APP		
Site address	<p>Alba 195 Findhorn Forres IV36 3YN</p>		
Description of proposed development	<p>Retrospective consent to erect a 4.5m height flagpole in the grounds of Alba 195 Findhorn</p>		

Date of application

Date of decision (if any)

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.

Unable to tick more than one box
Request is for a combination of assessment including a review of the all the documents (as listed below and including the Planning Review Statement, as provided with this notice) together with site inspection.
The reason for the request for a site inspection is because the refusal is based on impact on the conservation area and SLA. This is a visual assessment which needs to be carried out during a site inspection.

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:

My clients would like to be able to point out all the poles referenced in the Planning Review Statement to ensure the Local Review Body takes this information into account and is able to view their lack of impact during their site inspection.

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.

Please see attached Planning Review Statement

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

Planning Submission Documents (all as published online): Submitted Plans (Location Plan, Block Plan, Elevations Plan), Officer Handling Report & Decision Notice

Previous Planning Approval (22/01191/APP): Approved Plan, Officer Handling Report & Decision Notice

Planning Review Statement

Whilst the following documents are fully referenced in the Planning Review Statement, it is assumed the Local Review Body will be provided with the Statutory Development Plan (NPF4 and Moray LDP), the Moray Local Landscape Designation Review, and the Findhorn Conservation Area Appraisal documents. As such these documents have not been provided in full.

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



Name:

Jane Shepherd

Date:

2 November 2023

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.



PLANNING REVIEW STATEMENT

SITE: 195 FINDHORN

**PROPOSAL: RETROSPECTIVE CONSENT TO ERECT A 4.5 M
HEIGHT FLAGPOLE IN GROUNDS**

PLANNING REFERENCE: 23/01024/APP

Jane Shepherd MRTPI

2 NOVEMBER 2023

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SECTION 1: INTRODUCTION

SECTION 2: PLANNING HISTORY

SECTION 3: PLANNING CONTEXT

SECTION 4: POLICY ASSESSMENT

SECTION 5: CONCLUSION

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SECTION 1: INTRODUCTION

The purpose of this Planning Review Statement is to draw upon the details as already submitted to demonstrate that the development for a 4.5m flagpole in the grounds of 195 Findhorn (planning application reference 23/01024/APP) should have been approved given its unequivocal compliance with national and local planning policies.

To avoid unnecessary repetition in this Planning Review Statement, it should be read in conjunction with the submitted documentation.

This Appeal Statement will specifically deal with the stated reasons for refusal.

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SECTION 2: PLANNING HISTORY

It is important to outline the background to this planning application. This is relevant to demonstrate that the current situation is not the result of any deliberate attempt by my clients to avoid planning permission. It is therefore a material planning consideration that should be considered in deciding on this review.

PRIOR TO THE CURRENT APPLICATION

Various planning applications have been submitted over the years as follows:

93/00573/FUL – Erect a porch and window replacement – Refused 29 July 1993

95/00318/FUL – Install new window in west elevation – Granted 19 May 1995

08/02458/FUL – Installation of oil tank and external oil-fired condensing boiler system – Granted 9 December 2008

20/00651/APP – Upgrade existing oriel window front and rear dormers replace kitchen extension flat roof with pitched roof and replace porch –

22/00693/APP – Vary condition imposed on 20/00651/APP to a change of roof finish on roof structure from zinc standing seam to natural slate – Granted 22 July 2022

The latter two applications demonstrate a continued intention by my clients to refurbish their property to the highest standard of design and to do so by seeking authority to do so.

Of most relevance to this review is the following recent application:

22/01191/APP – Proposed vehicular entry and exit to garden – Granted 11 October 2022 subject to various roads safety related conditions.

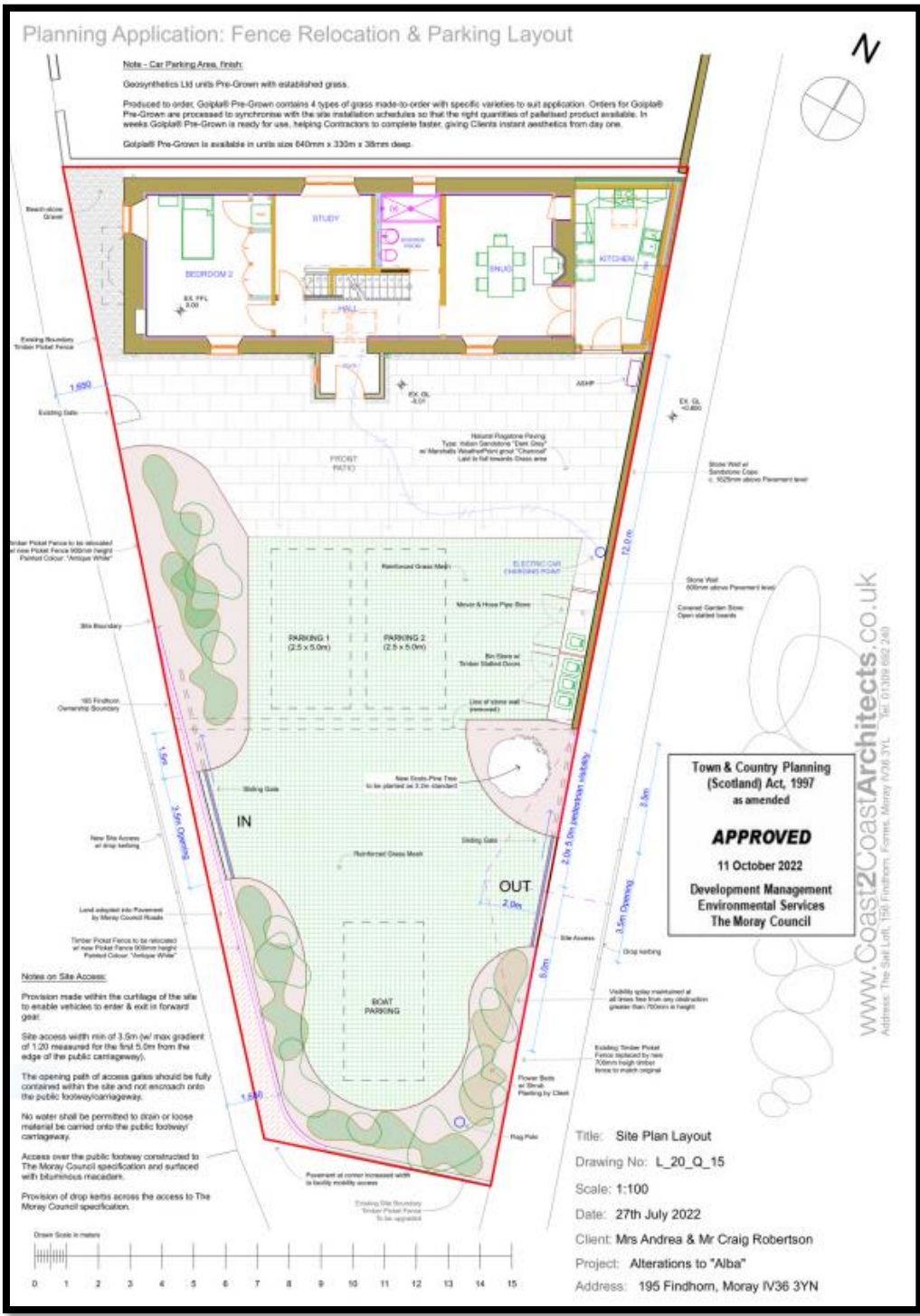
This application included various works and, as shown in *Plans 1 and 2*, a flagpole is clearly identified on the drawing as part of the landscaping works associated with the new entrance/exit.

There was no attempt by my clients to hide this element of the proposal, yet the Community Council refer to the flagpole not being *visible* on the drawing, and it was therefore missed by them and the Council. However, the lettering and symbols are of the same font type, colour, and size as all the other annotations on the drawing and therefore clear. Had the plan not been clear, both the Community Council and the Council had every opportunity during the planning process to query any of the details on the plan. Therefore, it is not a valid statement to suggest that my clients' plans were inadequate in any way. It is illogical to suggest that my clients would choose to be in the current situation of having to deal with this matter retrospectively and costing them more time and money.

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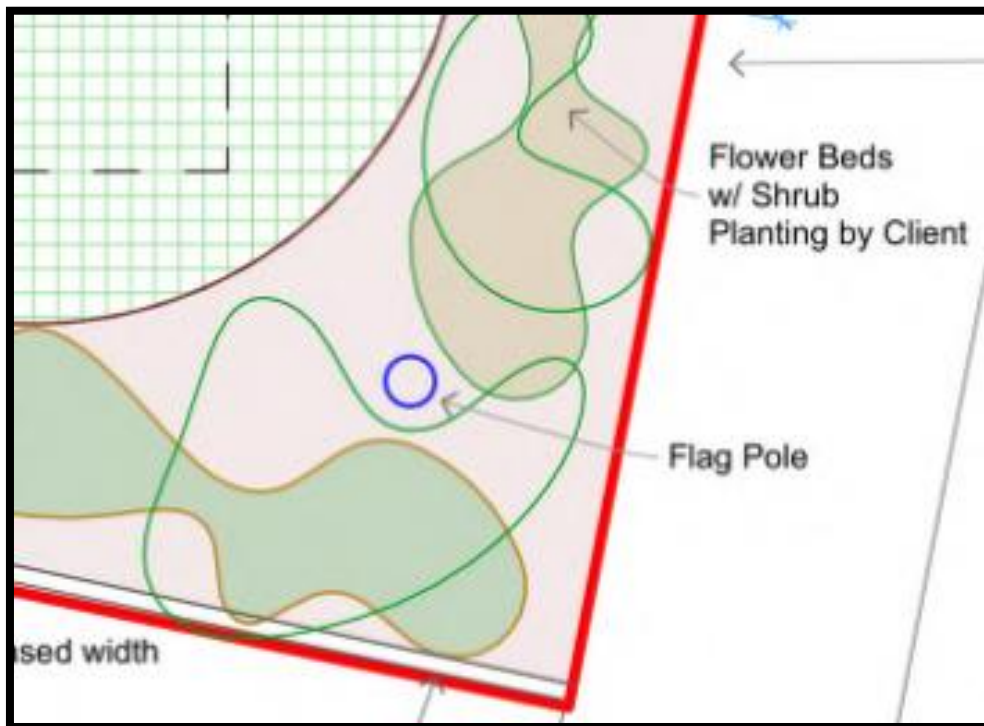
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Plan 1: Approved Site Plan Layout © Coast2Coast Architects

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Plan 2: Excerpt from Plan 1 clearly identifying the proposed Flag Pole
 © Coast2Coast Architects

My clients had assumed that since the flagpole was included on an approved drawing along with the associated landscaping works that it had been granted planning permission under reference 22/01191/APP. This is a perfectly reasonable assumption to make given the following circumstances:

First, my clients had already submitted several applications for works to the property as part of its refurbishment (as identified above) and it is therefore evident there was never any intent to carry out any development without first applying and gaining permission.

By including the flagpole within this application, it has been assumed by my clients that this was being applied for at the time and then when they received their permission it was consequently and logically assumed that they had gained the required permission.

In this case, it is entirely possible, and indeed likely, the Council in processing this application missed the flagpole on the drawing when assessing the application, as suggested by the Community Council. This approved drawing was part of the planning submission and at no time during the processing of the application was the flagpole raised nor further details sought. If there was any concern regarding the flagpole this communication would have been expected by my clients. Alternatively, it would at least have been expected that a condition would have been imposed seeking further details to be submitted and approved

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relating to the flagpole. In this case, none of this communication took place. The drawing was approved without question.

Notwithstanding this, it could be argued by the Council that the flagpole was not included in the description on the decision notice (again as asserted by the Community Council), which only references the vehicular entry and exit. However, it could also be logically argued by my clients that the Council in approving this plan, they also approved everything on the drawing, including the flagpole. For example, the Council has clearly approved the fencing and hard landscaping shown on the approved plan (which are referenced in the conditions) suggesting they knew this was proposed, yet neither the fencing nor the hard landscaping is mentioned in the description. This demonstrates the inconsistency and lack of clarity by the Council in its stance on this case. It is disingenuous to pick and choose which elements from the approved drawing were and were not approved under planning reference 22/01191/APP and equally unreasonable to disadvantage my clients, who made a logical assumption in this case.

23/00160/ENF – Flagpole erected without consent - On 2 June 2023, a letter was sent to my clients advising that the flagpole was unauthorised and required planning permission. At that point in time, the pole had already been in situ since 1 April 2023. It was requested by the Council that a planning application be submitted within 28 days of the date of the letter.

Communication between my clients and the Council followed, as listed below:

- 4 June 2023 - my clients emailed the Council expressing surprise regarding the matter and made full reference to planning permission 22/01191/APP and the existence of the flagpole on the approved drawing, which had led them to believe it already had planning permission.
- 8 June 2023 – a further email was sent by my clients requesting information regarding further details of what the issues were that were being raised regarding the flag, what the policies/restrictions were and what was required, particularly since the flagpole had already been shown on the approved plan.
- 9 June 2023 – a response was provided by the Council, which identified there were no specific policies relating to flagpoles but that there would be problem if the flag itself was an advertisement.
- 19 June 2023 – my clients confirmed that a planning application had been submitted.

THE CURRENT APPLICATION

23/01094/APP – An application to retain the flagpole was submitted on 20 June 2023 in response to the request by Moray Council Enforcement Team.

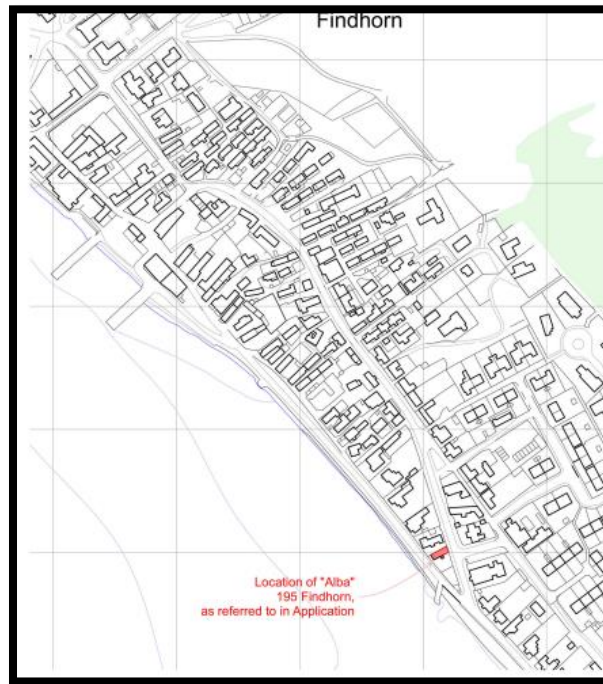
Of note, as a testament of my clients' honest approach to this matter, this application was submitted within 18 days of the Council's letter following the communication listed above.

The following documents were submitted:

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- Location Plan (*Plan 3*)
- Block Plan (*Plan 4*)
- Elevation Plans (*Plan 5 & 6*)



Plan 3: Location Plan © Coast2Coast Architects



Plan 4: Extract from Block Plan © Coast2Coast Architects

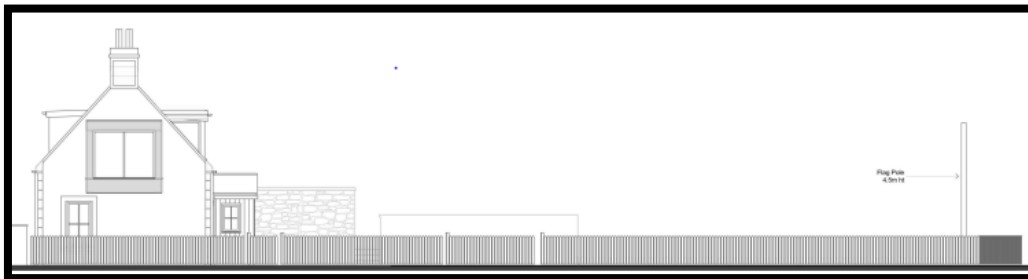
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Plan 5: Extract from Elevation Plan: Front Elevation © Coast2Coast Architects



Plan 6: Extract from Elevation Plan: Side Elevation (from Findhorn Bay) © Coast2Coast Architects

Interestingly, the block plan identifies the flagpole using the same annotation etc as that on the approved plan.

The flagpole is 4.5 m high and as shown in **Plans 4, 5 & 6** it is located to the south corner of the garden area.

The flagpole in its original form at the time of purchase was 6m and was reduced in height to 4.5 m before installation to reflect the domestic scale of the properties at 195 Findhorn and those adjacent.

The location for the flagpole was specifically chosen for two reasons:

- To avoid any conflict to road safety at the adjacent junctions (a point which has subsequently been agreed with by the Community Council during their meeting)
- To avoid issues being raised regarding any design-related impact upon the house: the importance of which had repeatedly been raised by the planning officer during previous applications.

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The siting of the flagpole at the end of the garden was therefore the obvious location and installed near the war memorial in respect of those Scots who had fallen during the wars.

The glass fibre flagpole is of the highest quality design and materials available. It is a Harrison Flagpole and their poles have notably been installed in the clocktower at Edinburgh Castle, on the stand at the Royal Edinburgh Military Tattoo, at Bannock Burn Heritage Centre (commissioned to coincide with the 700th anniversary of the Battle of Bannockburn), at the Royal Albert Hall in London, at the Horse Guards Parade and the Mall in London and used at the British War Memorial in Normandy France.

According to the online casefile and the Officer's Report of Handling, only the Transportation Manager were consulted, who raised no objections. There is no evidence of any involvement of a conservation officer or landscape officer.

Following neighbour notification and an advertisement in the local newspaper, according to the Officer's Report of Handling, only four representations were received. These are not available on the online casefile but had previously been retained in their entirety by the applicant for reference.

These representations were summarised in the officer's handling report as follows:

Issue:

- *Community Council unanimously agreed that the siting was insensitive and disrespectful. It is immediately adjacent to the War Memorial and in front of the Findhorn Church door.*
- *The imposing flagpole occupies a prominent site at the entrance to the old village and any flag flown could be viewed as a collective, village message which is unacceptable.*
- *Flagpoles can cause offence to residents and visitors and this large flagpole cannot be missed by anyone entering the village.*
- *It is too big and makes a statement relating to the village as a whole rather than the property.*

Other statements of relevance to this review provided in the Officer's Handling Report are as follows:

- The site is located in the conservation area and the Culbin to Burghead Coastal Special Landscape Area
- The site is *cluttered with numerous different items of street furniture including a lamppost (6m in height), road signs and a War Memorial all of which would be viewed with the flagpole.* Clutter is a recurring point made in the report and mentioned in the reasons for refusal.

The application was refused on 29 August 2023 for the following reasons:

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The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:

- 1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size and would be contrary to policies 7, 14, PP1, DP1 and EP9.*
- 2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character and would fail to accord with the requirement of policies 4, 7, 14, PP1, PD1, EP3 and EP9.*

Of relevance to the determination of this application since it will be demonstrated there is no impact from this pole on the conservation area, it is noted throughout the Officer's Handling Report and in reason 1 above, the legislation has been incorrectly cited.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 refers to the general duty of local authorities in respect to conservation areas to the *desirability of preserving or enhancing the character or appearance of the conservation area*. This incorrect citation from the Act in the Officer's Handling Report leads to a stronger test (and potentially unattainable) than is legally permitted to be applied here i.e., suggesting the proposal should preserve **and** enhance and not the correct test of one or the other.

Furthermore, as detailed below, it will be shown that Policy 7 of the NPF4, cited in the Officer Handling Report and the reason for refusal has also been incorrectly applied to this development.

POST- THE CURRENT APPLICATION

My clients have also been proactive in trying to resolve this matter with the Council since September following receipt of the decision notice. Unfortunately, this has not resulted in any positive way forward and they have been left with no choice but to request this review given the limited timescale to do so.

Specifically, they sought advice as to whether there is an alternative height that the pole could be reduced to that might be acceptable to the Council. There has been no response to this other than advising that a free revised application could be submitted.

However, without any definitive advice, my clients would be stabbing in the dark as to what might be acceptable. They would potentially have to make multiple applications for different heights at different locations until such a time one was found to be acceptable. This would be

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at significant cost to them since new plans would need to be prepared for each application and after the first revised application, all subsequent applications would incur a fee.

On their behalf, to also try and resolve the matter and potentially avoid this review, I have repeated my clients' request for advice. In an initial response, the Council has confirmed that the flagpole was not refused regarding its proximity to the war memorial. In subsequent correspondence the Council confirmed:

I think a flagpole may be acceptable in a less prominent position in the garden (and perhaps a shorter pole), a suggestion would be close to the house in the north east area of the garden.

Unfortunately, this response is still not definitive enough for my clients to abandon this request for a review and submit a new application. Time has now run out to pursue this further in advance of the review submission deadline. The response is also inconsistent with the reasons for refusal relating to the quality of the design and the height issues raised. However, notwithstanding this, the response is helpful in that the following has now been established:

- The principle of a flagpole in the front garden of 195 Findhorn (and therefore against the backdrop of other street furniture, within the Conservation area, the Culbin to Burghead Coast Special Landscape Character) is acceptable and it is just the details that are of concern to the Council.
- The quality and design of the flagpole is therefore acceptable, contrary to the reasons for refusal set out in the decision notice.
- The height of the flagpole may now be acceptable since it is only '*perhaps*' needing to be shortened.

Finally, my clients have sought to engage with the community regarding any concerns about the flagpole. They have engaged with:

- Findhorn and Kinloss Community Council
- Sam Russell (Chairman of the Findhorn Residents Association)
- Community

[Findhorn and Kinloss Community Council](#)

My clients attended a meeting of the Community Council on 31 August 2023. During this meeting they highlighted that they found the Community Council's comments to be hasty, inappropriate, and offensive and that the members had at no time approached my clients to find out more about the flagpole or raise their concerns directly.

Regarding this, the Community Council have publicly apologised for any offence that has resulted from the wording of their response to planning application 23/01024/APP and acknowledge that the wording was insensitive. They confirmed that *it was not their intention*

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to cause upset to the Robertson family and their comments were regarding the flagpole and its position and not those who erected it.

In their minutes of the meeting, they also confirmed they had not noticed the flagpole on the previous application because it was not *visible* or in the description and therefore it had been missed by them and the Moray Council planning officers. They confirmed that in fact it was not the actual Saltire flag that was causing offence but *the future use of the flagpole which cannot be controlled through a planning condition.*

The minutes for this meeting have been included as an extract in **Appendix A**. It should be noted that since this is a publicly available record, the extract is provided without redaction.

Samuel Russell (Chairman of Findhorn Residents Association)

It is of specific note that Samuel Russell, who had only just been aware of the application on 26 July 2023, tried to comment on the application but was timed out and therefore those views were not considered during the decision-making process.

A full copy of his response is provided as **Appendix B** of this Statement. Samuel Russell has expressly provided his permission for this to be used in this review, knowing it will be available to the objectors and public for viewing. It is therefore provided in full and without redaction.

In the first instance he queries the need for permission since the flagpole was on a drawing already approved by the Council and considered there appeared to have been an oversight on the Council's part which was now requiring the applicants to submit the application.

Of most relevance, he stated *I strongly disagree* with the Community Council's objection. He was concerned that the Community Council had submitted their objection without reference to any consultation with local village groups and individuals for their views, particularly since he had not heard any objections of this nature. Mr Russell clearly sets out why the Saltire is appropriate as a symbol of the Scottish people (and not related to any politics) and quite appropriate to the location adjacent to the war memorial.

Community

Since the decision to refuse, my clients have actively engaged with people in the community to find out their views on the flagpole.

A petition has been prepared, which states:

The siting of our flag-pole has been branded as 'insensitive' and 'disrespectful'. Which also 'creates visual clutter' and it 'Erodes the traditional settlement character of the Bulbin to Burghead coast' in Scotland... If you would like our flag pole to stay, Please let us know below:

134 signatures have been added to the petition agreeing that the flagpole should stay.

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This petition has been included as **Appendix C** of this Statement. This document has been redacted to exclude personal information (names and full addresses) to comply with GDPR requirements. Various comments have been included in this redacted version.

Whilst not repeating those comments here, the overwhelming opinion is the flag is neither offensive nor political and is a welcoming feature in the right location, and that it is appropriate and representative of Scotland, those who served in the wars and the Church. Several even stated they had not even noticed it.

Although not included in the petition, my clients have also heard from a few relatives of the named soldiers on the war memorial, who have stated that it is comforting see the flag flying so close as a tribute to the lives lost.

This petition is representative of the local community and should now be considered as part of the review process.

In conclusion:

- There remains the potential my clients already have permission to erect the flagpole.
- My clients have responded positively and timeously to the Council's requests and submitted this planning permission for their flagpole well within the timescale set.
- Given my clients demonstrable record of making several applications for development at this property and quality of design of the work undertaken, this is clearly not a blatant breach of planning control.
- My clients have actively sought to communicate with officers seeking an alternative solution to this issue to no avail.
- My clients have also actively sought to communicate and engage with the community and have received an overwhelmingly positive response to the flagpole.

There is no more they can do and having tried hard to resolve this they are now at the hands of the Local Review Body, who will hopefully be able to consider this application without influence of non-material planning matters and review the merits of this flagpole.

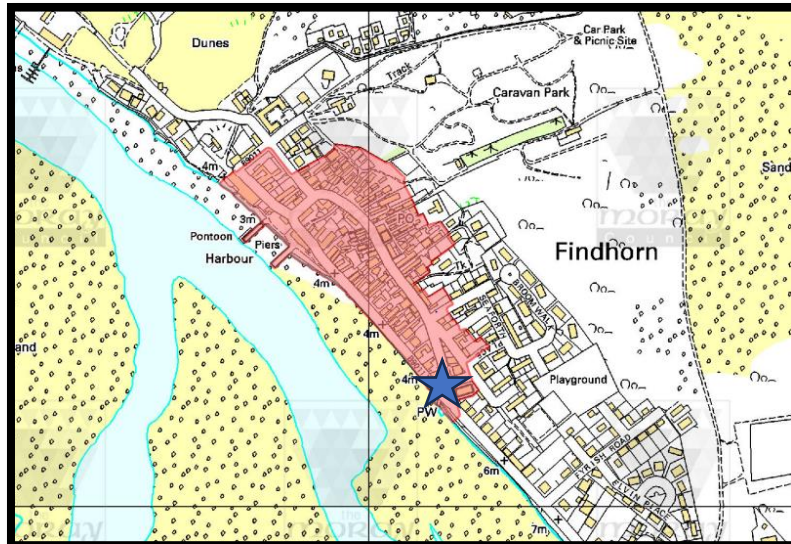
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SECTION 3: PLANNING CONTEXT

The application site is located within Findhorn (*Plan 3*) and at the fork defining the east boundary to the Findhorn Conservation Area (*Plan 7*) and within the Culbin to Burghead Coastal Special Landscape Area. (*Plan 8*).



*Plan 7: Extract from Findhorn Conservation Area Map
© Crown Copyright 2013 © The Moray Council 100023422*



*Plan 3: Extract from LDP showing Culbin to Burghead Coastal SLA
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Direct reference is made to the Findhorn Conservation Area Appraisal and the Moray Local Landscape Designation Review for the Culbin to Burghead Coastal Special Landscape Area in the Policy Assessment section of this Statement.

Research of the Scotland Environment Web has revealed no nature conservation designations on the application site e.g., SSSI, SPA, SAC, etc. In terms of built environment, opposite the garden of 195 Findhorn and just within the Findhorn Conservation Area boundary is the Kinloss and Findhorn Parish Church, which is a Category B listed building.

An assessment of the any impact upon the conservation area and the landscape was carried out by TheTownPlanner Ltd on 2 October 2023. The purpose of this exercise was to establish the character of the area and consider any impact (as alleged in the reasons for refusal) resulting from the flagpole at 195 Findhorn. The findings of this assessment unequivocally demonstrate that such poles in the landscape are commonplace and there is no harm being caused by my client's flagpole such that it warrants the decision to refuse by the Council.

The first stage of the assessment involved a walk around the village, concentrating on the conservation area to establish its character. As already identified in the Findhorn Conservation Area Appraisal, it is evident Findhorn is a small traditional seatown on the Moray coast. The character of the built environment in which the flagpole is located is defined by traditional vernacular buildings sited close together and at various angles by way of protection against the elements. Findhorn Bay is more natural in its character; albeit it is characterised by a plethora of different fishing and small leisure boats all identifiable in this coastal landscape by their masts projecting vertically into the sky.

Walking along the front, there were numerous flagpoles of various heights which did not appear out of place, along with numerous boat masts of a similar design (vertical white poles). The most prominent of these flagpoles is sited along the front, adjacent to the piers, upon which the Saltire flag displayed. It has clearly been consciously sited on a prominent, raised grass area in front of the mercat cross as a landmark and feature in the landscape. It is also of a much greater scale than that at 195 Findhorn and clearly visible from many vantage points along the bay and within Findhorn. Presumably, this flagpole was sanctioned by the Council with the support of the Findhorn Community Council. Notwithstanding this, its existence demonstrates that no harm is caused to the conservation area or landscape neither from this official flagpole nor the many others in the village.

It is also assumed that all those poles (flagpoles – with or without flags) identified during the assessment have not caused any offence or concern. A full search of the Council's planning application records and enforcement register has not identified any reference to any planning applications or enforcement action being taken for flagpoles in Findhorn. The poles identified are visible and display a variety of flags, including the Saltire. They are all located in the

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conservation area and SLA. It is likely some of those other flagpoles have existed for some time and are now immune from any enforcement action over the passage of time. However, had they have been of concern to residents or the Community Council at the time of installation then the Council could have used their enforcement powers to pursue them and seek permission in the same way as they have recently with the flagpole at 195 Findhorn.

The following photographs were taken of some of the flagpoles and boat masts during the walking assessment.

It is important to note that it is only the flagpole that requires planning permission and therefore the comparisons should solely relate to the poles/masts and not the flags, where they are being displayed.

[Official Findhorn Flagpole](#)



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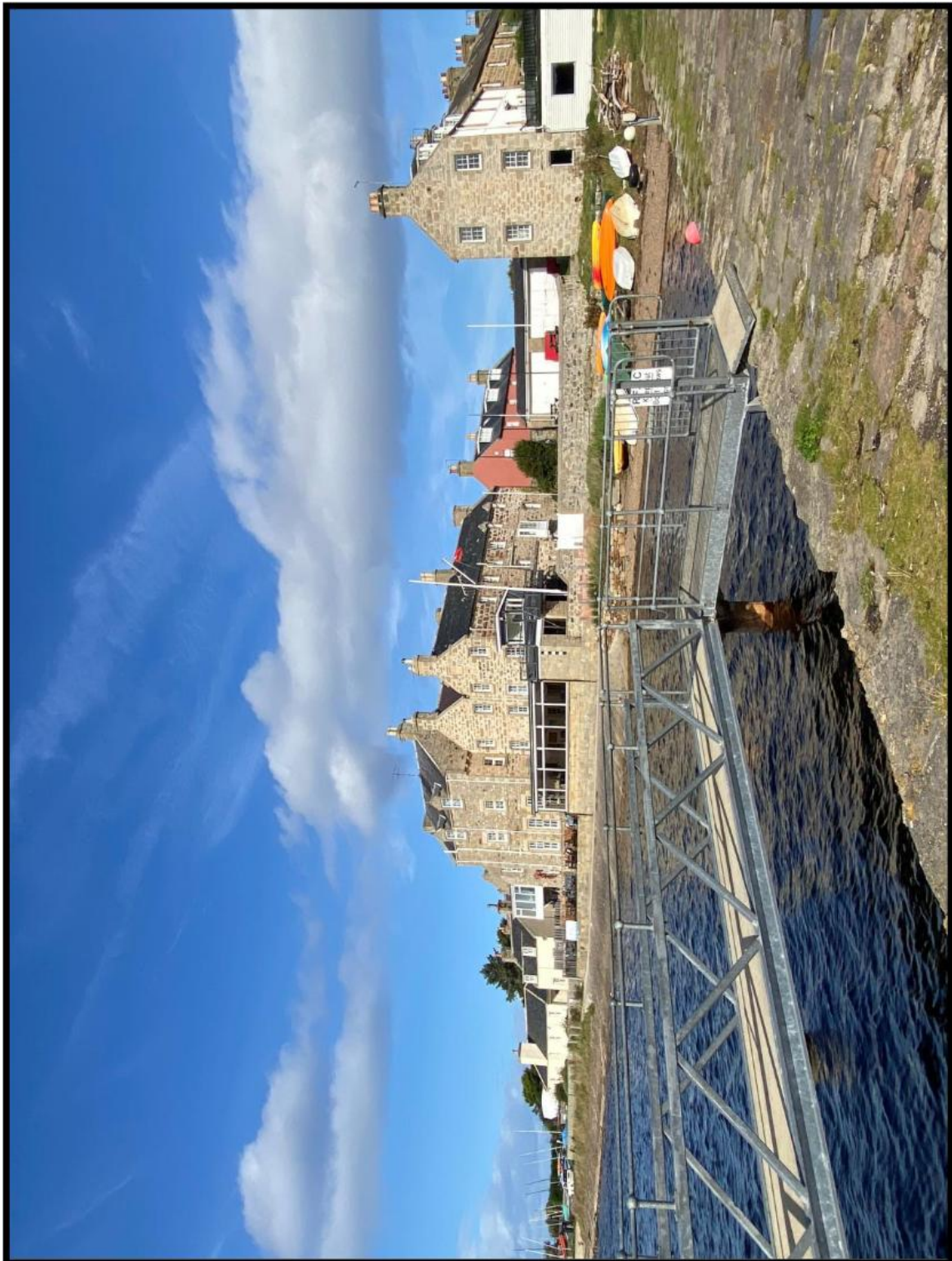
Numerous Flagpoles (with and without flags on display) at Royal Findhorn Yacht Club



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Numerous Boat Masts along Findhorn Bay



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The second stage of the assessment was to view the flagpole at 195 Findhorn, the subject of this review, from all vantage points, including entering the old village, from both sides of the property and further afield.

Again, it is important to note when viewing the photographs that it is only the flagpole which requires planning permission and not the flag. As such, it is the views of the pole only which are of relevance. Notwithstanding this, the flag itself is not causing any harm to the conservation area or the landscape.

The following photographs were taken to demonstrate that the flagpole is not prominent within the landscape such that it causes the alleged harm identified in the reasons for refusal.

The flagpole is no more prominent nor harmful than the official flagpole sited in the centre of the village within the conservation area and SLA.

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Views of Flagpole at 195 Findhorn approaching from the south, along the footpath



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Views of Flagpole at 195 Findhorn approaching from south, along roadside

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General Views of Flagpole at 195 Findhorn



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[View towards Flagpole at 195 Findhorn from Pier](#)



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View of Flagpole at 195 Findhorn approaching from North, along footpath)



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View of Flagpole at 195 Findhorn approaching from north, along footpath/road



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General Views of Flagpole at 195 Findhorn, looking towards Findhorn Bay



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SECTION 4: POLICY ASSESSMENT

GENERAL LEGISLATIVE BACKGROUND

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is of relevance to this case.

Section 64 of this Act sets out a general duty when dealing with development proposals in a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area (*my underlining*)

The Planning (Scotland) Act 1997 is also of relevance to this case.

Section 25 (as amended) sets out that it is a statutory requirement under the Planning Act that all planning applications must be considered on their own merits against the relevant local development plan unless material considerations indicate otherwise.

The primary reference for planning application decisions is the statutory development plan, which now comprises the National Planning Framework 4 (NPF4) and the Moray Local Development Plan (LDP).

As outlined in the Chief Planners letter (Transitional Arrangements for National Planning Framework 4) of 8 February 2023, in the absence of an up-to-date LDP (i.e., one which post-dates 8 February 2023),

- NPF4 must be read and applied as a whole.
- Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement.
- In the event of any incompatibility between a provision of NPF and a provision of an LDP, whichever of them is the later in date is to prevail.

POLICY FRAMEWORK

A comprehensive planning policy-based assessment against national and local planning policies has been undertaken below to bring the submission up to date for the purposes of this appeal.

National Planning Policy

NPF4 was adopted by the Scottish Government on 13 February 2023. It replaces NPF3, Scottish Planning Policy (SPP).

National Planning Framework 4 (NPF4)

NPF4 provides a statutory framework for Scotland's long-term spatial development until 2045.

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The list of relevant policies raised in the Officer’s Handling Report and the reasons for refusal are included in **Table 1** and a full assessment is included demonstrating full compliance with all those relevant policies, i.e., **Policies 4, 7 and 14.**

NPF4 POLICY	POLICY REQUIREMENTS	POLICY ASSESSMENT
<p>Policy 4 – Natural Places</p>	<p>Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.</p> <p>Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.</p> <p>Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:</p>	<p>This policy has been cited in full to demonstrate that contrary to the reason for refusal, it has no relevance to the built environment (i.e., non-natural places) in Findhorn, in which the flagpole is located.</p> <p>The pole is not located in a natural environment. It is in a private enclosed garden area in Findhorn. It cannot therefore have any unacceptable impact on the natural environment or its integrity, as cited in the reason for refusal.</p> <p>The pole is not located in an existing or proposed European Site (SAC or SPA).</p> <p>It is not directly connected with or necessary for conservation management. It is not required to be subject to an appropriate assessment nor has any implications for any conservation objectives.</p> <p>The pole is not located in a National Park, National Scenic Area, SSSI or NNR. It cannot therefore have any impact upon the interests of such designated areas.</p>

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	<p>i. The objectives of designation and the overall integrity of the areas will not be compromised; or</p> <p>ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.</p> <p>All Ramsar sites are also European sites and/or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.</p> <p>Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:</p> <p>i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or</p> <p>ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance.</p>	<p>The pole is not located in a designated Ramsar site, European Site or SSSI.</p> <p>The pole is not located in a local nature conservation site. However, it is located in a designated Special Landscape Area (SLA)</p> <p>As detailed in the Moray Local Landscape Designation Review, the character of the Culbin to Burghead Coastal SLA is defined by the significance of the natural environment of Findhorn Bay and the forest hinterlands and not the built environment. As such the flagpole in a domestic garden in the built environment cannot have any significant or adverse effect upon the integrity of the SLA or the special natural landscape qualities for which it has been identified.</p> <p>Since it has no significant adverse effect then criterion (ii) does not apply.</p>
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	<p>The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.</p> <p>Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.</p> <p>Development proposals in areas identified as wild land in the Nature Scot Wild Land Areas map will only be supported where the proposal:</p> <ul style="list-style-type: none"> i. Will support meeting renewable energy targets; or, ii. Is for small scale development directly linked to a rural business or croft or is required to 	<p>Whilst the precautionary principle must be applied, there is no issue or impact here to be cautionary about. This is a pole in a domestic garden and there is no impact upon the natural environment or the SLA.</p> <p>The pole is not located to any identified protected species. As a stationary pole, it cannot have any impact upon any species commonly found on the Scottish Coast but not in the sea, i.e., bird species. Although somewhat irrelevant, in the absence of any trees, any bird species could use the flagpole as a perch.</p> <p>The pole is not located in any designated Nature Scot Wild Land Area.</p>
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	<p>support a fragile community in a rural area.</p> <p>All such proposals must be accompanied by a wild land impact assessment which sets out how design, siting, or other mitigation measures have been and will be used to minimise significant impacts on the qualities of the wild land, as well as any management and monitoring arrangements where appropriate. Buffer zones around wild land will not be applied, and effects of development outwith wild land areas will not be a significant consideration.</p>	<p>In conclusion, the pole has no impact upon any natural places protected by Policy 4, including the Culbin to Burghead Special Landscape Area.</p>
<p>Policy 7 – Historic Assets and Places</p>	<p>Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.</p>	<p>There are no designated heritage assets on the application site.</p> <p>The Kinloss and Findhorn Parish Church adjacent to the garden area is Category B listed.</p> <p>The War Memorial is not a designated historic asset.</p> <p>The pole is located in the Findhorn Conservation Area and as such, the relevant parts of Policy 7 have been cited opposite.</p>

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	<p>Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.</p> <p>Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:</p> <ul style="list-style-type: none"> i. Architectural and historic character of the area; ii. Existing density, built form and layout; and iii. Context and siting, quality of design and suitable materials. 	<p>National policy and guidance (including that set out by Historic Environment Scotland) seeks to ensure that development is not harmful to historic assets, including within the context of a conservation area.</p> <p>As outlined in this Statement, a comprehensive assessment has been carried out of the Findhorn Conservation Area to establish its character and appearance. This assessment also appraised any potential and actual impact of the flagpole in the context of the conservation area. Reference should be made to this.</p> <p>First, it needs to borne in mind what is being assessed is a vertical pole and not the flag itself. What also needs to be borne in mind that this is a flagpole of a domestic scale, reflective and respectful of its location and setting.</p> <p>The assessment carried out found there to be no impact upon the conservation area. In fact, the flagpole (in terms of a vertical white pole) was found to be a typical feature both within the conservation area and along the front of Findhorn Bay. As such, it was found that the flagpole was no more prominent in the landscape than other similar structures in Findhorn. This flagpole is therefore not alien to this surrounding built or natural landscape and it could be argued it is a feature that is expected to be seen. The flagpole does not introduce a <i>visually</i></p>
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	<p>Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.</p> <p>Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible.</p>	<p><i>intrusive development</i> in this historic context.</p> <p>The installation of the flagpole has not involved the loss of any such natural or built features.</p> <p>Whilst the war memorial is not a designated historic asset, it could be argued to be considered as a non-designated historic asset requiring to be protected from development.</p> <p>As already established, what is being assessed here is a flagpole; albeit it also comprises a flag, the Saltire in this case. The flagpole is located sufficient distance away from the war memorial to clearly be related to the property at 195 Findhorn. However, it also enhances its setting since it is traditional for flagpoles to be located at or near war memorials and for flags to be flown in memory of those who have fallen during the wars. It is not therefore alien to view a flagpole in this context.</p>
<p>Policy 14 – Design, Quality and Place</p>	<p>Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Development proposals will be supported where they are consistent with the six</p>	<p>The pole is assessed against the six qualities of successful places below:</p> <p>Given the nature and scale of the development, a pole, the criteria (more appropriate to built development) are not directly applicable. This does not mean the</p>

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	<p>qualities of successful places:</p> <ul style="list-style-type: none"> • Healthy: Supporting the prioritisation of women’s safety and improving physical and mental health. • Pleasant: Supporting attractive natural and built spaces. 	<p>development is non-compliant but more this criterion is of no relevance.</p> <p>Notwithstanding this, as described in the planning application details section of this Statement, the pole is of exceptional quality in terms of design and materials such that these poles are used in high profile locations across the UK by recognised national bodies.</p> <p>This criterion is not directly relevant or applicable to the installation of a pole. However, as indicated in the petition responses, the flying of a Scottish flag does improve the mood of the community and those visiting Findhorn, thereby improving their wellbeing and mental health.</p> <p>The installation of a pole is supportive of the attractiveness of this built environment with a traditional Scottish seatown character (as outlined in the Findhorn Conservation Area Character Appraisal).</p> <p>Mention is made in the reasons for refusal of the existing street furniture and that the flagpole adds to this <i>existing visual clutter</i>. First, it is within the gift of the Council to ensure that its signage, bollards etc do not cause clutter and are designed to reflect and respect the conservation area location. My clients cannot be responsible for the existing clutter. They are only required by policy to ensure their development does not cause harm.</p>
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	<ul style="list-style-type: none"> • Connected: Supporting well connected networks that make moving around easy and reduce car dependency • Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. • Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. • Adaptable: Supporting commitment to investing 	<p>The scale and number these existing structures (similar in height to the war memorial) is clearly causing significant harm to the setting of the war memorial.</p> <p>Notwithstanding and in spite of this, the introduction of a flagpole of a different scale, nature and design does not cause visual clutter. The existence of this flagpole enhances the conservation area and the historical setting of the war memorial.</p> <p>This criterion is not relevant or applicable to the installation of a pole.</p> <p>The installation of a pole is supportive of the distinctive seatown character of Findhorn Bay. It reinforces the identity of the town, which is characterised by many masts on boats with flags and the numerous flagpoles in the town (as detailed in the Planning Context section of this Statement).</p> <p>The pole is of a high-quality design using sustainable materials, as detailed in the planning application details (and photographic evidence) in this Statement.</p> <p>This criterion is not relevant or applicable to the installation of a pole.</p>
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	<p>in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.</p>	<p>In conclusion the pole has no impact upon the built environment when comprehensively assessed against Policy 14.</p>
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Table 1: Relevant NPF4 Policies

Local Policy

The Moray Local Development Plan 2020 was formally adopted on 27 July 2020.

The full list of relevant policies raised in the Officer’s Handling Report and the reasons for refusal are included in **Table 2**, i.e., Policies **PP1**, **DP1**, **EP3** and **EP9**. A full assessment is included in the table and demonstrates full compliance with all those relevant policies.

In addition to this, reference has been made in the reason for refusal to two documents:

- Findhorn Conservation Area Character Appraisal
- Moray Local Landscape Designation Review - Special Landscape Area – Culbin to Burghead Coast

As such, they are referenced in the assessment below. It is of note that the reason for refusal is written in the future tense in that it ‘would’ cause x, y and z. However, the flagpole is in existence and has been so for seven months. It is therefore more relevant for an assessment to be made of actual impact rather than a perceived one in the future. Notwithstanding this, the proper assessment is provided below.

LDP Policy	Policy Title	Policy Requirement	Assessment
PP1	Placemaking	Development must be designed to create successful, healthy places that support good physical mental health, help reduce health inequalities, improve people’s wellbeing, safeguard	<p>The assessment of the flagpole against this policy, is the same as that covered in Table 1 under Policy 14 of the NPF whereby it has been found to comply.</p> <p>Specifically, whilst not being part of the consideration, the flying of the Saltire on this flagpole has brought</p>

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		<p>the environment and support economic development.</p> <p>The policy is then broken into sub-criteria including where relevant:</p> <ul style="list-style-type: none"> • Character and Identity (with the emphasis on creating <i>distinctive</i> and not <i>homogenous</i> development) • Healthier, Safer Environments (with the emphasis on creating a <i>distinctiveness urban form</i> with <i>landmarks</i> to provide <i>good orientation and navigation</i>) <p>Reference is made in this policy to the provision of open space/landscaping.</p>	<p>the community of Findhorn together in support of their common identity. As quoted in the petition <i>it is great to see</i> and it even made one of the signatories smile.</p> <p>Findhorn (as identified through the conservation area appraisal and the assessment in this Statement) has a distinctive seatown character. This is not only due to the traditional fishing cottages but also the boats and flags that are numerous throughout the village. The flags and boat masts (with flags displayed) are a distinctive feature within that character and the reflective of the village's historical identity.</p> <p>The introduction of a domestic scale flagpole in this garden is not alien to that character but instead part of its distinctive identity.</p> <p>Although mentioned in the Officer's Handling Report as being important that open space is well maintained and kept free from any inappropriate development suggesting this to be the case here, this policy reference is to accessible public open space and not private gardens. As such it is not relevant to the consideration of this flagpole.</p>
DP1	Development Principles	<p>This policy <i>will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.</i></p>	<p>This proposal is for a domestic scale flagpole within the garden of a residential property in Findhorn.</p> <p>It is not as suggested <i>highly visible</i>, indeed a couple of the signatories of</p>

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		<p>Of relevance, reference is made to design matter, and in particular the scale, density and character must be appropriate to the surrounding area and create a sense of place. It must be integrated into the surrounding landscape and demonstrate how it will conserve and enhance the natural and built environment.</p>	<p>the supporting petition mentioned that they had not even noticed it. The principle of siting a flagpole in this location is stated as being acceptable to the Council. It is not restricted by any specific LDP planning policies, i.e., there is not a policy which restricts the erection of flagpoles in gardens. The Council's reason for refusal is not an 'in principle' objection. This assumption is borne out by subsequent communication with the Council which has clearly invited a revised application for a flagpole at 195 Findhorn suggesting this to be the case.</p> <p>The nature and scale of the flagpole is such that it is impossible for it to cause the alleged level or significance of harm to the historic streetscape (including the conservation area) such that it is <i>visually intrusive</i>. It is an over statement that the flagpole would <i>erode the traditional settlement character</i> of this SLA as stated in the reasons for refusal.</p> <p>It is considered that this minor domestic development has not been treated proportionately within the context of this planning policy.</p>
<p>EP3</p>	<p>Special Landscape Areas and Landscape Character</p>	<p>Development within SLAs will only be permitted where they do not prejudice the special qualities of the designated area as set out in the Moray Local Landscape Designation Review, adopt the highest standards of design, and minimise adverse impacts on the landscape and visual</p>	<p>Within the Moray Local Landscape Designation Review, the statement of importance for the Culbin to Burghead Coast is set out in the Review as being <i>predominantly coastal in character</i>. Findhorn is described as a village comprising rows of fisherman's cottages.</p> <p>Reference is made to the coastal edge having a diverse character with special qualities, <i>including sand bars, dunes, saltmarsh, a tidal basin and</i></p>

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		<p>qualities the area is important for.</p>	<p><i>long sandy beaches</i>. This is evident in the <i>tidal fluctuations within Findhorn Bay</i>. The character also includes the coastal forests, which form the hinterland to much of the coastline and have a rich landscape of biological interest.</p> <p>Reference is also made to the coastal area being well used for recreation including sailing, walking, and cycling.</p> <p>The review refers to sensitivity to change and to suggested management recommendations. These refer solely to the natural environment and its ongoing protection from development.</p> <p>Whilst this alleged harm is referenced in the reason for refusal is it unclear how a flagpole could have any impact upon the SLA based on the need for protection of its natural environment.</p> <p>It is also not made clear in the reason for refusal how and in what way a single domestic scale flagpole in a residential garden could <i>erode the traditional settlement character</i> of the SLA as stated. The relation between the factors cited and the alleged harm do not correlate. The factors are assessed below:</p> <p>Whilst design is mentioned as a factor which is causing this harm, this has already been demonstrated to be of the highest quality.</p> <p>The <i>inappropriate size</i> has also been mentioned as a factor, yet the pole is of a domestic scale compared to the numerous other masts and flagpoles in Findhorn, some of which are of a greater scale, which are causing no</p>
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			<p>harm to the character and appearance of the conservation area. Advice has been sought regarding what would be an appropriate size and the response has been that maybe it does not need to be shortened after all.</p> <p>Finally, location is mentioned as a cause, yet this location has been specifically chosen as being wholly appropriate and in fact less prominent than if located in the location suggested. Again, others (larger) are in more prominent locations and have been accepted by the Council and local community (on the basis no complaints have been made, no enforcement action has been taken and no retrospective applications have been invited and/or refused).</p>
<p>EP9</p>	<p>Conservation Areas</p>	<p>All development within a conservation area must preserve and enhance the established traditional character of the area.</p> <p>Reference is made to development being refused if it adversely affects the character and appearance of the conservation area in terms of scale, height, massing, colour, materials and siting.</p> <p>This will typically require the use of traditional materials and styles to be used.</p>	<p>Within reference to the Findhorn Conservation Area Appraisal, it is acknowledged that Findhorn is a <i>fine example of a traditional Seatown settlement in Moray</i> and that it <i>has a distinctive sense of place with a rich and well maintained townscape.</i></p> <p>It states that designation of the conservation area <i>does not mean that any new development cannot take place, but simply that any new development must be of a high quality design and use materials that are sympathetic to the surrounding conservation area.</i></p> <p>The character of the area is one of a <i>dense urban layout.</i> It is of <i>an overall informal nature;</i> albeit <i>there is a degree of uniformity. The close proximity and views of the sea reflect Findhorn's maritime past and combines with the built heritage to create its unique 'sense of place'.</i></p>

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		<p>The Findhorn Conservation Area is therefore extensively characterised by its built development and layout. Specifically, there is no mention of any other aspects which may relate to a flagpole being erected. If the existing flags were a problem and seen as being a negative factor to the conservation area, this would undoubtedly have been mentioned in the appraisal and management proposals and/or policies put in place.</p> <p>The key principles for new development within the management plan refer to the <i>misunderstanding that conservation means preservation and that it 'stifles' new development.</i></p> <p>Further reference is thereafter made to encouraging and enhancing the quality of development which respects the local character and architectural detail of the surrounding townscape, uses high quality materials, and makes a positive contribution to the essential.</p> <p>The townscape character identified in the appraisal. Specific reference is made to built forms of development, e.g., housing, which is not relevant to this proposal.</p> <p>Within Part 3, Design Guidance, other than a repetition of the above generic requirements, there is no reference to alterations or development other than extensions or alterations to buildings. In conclusion, the character set out is one of a traditional Scottish Seatown. The obvious conclusion is that boats with masts/flags and flagpoles are part of that traditional character.</p>
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			<p>The appraisal, management plan and guidance generally refer to either altering or building houses and does not refer or provide assistance for other forms of development such as flagpoles.</p> <p>As stated under Policy DP1, this minor development for a domestic scale flagpole has not been dealt with proportionately.</p> <p>It has already been confirmed that the flagpole is acceptable in principle. Its design and use of appropriate materials is of an extremely high quality as demonstrated in the application details. If it is of such a high quality to be used in significantly more important historic contexts, then a domestic scaled version should be acceptable in this location.</p>
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Table 2: Relevant LDP Policies

Material Planning Considerations

Whilst the issues raised in the reasons for refusal have all been assessed against the associated planning policies, it is of relevance to respond to any outstanding negative comments/objections received following to the consultation of this planning application.

The material planning issues raised regarding the size, height, prominence, and impact upon the conservation area have already been assessed in the body of this statement.

It is of note, the key issue raised in the four objections received has been made relating to the flag element of the proposal, as follows:

- *Insensitive and disrespectful* (to the adjacent war memorial and church door),
- *Offensive to residents and visitors*
- Making a Statement
- Sending a collective message on behalf of the whole village

In the first instance, the flag is not development. It is only the pole that needs planning permission here. As such, it is unclear how a pole could be considered as capable to cause any of the four issues. A vertical, white pole cannot be *insensitive, disrespectful, offensive* or *making a statement* or *sending a collective message*.

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Had the flag been *sending a collective message* then there is the potential that the flagpole and flag could be treated as being an 'announcement' covered by the Advertisement Regulations and as such, it would be dealt with differently by the Council. This has been queried and it has been confirmed by the Council the flagpole is development and not an advertisement.

It is a logical conclusion by my clients that this flagpole has been escalated for the wrong reasons, i.e., the flagpole has incorrectly been considered to be political and misguided concerns have been raised in relation to a perceived insensitivity towards those commemorated on the war memorial.

However, one only must refer to the Moray Council's published protocol for their own flag flying on public buildings and sites, which clearly references the acceptance of flag flying in the Council area by the Council, including at war memorials; albeit it is unusually restricted to the Union Jack at those locations. Whilst this protocol is not directly relevant to planning decision-making, it also references the ability to fly the Saltire flag at the Council's HQ, Council Offices, Town Halls, and Schools. Therefore, if it is acceptable and not considered to be offensive, inappropriate, or political to fly the Saltire flag across the Council area then it is not understood why in this domestic location it is considered to be so.

However, in conclusion, these perceptions and somewhat emotively expressed concerns are not material planning considerations and therefore of no relevance to any decision on this planning application. In short, the Local Review Body cannot take these non-planning matters into account. They must limit their assessment to the pole element of the application.

By contrast, reference has been made in this statement to the community's post-decision response. Samuel Russell and the community are supporting this flagpole and their comments regarding this are relevant whereby they agree is acceptable in terms of design, scale, and location. As such, these responses are material planning considerations which must be considered in making a decision on this review.

SECTION 5: CONCLUSION

To reiterate the Council's duty in determining planning applications as follows:

It is a statutory requirement under this Planning Act that all planning applications must be considered on their own merits against the relevant local development plan unless material considerations indicate otherwise.

This Planning Review Statement has demonstrated that the flagpole is not causing the planning harm identified in the two reasons for refusal. It has been demonstrated the flagpole is supported by the policies in the Statutory Development Plan, as outlined in national and local planning policy, and as required by the above stated statutory requirement.

The development unequivocally complies with **Policies 4, 7** and **14** of NPF4 and **Policies PP1, DP1 EP3** and **EP9** of the LDP.

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In coming to their conclusion to refuse this application, it is not considered the Council has properly assessed the application against planning policy. The application of the relevant policies has been disproportionate for such a minor development.

Since the determination of this application, my clients have actively engaged with the community and established an overwhelming positive response to the retention of the flagpole, contrary to the views originally expressed by the Community Council. The proposal also has the support of the majority of the community.

It is therefore requested the Local Review Body allows this application, considering this robust and detailed justification, which demonstrates that this development has been delivered in full compliance with the Statutory Development Plan policies and with demonstrable community support.


My clients reserve the right to respond to any responses made to this review following further consultation.

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APPENDIX A: EXTRACT FROM MINUTES OF COMMUNITY COUNCIL MEETING 31 AUGUST 2023



Findhorn and Kinloss Community Council

**Minutes of Findhorn and Kinloss Community Council Meeting
held on Thursday 31 August 2023 at Osprey Room, James Milne Institute, Findhorn**

Present		Attendance	
A Skene	Chairperson	C Low	TFVCC
D Anderson	Minute Secretary	D Duke	CCLO
R Hutchinson		Moray Councillors	
S Moat		Cllr Van Der Horn	
J O' Hagan		Cllr Robertson	
M La Tourelle		Members of Public	
J Hynam		Approximately 25 in attendance for the public session	

Item 1 - Welcome

- a. Apologies – S Dominey, D Low (Kinloss Barracks)
- b. Declaration of Interest – to be raised as and when it occurs.

Item 2 – Public Session

- a. Community Safety Report/Police Scotland Report – no incidents reported in the FKCC area.
- b. Any other competent public business / public correspondence
 - i) The Robertson family read out a statement with regard to the FKCC response to planning application 23/01024/APP for retrospective consent to erect a 4.5m height flagpole in the grounds of Alba, 195 Findhorn. The Robertson family highlighted the comments within the response which they considered to be hasty, inappropriate and offensive, and that they may have influenced the planning officer's consideration of the application – noting that the application has been refused. The Robertson family expressed disappointment that at no time did any FKCC members come to speak to them to raise their concerns about the flagpole and provide an opportunity to demonstrate that their intentions with regard to the type of flag which would be flown. In no way were Robertson family seeking to cause offence to any member of the community and sought a formal apology from the FKCC for the language used in the response and the impact it has had on themselves, along with a retraction of the response. Within the statement, and as part of the wider discussion, some questions were raised and responses given:

What will happen to other flagpoles in the Conservation Area?
That will be a matter for the Moray Council as the Planning Authority, who will assess each flagpole on its own merit and situation.

Why did the Roads Authority not objection to the application?
The Roads Authority is a separate part of the Council who assessed the application on the basis of the potential for driver distraction and not on the basis of how the flagpole looked in its setting.

Why did the FKCC members not comment on the flagpole which was included on a drawing supporting a previous planning applications at 195 Findhorn in 2020?
The flagpole was not included in the description for the 2020 planning application, nor was it visible on the elevation drawing which accompanied the application. It was therefore missed by both FKCC members and the Moray Council planning officers.

It is the actual flag being flown which is causing offence?
The 'Saltire' flag being flown does not cause any offence to FKCC members. It is the future use of the flagpole, which cannot be controlled through a planning condition and will outlive the current occupants

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of 195 Findhorn, which may cause offence.

Were the Church Elders consulted by the FKCC members?

The Church Elders were not canvassed prior to the submission of the response but the Session Clerk has subsequently confirmed that they have no view on the matter.

How many people approached the FKCC members expressing their concerns about the flagpole?

FKCC members who live in the village had been approached by a number of people on several occasions (approximately 10) prior to notification of the planning application. There were two other objections submitted to the Moray Council.

If the Robertson family submit an Appeal to the Moray Council Local Review Board, would FKCC members be submitting an objection?

There would be no requirement for the FKCC to submit any further information to any Appeal as all information in the planning file is provided to the Local Review Board.

Members of the FKCC would like to apologise to the Robertson family for any offence that has resulted from the wording of their response to planning application 23/01024/APP and acknowledge that the wording was insensitive. It was not our intention to cause upset to the Robertson family and our comments were regarding the flagpole and its position and not those who erected it.

As a Community Council we are a consultee on most planning matters and we urge anyone submitting a planning application to attend our meetings. We will review how planning applications are dealt with and discuss ways to improve how we get community input, supportive and otherwise.

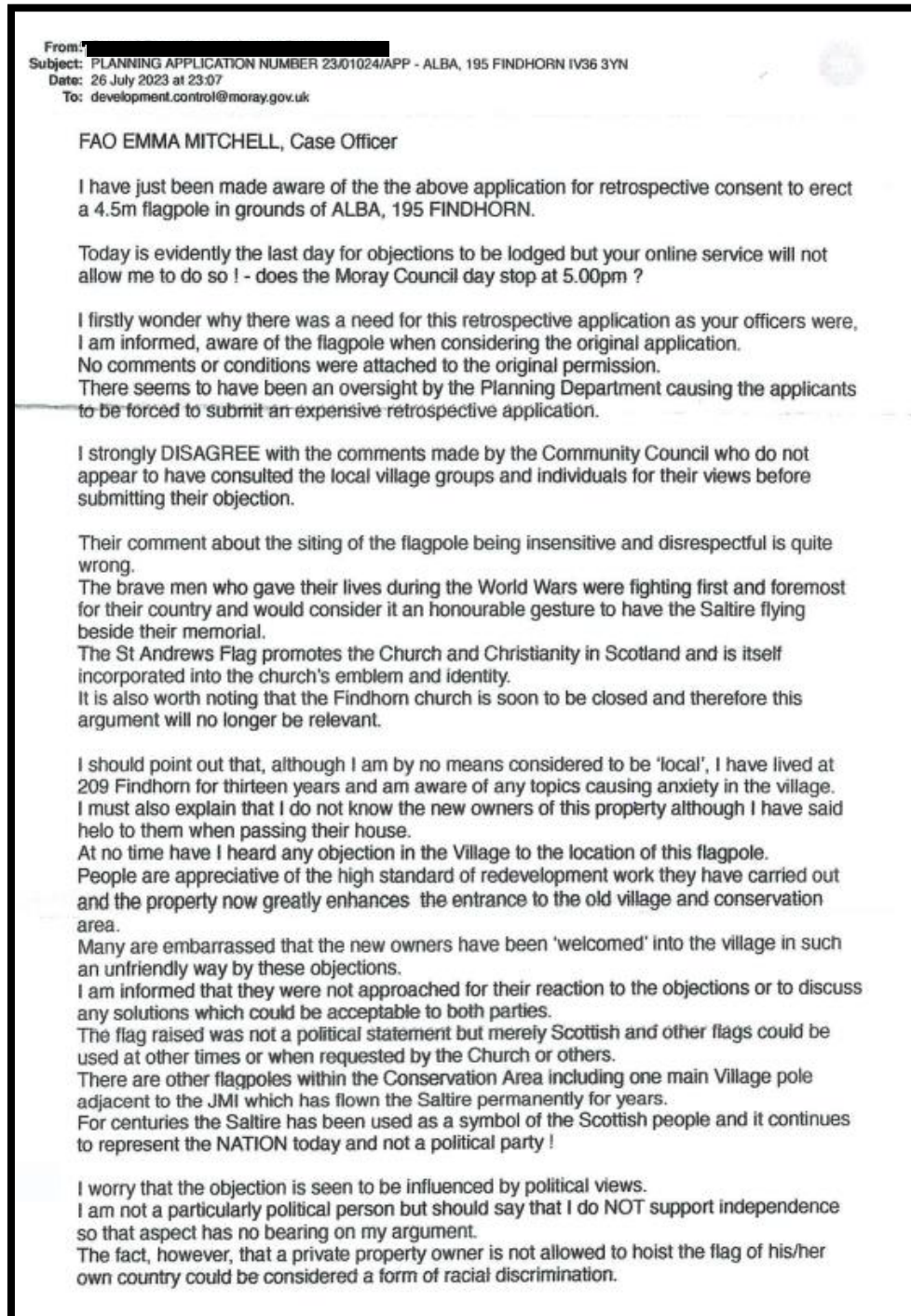
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APPENDIX B: REPRESENTATION FROM SAM RUSSELL



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I would be pleased if you could ensure that these comments are taken forward to your Committee for consideration as it remains my view that when it is stated that communications must be received by a certain day it includes the whole day and not part of it.

With thanks,

[Redacted signature]

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APPENDIX C: PETITION OF SUPPORT

ALBA
195 Findhorn
IV36 3YN

The siting of our *flag-pole* has been branded as "*Insensitive and Disrespectful*"
Which also "*Creates Visual clutter*" and it "*Erodes the traditional settlement character of the
Culbin to Burghead coast*" in Scotland...

If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	FINDHORN	YES STAY	A WELCOMING FEATURE AT THE ENTRANCE TO THE OLD VILLAGE - \$ APPROPRIATELY LOCATED ADJACENT TO THE WAR MEMORIAL.
[REDACTED]	FINDHORN	YES STAY	TOTALLY APPROV LATE REPRESENTS SCOTLAND, THOSE WHO SERVED TO FREE G.B. + SCOTTISH CHURCH EMBLEMS.
[REDACTED]	Findhorn	Yes STAY	It welcomes people to the village and is in exactly the right place.
[REDACTED]	FINDHORN	YES STAY	No objection to the flag in the garden of the lovely conversion
[REDACTED]	FINDHORN	YES STAY	
[REDACTED]	FINDHORN	YES STAY	
[REDACTED]	FRESH ROAD.	YES STAY	No objection to the flag in the garden
[REDACTED]	FRESH Place	Yes stay	Ditto.
[REDACTED]	Green Place	YES STAY	! !

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ALBA
195 Findhorn
IV36 3YN

The siting of our *flag-pole* has been branded as "*Insensitive and Disrespectful*"
Which also "*Creates Visual clutter*" and it "*Erodes the traditional settlement character of the
Culbin to Burghead coast*" in Scotland...

If you would like our flag pole to stay,
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	FINDHORN	YES	NO OBJECTION TO THE FLAG IN THE GARDEN.
[REDACTED]	FINDHORN	YES	NO OBJECTION.
[REDACTED]	[REDACTED]	YES	NO OBJECTION IT LOOKS GREAT
[REDACTED]	[REDACTED]	YES.	NO OBJECTION TO THE "SCOTTISH" FLAG.
[REDACTED]	MINTLAW	YES	DIDN'T EVEN NOTICE IT.
[REDACTED]	MINTLAW	YES	As Above
[REDACTED]	NAIRN	YES	THE FLAG POLE IS VERY ATTRACTIVE + LOOKS GOOD IN THE VILLAGE

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ALBA
195 Findhorn
IV363YN

The siting of our flag-pole has been branded as *"Insensitive and Disrespectful"*
Which also ~~Creates~~ *Visual clutter* and it *"Erodes the traditional settlement character of the*
~~CREATES~~ *Culbin to Burghead coast"* in Scotland...

If you would like our flag pole to stay,
Please let us know below:

Name:	Resident of:	Answer:	Remarks:
[REDACTED]	FORDS	YES	IT) INOFFENSIVE & A DELIGHT TO SEE
[REDACTED]	[REDACTED] COTTAGE	YES	- IN KEEPING WITH OTHER 3 FLAG POLES IN FINDHORN.
[REDACTED]	FINDHORN	YES	ITS GREAT TO SEE THE SCOTTISH FLAG IN OUR AMAZING SCOTTISH VILLAGE
[REDACTED]	Findhorn Fords	YES	A delight to see.
[REDACTED]	FINDHORN	YES	WHY NOT !!!
[REDACTED]	FINDHORN	YES	NICE WELCOME TO THE VILLAGE APPROPRIATELY SIZED. APPRECIATE THE DECISION
[REDACTED]	FINDHORN	Yes	MAKES YOU SMILE AS YOU ENTER THE VILLAGE

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If you would like our flag pole to stay,
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	FORRES	YES	WAS NOT AWARE OF FLAG POLE TILL IT WAS POINTED OUT
[REDACTED]	FINDHORN	YES	FINE WITH FLAG POLE
[REDACTED]	[REDACTED] FINDHORN	YES	FINE.
[REDACTED]	[REDACTED] FINDHORN	YES	NO PROBLEM WHATSOEVER!
[REDACTED]	KNOCKEN.	yes.	FINE!!
[REDACTED]	FORRES	YES	NOT A PROBLEM!

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Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	[REDACTED] Forres	Should Stay	As someone who has lived in findhorn their whole life and has now moved. I still work here and love seeing it everyday driving in!
[REDACTED]	[REDACTED] FINDHORN	KEEP	I FEEL IT DOES NOT CAUSE VISUAL CLUTTER OR ERODES THE TRADITIONAL CHARACTER
-	-	-	IN MY OPINION THE OWNERS HAVE A GRAND JOB WITH THE PROPERTY & GARDEN
[REDACTED]	[REDACTED] FINDHORN	KEEP	IN MY OPINION IT IS A FEATURE OF THE VILLAGE ON AN AMAZINGLY REFURBISHED PROPERTY
[REDACTED]	[REDACTED] Aberdeen	Keep	In my opinion it does not cause any visual clutter.
[REDACTED]	[REDACTED] Aberdeen	Keep	"
[REDACTED]	[REDACTED] Hopeman	Keep	"
[REDACTED]	[REDACTED] HOPEMAN	Keep	"
[REDACTED]	[REDACTED] BURGHEAD	KEEP	I FIND IT ABSOLUTELY SHOCKING THAT THE SAUCRE FLAG WHICH MANY BRAVE SCOTS HAVE Fought AND DIED FOR IS SHOWN SO MUCH DISRESPECT BY MANY COUNCIL

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Which also "Creates Visual clutter" and it "Erodes the traditional settlement character of the
Culbin to Burghead coast" in Scotland...

If you would like our flag pole to stay,
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	Nairn	Yes	We should have pride in the Scottish flag.
[REDACTED]	FINDHORN	YES.	NATIONAL FLAG OF SCOTLAND WHY SHOULD IT CAUSE OFFENCE
[REDACTED]	Findhorn.	YES	Nothing wrong with the flag leave it alone.
[REDACTED]	Findhorn	Yes	It's a Scottish flag, in a Scottish village garden, why would this be offensive in any way? Not intrusive or disrespectful!
[REDACTED]	Findhorn	YES	I completely disagree with the statements above. It's a Scottish flag and is completely in keeping with a traditional Scottish fishing village
[REDACTED]	Forres	<u>YES</u>	A PROUD SYMBOL OF SCOTLAND.
[REDACTED]	FORRES	YES	I Am like the flag Scottish + proud
[REDACTED]	NORTHERN IRELAND	YES.	FORRES BORN " " FLAG ESSENTIAL
[REDACTED]	CANADA	YES	FORRES LONDON FLY THE SALTIRE AT EVERY OCCASION

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Which also “*Creates Visual clutter*” and it “*Erodes the traditional settlement character of the
Culbin to Burghead coast*” in Scotland...

If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	EDINBURGH	YES	It's a brilliant welcome to the village and proud to see our Nation's Flag blowing in the wind.
[REDACTED]	FORRES	YES	No reason why it shouldn't stay !!
[REDACTED]	ELGIN	YES	No reason why its it shouldn't stay!
[REDACTED]	FORRES	✓	Not offensive at all.
[REDACTED]	Hamilton (Resister holidays, medical)	Yes	Not offensive at all. Why necessary & was over this. When flag outside J.M.I. } Leave it here!
[REDACTED]	LANARK/ FINDHORN	YES	Gives character, not political at all!
[REDACTED]	Nairn	YES	It's the national flag of Scotland, in English but in in SCOTLAND, WHAT IS WRONG WITH THAT.
[REDACTED]	NAIRN	YES	This is the National flag of Scotland. where <u>else</u> should it be flown?
[REDACTED]	WEST YORKSHIRE	YES	Petty bureaucracy - no important reason to act that way

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Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	Findhorn	YES	This is the Scottish flag. Flags are excellent.
[REDACTED]	Findhorn	Yes	Flag are interesting.
[REDACTED]	findhorn	Yes.	The flag is Scottish it is wholly appropriate.
[REDACTED]	FINDHORN	YES!	WHY NOT !!
[REDACTED]	FINDHORN	YES	Does not represent the views of the village residents!
[REDACTED]	FINDHORN	YES	It is our national flag! How is that disrespectful?
[REDACTED]	FINDHORN	YES	A simple flagpole does not create "visual clutter"
[REDACTED]	KINLOSS FINDHORN	YES	"
[REDACTED]	AUSTRALIA/ FINDHORN	YES!	"

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Culbin to Burghhead coast*" in Scotland...

If you would like our flag pole to stay,
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	Findhorn	yes	The NATIONAL FLAG OF SCOTLAND whats the problem.
[REDACTED]	Findhorn	YES	welcome addition to Findhorn → no prob with scottish flag - we live in Scotland.
[REDACTED]	Findhorn	Yes	It's our national flag!
[REDACTED]	Findhorn	Yes	IT ADDS TO THE BEAUTY OF THE LANDSCAPE
[REDACTED]	Findhorn	YES	IT'S A FLAG - WHAT'S THE PROBLEM!!
[REDACTED]	FINDHORN	YES	THE SOLTARE FLAG IS THE FLAG OF SCOTLAND FLYING IN A SCOTISH VILLAGE.
[REDACTED]	FINDHORN.	YES	NATIONAL FLAG, NON POLITICAL.
[REDACTED]	FINDHORN	YES	LOOKS WELCOMING.
[REDACTED]	FINDHORN	YES	

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If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	[REDACTED] Findhorn	YES	HAPPY TO HAVE THE FLAG & THE POLE.
[REDACTED]	[REDACTED] Findhorn	YES.	
[REDACTED]	[REDACTED] Findhorn	YES	
[REDACTED]	[REDACTED] Findhorn	yes	
[REDACTED]	[REDACTED] Findhorn	YES	
[REDACTED]	[REDACTED] Findhorn	YES	OF COURSE I'M HAPPY!
[REDACTED]	[REDACTED] Findhorn	YES!	
[REDACTED]	[REDACTED] Elvin Place	YES.	

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If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	FINDHORN	STAY	ENTIRELY NEUTRAL TO ME IT IS NOT AN SNP FLAG
[REDACTED]	"	STAY	
[REDACTED]	"	STAY	NOT AN SNP FLAG.
[REDACTED]	"	STAY	
[REDACTED]	"	STAY.	
[REDACTED]	"	STAY	
[REDACTED]	FINDHORN	STAY	
[REDACTED]	FINDHORN	STAY	
[REDACTED]	Findhorn	STAY	

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If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	GROON WALK	Yes	ACT AS ATTRACTION
[REDACTED]	Broomwalk	yes	Its the <u>Scottish</u> flag
[REDACTED]	FINDHORN	YES	ITS A FLAG. THE SCOTISH FLAG.
[REDACTED]	BROOM WALK	YES	
[REDACTED]	FINDHORN	YES	"
[REDACTED]	Fahm	YES	ITS SCOTLAND HOUSE IS CALLED ALBA!
[REDACTED]	FGAES	YES	
[REDACTED]	Forres	Yes	
[REDACTED]	Findhorn	YES.	

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If you would like our flag pole to stay,
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	Findhorn	Yes	THIS IS ABSOLUTELY RIDICULOUS WITH WHAT IS HAPPENING IN OUR MCH, COUNTRY AND WORLD,
[REDACTED]	Findhorn	Yes	TAKE IT ALL FLAG POLES NEED REMOVED - JOKE!
[REDACTED]	Findhorn	Yes	The flag pole is an asset.
[REDACTED]	Findhorn	YES	THAT SHOULD BE MORE FLAG POLES TO ENSURE OUR NATIONAL FLAG KEEPS REMAINING already signed.
[REDACTED]	Findhorn	YES	YES TO THE FLAG & THE POLE! already signed
[REDACTED]	Findhorn	yes	Because Scotland rules! Big up flag pole!
[REDACTED]		Yes.	THIS HAS BEEN TAKEN TOO FAR! THE FLAG POLE ISN'T CLUTTER & ISN'T DISRESPECTFUL. LOVE SEEING IT WHEN COMING IN.
[REDACTED]	FINDHORN	YES	THIS IS A PATRIOTIC SCOTTISH FLAG - ONE OF MANY IN FINDHORN AND EVERY SCOTTISH VILLAGE + TOWN DO NOT SET A VERY STUPID PRECEDENT. REMOVAL IS NOT AN OPTION.
[REDACTED]	Findhorn	YES	WHY DOESN'T THE "COMPLAINER" USE THEIR ENERGY TO COMPLAIN ABOUT 'REAL' PROBLEMS IN THE WORLD!!!

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If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	FINDHORN, [REDACTED]	YES	THIS IS ONE OF MANY FLAGS IN THE VILLAGE, AND OTHER SETTLEMENTS IN OUR COUNTRY. I FIND THE FACT SOMEONE HAS COMPLAINED WITH THE COMMENT STUPID
[REDACTED]	[REDACTED] FINDHORN	YES	A SCOTTISH FLAG IN A SCOTTISH VILLAGE.
[REDACTED]	FALKIRK RESIDENT VISITOR	YES	NO YES.
[REDACTED]	FALKIRK VISITOR	YES	IT HAS GOT TO STAY.
[REDACTED]	Elvin Place Findhorn	Yes	Really stupid Keep the flag!
[REDACTED]	[REDACTED] Forres	Yes	Doesn't clutter anything
[REDACTED]	[REDACTED] Findhorn	Yes	Up to them if they wish to do so in their garden. Not offensive.
[REDACTED]	BRIDGE OF DON ABERDEEN	Yes	Freedom to choose what you want.
[REDACTED]	ABERDEEN	YES	Love the flag.

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If you would like our flag pole to stay.
Please let us know below:

NAME:	RESIDENT OF:	ANSWER:	REMARKS:
[REDACTED]	HOFEMAN	Yes!	'VISUAL CLUTTER' ?? UTER ROBBISH! A WHITE POLE? REALLY?? AND THE FLAG FLYING IS OUR NATIONAL FLAG - WHY SHOULDN'T IT BE FLOWN WITH PRIDE???
[REDACTED]	HOFEMAN	Yes (No)	ENTERING FINDHORN THE STREET SCENE ARE AN EYESORE! THE SIGN ON IT'S WHITE FLAGPOLE IS ANYTHING BUT A VISUAL OF RESPECT AND HONOUR FOR OUR BEAUTIFUL LAND - AND THREATS TO OUR LAND - THE ABSOLUTE CENTRE OF THE ONLY DISRESPECT AND LACK OF SENSE AND RESPECT DISGRACE!
[REDACTED]	[REDACTED]	YES	ICKET FENCE. SCOTTISH FLAG FOR IN A SCOTTISH VILLAGE - WHY NOT?
[REDACTED]	KINGDONNE NEIL	YES	Stupid!
[REDACTED]	Hofeman	YES	Absolute nonsense - it is the Scottish flag
[REDACTED]	"	Yes	NOTHING TO WORRY ABOUT?
[REDACTED]	"	YES	STUPID NONSENSE!
[REDACTED]	"	YES	SCOTTISH FLAG!! WHY NOT?

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

PERMISSION FOR DEVELOPMENT

**[Forres]
Application for Planning Permission**

TO



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

**Proposed vehicular entry and exit to garden of Alba 195 Findhorn Forres
Moray**

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: **11 October 2022**



Head Economic Growth and Development Services

Economy, Environment and Finance
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 The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 New boundary fences/walls located along the western site frontage onto the public road shall be no greater than 1.0m in height (measured from the level of the road) unless otherwise approved in writing by the Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

- 3 New boundary walls/fences shall be set back to the rear of the prospective public footway.

Reason: To ensure acceptable development in the interests of road safety.

- 4 The width of the new vehicular access shall be 3.5m 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 prospective public footway shall be to The Moray Council specification and surfaced with bituminous macadam. Drop kerbs shall be provided across the access to The Moray Council specification.

Reason: To ensure acceptable infrastructure at the development access.

- 5 New boundary fences/walls located along the eastern site frontage onto the public road shall be no greater than 0.8m in height (measured from the level of the road) unless otherwise approved in writing by the Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

- 6 A pedestrian visibility splay 2.0m x 5.0m shall be provided in both directions at the access onto the public road (taken from the back of the footway); and maintained thereafter at all times free from any obstruction exceeding 0.8m above the level of the adjacent carriageway.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

- 7 The width of the new vehicular access shall be 3.5m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Drop kerbs shall be provided across the access to The Moray Council specification.

Reason: To ensure acceptable infrastructure at the development access.

- 8 The opening path of any access gates shall be fully contained within the site and not encroach onto the public footway/carriageway.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

- 9 No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access(s).

- 10 A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: 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.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the development plan 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
L_20_Q_15		Access location and parking layout
JDS/195FINDHORN		Fence elevations
JDS/195FINDHORN		Location plan

IMPORTANT NOTES ABOUT THIS DECISION

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 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.

The developer should note that the B9011 Main Road is subject to a One-Way Traffic System along the western site frontage.

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 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

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.

A grit bin is located in close proximity to the new (eastern) access and may require to be relocated.

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.

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.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.

Planning Application: Fence Relocation & Parking Layout

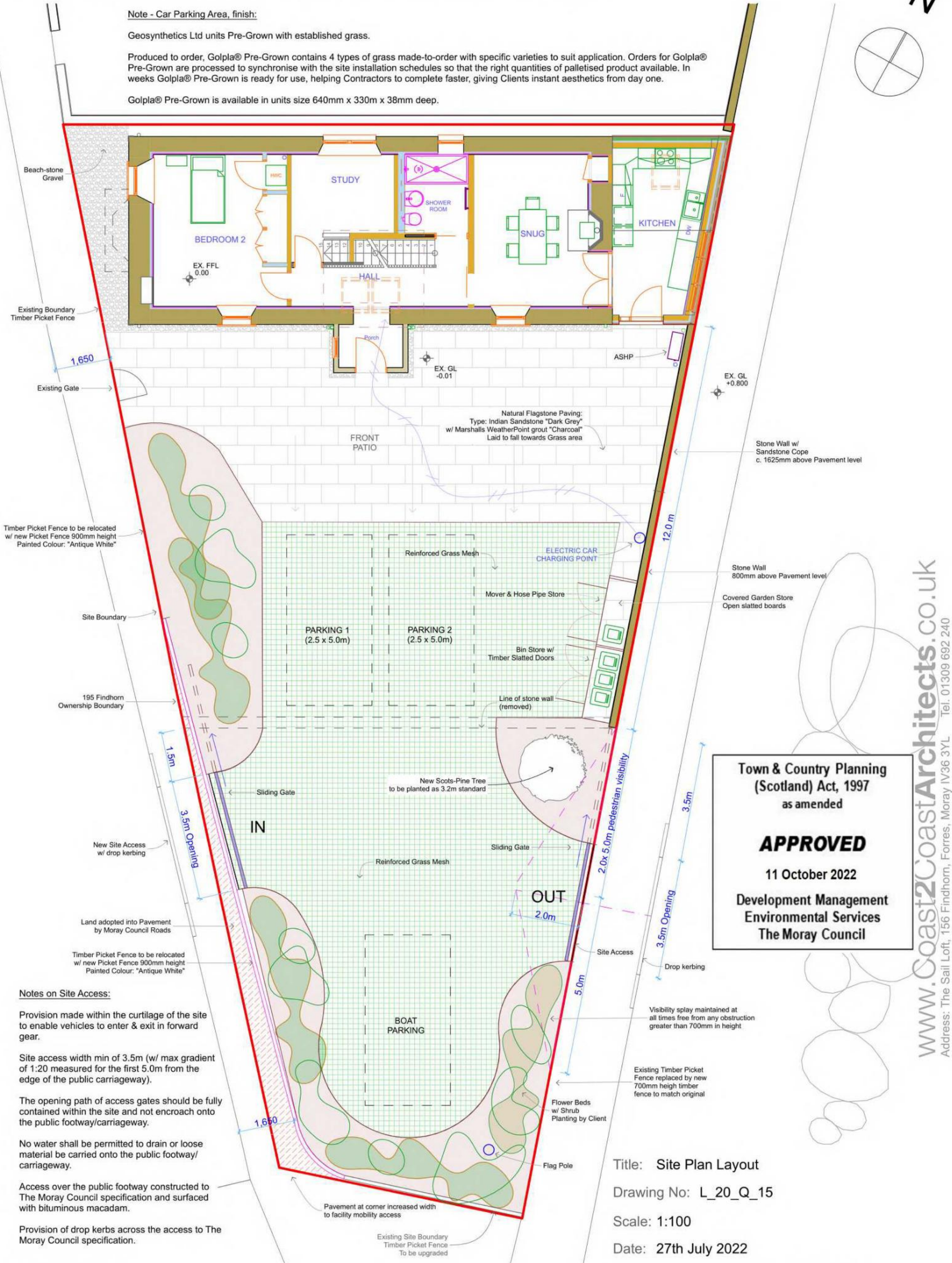


Note - Car Parking Area, finish:

Geosynthetics Ltd units Pre-Grown with established grass.

Produced to order, Golpla® Pre-Grown contains 4 types of grass made-to-order with specific varieties to suit application. Orders for Golpla® Pre-Grown are processed to synchronise with the site installation schedules so that the right quantities of palletised product available. In weeks Golpla® Pre-Grown is ready for use, helping Contractors to complete faster, giving Clients instant aesthetics from day one.

Golpla® Pre-Grown is available in units size 640mm x 330mm x 38mm deep.



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

APPROVED

11 October 2022

Development Management
Environmental Services
The Moray Council

Notes on Site Access:

Provision made within the curtilage of the site to enable vehicles to enter & exit in forward gear.

Site access width min of 3.5m (w/ max gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway).

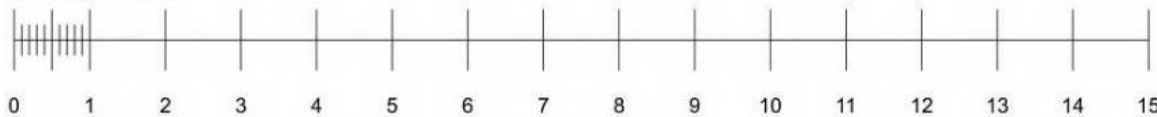
The opening path of access gates should be fully contained within the site and not encroach onto the public footway/carriageway.

No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Access over the public footway constructed to The Moray Council specification and surfaced with bituminous macadam.

Provision of drop kerbs across the access to The Moray Council specification.

Drawn Scale in meters



Title: Site Plan Layout

Drawing No: L_20_Q_15

Scale: 1:100

Date: 27th July 2022

Client: Mrs Andrea & Mr Craig Robertson

Project: Alterations to "Alba"

Address: 195 Findhorn, Moray IV36 3YN

www.Coast2CoastArchitects.co.uk
Address: The Sail Loft, 156 Findhorn, Forres, Moray IV36 3YL Tel: 01309 692 240



MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

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

Application Number **22/01191/APP**

Date Decision Issued

Location and Description of Development Proposed vehicular entry and exit to garden of Alba
195 Findhorn Forres Moray

Please note that all suspensive conditions must be discharged prior to commencement of development

Date works are to Commence	
-----------------------------------	--

Name, Address and contact details of developer

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

The Full name and Address and contact details of the landowner, if a different person

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

Where an agent is appointed, their full name and contact details

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

Signed

Name (Print)

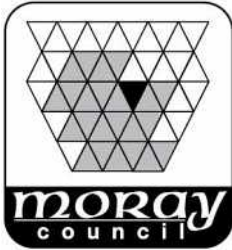
Date

Please complete and return this form to:

**Development Management & Building Standards Manager, Moray Council, PO
Box 6760, Elgin, Moray, IV30 1BX**

OR

E-mail: development.control@moray.gov.uk



MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

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

Application Number **22/01191/APP**

Date Decision Issued

Location and Description of Development Proposed vehicular entry and exit to garden of Alba 195 Findhorn Forres Moray

Date of completion of works

Name, Address and contact details of developer

The Full name and Address and contact details of the landowner, if a different person

Where an agent is appointed, their full name and contact details

Signed

Name (Print)

Date

Please complete and return this form to:

Development Management & Building Standards Manager, Moray Council, PO Box 6760, Elgin, Moray IV30 1BX

E-mail: development.control@moray.gov.uk

REPORT OF HANDLING

Ref No:	22/01191/APP	Officer:	Emma Mitchell
Proposal Description/ Address	Proposed vehicular entry and exit to garden of Alba 195 Findhorn Forres Moray		
Date:	10.10.2022	Typist Initials:	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
Contaminated Land	23/08/22	No objection
Transportation Manager	19/08/22	No objection subject to conditions and informatives
Aberdeenshire Council Archaeology Service	31/08/22	No objection

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
EP3 Special Landscape Areas	N	
PP3 Infrastructure and Services	N	
DP1 Development Principles	N	
EP9 Conservation Areas	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):		

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Proposal

- Planning permission is sought for the formation of a new vehicular access at Alba 195 Findhorn, Forres.
- A new site access on the western boundary is proposed. The exit is on the eastern boundary.
- The existing timber fence is to be relocated in parts.
- The proposal also shows footway widening works on the western side of the site. Moray Council is adopting a small part of the site to allow for these works.

Policy

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

Siting (DP1, EP9 and Findhorn Conservation Area Character Appraisal)

Policy DP1 requires that the scale, density and character of a development must be appropriate to the surrounding area. Proposals must also not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. Policy EP9 Conservation Areas states that all development within a conservation area must preserve and enhance the established traditional character or appearance of the area.

The Findhorn Area Character Appraisal states that The Findhorn Conservation Area is a fine example of a traditional Seatown settlement in Moray. It has a unique and distinctive "sense of place" and has a rich and well maintained townscape. The built form is characterised by small traditional single storey properties to larger 19th century houses that are two/three and half storeys in height. The majority of buildings within the Conservation area are unlisted however these buildings are still of significant architectural merit and townscape value that must be protected. Extensions to dwellings should be sympathetic to the original building in terms of design and materials and add visual interest. Contemporary designs can add value and character to the townscape and be of a material finish that still respects the architectural authenticity and character of the original building.

In considering an application for planning permission in a conservation area, the 1997 Act directs planning authorities to ensure that new development will preserve and enhance the character and appearance of an area. The aim is to ensure that new development will enhance an area's quality and therefore the experience of visitors and residents alike. The design of new development should therefore be derived from a thorough understanding of the special qualities of the conservation area, which led to its designation in the first place.

The proposal is in scale and keeping with the surrounding area and there are no issues in terms of loss of amenity.

Overall the amended proposal is considered to be in keeping with the character of the existing house and traditional forms found in the surrounding conservation area. The proposal respects the special characteristics of the surrounding conservation area. The criteria in the policy has been met.

Special Landscape Area (SLA) (EP3)

The aim of this policy is to protect landscapes from inappropriate development. It requires that all new development reflects the landscape qualities.

The proposal site is within the Culbin to Burghead Coast SLA which is classed as sensitive. The proposal will not have an adverse impact on the SLA. The criteria in the policy has been met.

Access and Parking (DP1 and PP3)

Policies DP1 and PP3 require that proposals must provide a safe entry and exit from the development and conform with the Council's current policy on Parking Standards.

The proposal for the formation of a new vehicular access is essentially an amendment to previous planning consent (20/00651/APP) for which works are currently ongoing. The new access on the western boundary is 3.5 metres wide. A sliding timber gate on runners is proposed over the opening, it is 0.9m high (same height as timber fence).

Transportation were consulted on the proposal and have no objections subject to conditions and informatives being attached to the consent. The criteria in the policy has been met.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY			
Reference No.	Description		
22/00693/APP	Vary condition imposed on 20/00651/APP to a change of roof finish on roof structure from zinc standing seam to natural slate at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 22/07/22
20/00651/APP	Upgrade existing oriel window front and rear dormers replace kitchen extension flat roof with pitched roof and replace porch at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 02/10/20
08/02458/FUL	Installation of oil tank and external oil fired condensing boiler system at 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 09/12/08
95/00318/FUL	Install new window in west elevation at 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 19/05/95
93/00576/FUL	Erect a porch and window replacement at 195 Findhorn Forres Moray IV36 3YN		
	Decision	Refuse	Date Of Decision 29/07/93

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Forres Gazette	Planning application affecting LB/CA	20/09/22
PINS	Planning application affecting LB/CA	20/09/22

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)			

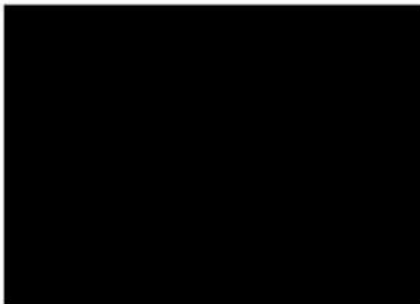


**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Forres]
Application for Planning Permission**

TO



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

Retrospective consent to erect a 4.5m height flagpole in grounds of Alba 195 Findhorn Forres Moray

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

Date of Notice: **29 August 2023**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance

Moray Council

Council Office

High Street

ELGIN

Moray

IV30 1BX

IMPORTANT

YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
L_23_P_02		Block plan
L_23_P_03		Elevations
L_23_P_01		Location plan

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

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, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

REPORT OF HANDLING

Ref No:	23/01024/APP	Officer:	Emma Mitchell
Proposal Description/ Address	Retrospective consent to erect a 4.5m height flagpole in grounds of Alba 195 Findhorn Forres Moray		
Date:	23/08/2023	Typist Initials:	DJP

RECOMMENDATION

Approve, without or with condition(s) listed below	N	
Refuse, subject to reason(s) listed below	Y	
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
Transportation Manager	30/06/23	No objection.

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
National Planning Framework (NPF)		
NPF4 - Natural Places	Y	
NPF7 - Historic assets and places	Y	
NPF14 - Design, quality and place	Y	
NPF23 - Health and safety	N	
Moray Local Development Plan 2020 (MLDP)		
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP9 Conservation Areas	Y	

REPRESENTATIONS

Representations Received	YES
Total number of representations received - FOUR	
Names/Addresses of parties submitting representations:	
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.	

Summary and Assessment of main issues raised by representations
<p>Issue:</p> <ul style="list-style-type: none"> • Community Council unanimously agreed that the siting was insensitive and disrespectful. It is immediately adjacent to the War Memorial and in front of the Findhorn Church door. • The imposing flagpole occupies a prominent site at the entrance to the old village and any flag flown could be viewed as a collective, village message which is unacceptable. • Flagpoles can cause offence to residents and visitors and this large flagpole cannot be missed by anyone entering the village. • The flagpole is in a Conservation Area and is not in keeping with the local area. • It is too big and makes a statement relating to the village as a whole rather than the property.
<p>Comments (PO):</p> <ul style="list-style-type: none"> • Please see observations section as to why the flagpole is not acceptable in terms of planning policy.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Proposal

- Retrospective planning permission is sought for a flagpole at Alba 195 Findhorn.
- The flagpole is 4.5 m high and is located at the top of the front garden.

Site Characteristics

- The flagpole is located in the front garden of 195 Findhorn which is positioned at the entrance to Findhorn Conservation Area.
- A traditional cottage sits on the rear of the site that has recently be renovated, a white picket fence surrounds the fence.
- A Street light, road signs and a War Memorial are all located immediately out with the front of the garden of 195 Findhorn surrounding the flagpole.
- The site is located within the Culbin to Burghead Coastal Special Landscape Area.

Policy

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

The proposal was advertised as a departure from policies NPF 4, 7 and 14 and MLDP 2020 PP1, DP1, EP3 and EP9 for the reasons given below.

Siting and Design (NPF 7 & 14 / MLDP PP1, DP1 & EP9 and the Findhorn Conservation Area Character Appraisal)

Policy 14 aims to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Policy PP1 Placemaking seeks to ensure that new development is designed to create successful healthy places that improve people's wellbeing, safeguard the environment and support economic development, promote character and identity and biodiversity. Policy DP1 Development Principles

sets out the need for the scale, density and character to be appropriate to the surrounding area to create a sense of place, integrated into the surrounding landscape with no adverse impact upon neighbouring properties in terms of privacy, daylighting, or overbearing loss of amenity. Policy 7 states that development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations under policy 7 include the architectural and historic character of the area, existing density, built form and layout and context and siting, quality of design and suitable materials. Policy 7 also states that non-designated historic assets and their setting should be protected and preserved in situ wherever feasible. Policy EP9 aims to protect and enhance all aspects of the Conservation Area.

The Findhorn Area Character Appraisal states that The Findhorn Conservation Area is a fine example of a traditional Sea town settlement in Moray. It has a unique and distinctive "sense of place" and has a rich and well maintained townscape. The built form is characterised by small traditional single storey properties to larger 19th century houses that are two/three and half storeys in height. The majority of buildings within the Conservation are unlisted however these buildings are still of significant architectural merit and townscape value that must be protected. Extensions to dwellings should be sympathetic to the original building in terms of design and materials and add visual interest. Contemporary designs can add value and character to the townscape and be of a material finish that still respects the architectural authenticity and character of the original building. There is limited amounts of open space within the village therefore it is important that it is well maintained and kept free from any inappropriate development.

In considering an application for planning permission in a conservation area, the 1997 Act directs planning authorities to ensure that new development will preserve and enhance the character and appearance of an area. The aim is to ensure that new development will enhance an area's quality and therefore the experience of visitors and residents alike. The design of new development should therefore be derived from a thorough understanding of the special qualities of the conservation area, which led to its designation in the first place. The character of the conservation area in this instance is defined by single and one and a half storey stone gabled houses tightly situated together with very small garden areas. The start of the Conservation Area in this location is cluttered with numerous different items of street furniture including a lamppost (6m in height), road signs and a War Memorial all of which would be viewed with the flagpole.

The flagpole is currently viewed with the existing road signs, a lamppost and a War Memorial all which immediately are out with the garden of Alba 195 Findhorn. The flagpole is in a prominent position and is one of the first items to be viewed when entering the Findhorn Conservation, it unacceptably adds to the visual clutter that is already present in this location and is not acceptable.

The proposal, which is highly visible in this prominent location creates visual clutter and would introduce a visually intrusive development in a historic streetscape. The proposal fails to preserve and/or enhance the established character of the Conservation Area due to its prominent location at the entrance of the Conservation Area. The development does not adopt the highest standards of design due to its inappropriate size and prominent location. It therefore fails to accord with the requirement of the above policies.

Special Landscape Area (SLA) (NPF 4 and LDP EP3)

The aim of these policies is to protect landscapes from inappropriate development. Policy EP3 stipulates that proposals within Special Landscape Areas must not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation review and adopt the highest standards of design in accordance with policy DP1 and other relevant policies and minimise the adverse impacts on the landscape and visual qualities the area is important for. Policy 4 states that development proposals that effect a site designated as a landscape area in the Local Development Plan will only be supported if they do not have significant adverse effects on the integrity of the area or the qualities for which it has been identified or any significant adverse effects on the integrity of the

area are clearly outweighed by social, environmental or economic benefits of at least local importance.

For the reasons set out above the proposal prejudices the Coastal Special Landscape Area it is located in (Culbin to Burghead) due to not adopting the highest standards of design in terms of its scale in its prominent location. To summarise the flagpoles prominent location at the entrance of the Findhorn Conservation Area is unacceptable due to it adding to visual clutter, it therefore has a significant adverse effect on the qualities of the SLA.

In light of the above the proposal will negatively affect the integrity of the area and the qualities in which it has been identified for and this is not outweighed by social, environmental or economic benefits of at least local importance therefore the proposal is contrary to policy EP3 of the MLP and policy 4 of NPF.

Recommendation

Refuse

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan 2020 and the associated Findhorn Conservation Area Character Appraisal for the following reasons:-

1. The proposal, which is highly visible in this prominent location would introduce a visually intrusive development into the historic streetscape adding to existing visual clutter at the entrance of the Findhorn Conservation Area. The proposal therefore would fail to preserve and/or enhance the established character of the Conservation Area due to its prominent location and inappropriate size, and would be contrary to policies 7, 14, PP1, DP1 and EP9.
2. The proposed development does not adopt the highest standards of design due to its inappropriate size in this prominent location. It therefore would erode the traditional settlement character of the Culbin to Burghead Coast Special Landscape Character, and would fail to accord with the requirement of policies 4, 7, 14, PP1, DP1, EP3 and EP9.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY			
Reference No.	Description		
22/01191/APP	Proposed vehicular entry and exit to garden of Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 11/10/22
22/00693/APP	Vary condition imposed on 20/00651/APP to a change of roof finish on roof structure from zinc standing seam to natural slate at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 22/07/22
20/00651/APP	Upgrade existing oriel window front and rear dormers replace kitchen extension flat roof with pitched roof and replace porch at Alba 195 Findhorn Forres Moray IV36 3YN		
	Decision	Permitted	Date Of Decision 02/10/20

08/02458/FUL	Installation of oil tank and external oil fired condensing boiler system at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Permitted	Date Of Decision	09/12/08
95/00318/FUL	Install new window in west elevation at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Permitted	Date Of Decision	19/05/95
93/00576/FUL	Erect a porch and window replacement at 195 Findhorn Forres Moray IV36 3YN			
	Decision	Refuse	Date Of Decision	29/07/93

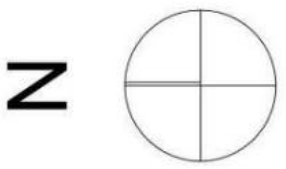
ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Forres Gazette	Departure from development plan	25/07/23	
PINS	Departure from development plan	25/07/23	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

DOCUMENTS, ASSESSMENTS etc. *		
<i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
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:		

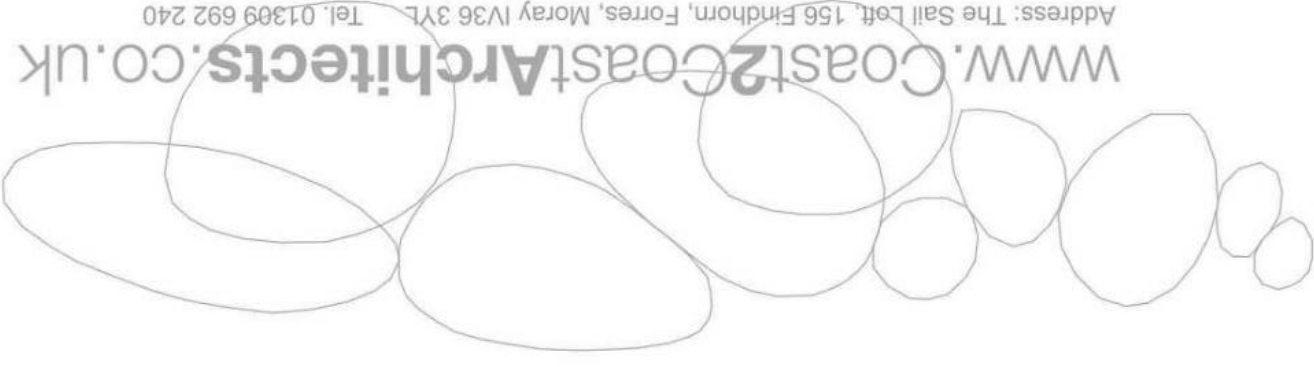
DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary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



Findhorn



Location of "Alba",
195 Findhorn,
as referred to in Application



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

REFUSED

29 August 2023

Development Management
Environmental Services
The Moray Council

Title: Location Plan

Drawing No: L_23_P_01

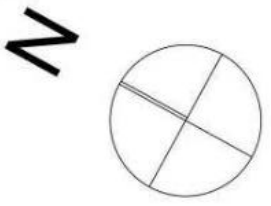
Scale: 1:2500

Date: 16th June 2023

Client: Mrs Andrea & Mr Craig Robertson

Project: Alterations to "Alba"

Address: 195 Findhorn, Moray IV36 3YN



Drawn Scale



Town & Country Planning
(Scotland) Act, 1997
as amended
REFUSED
29 August 2023
Development Management
Environmental Services
The Moray Council

Title: Block Plan of Site

Drawing No: L_23_P_02

Scale: 1:200

Date: 16th June 2023

Client: Mrs Andrea & Mr Craig Robertson

Project: Alterations to "Alba"

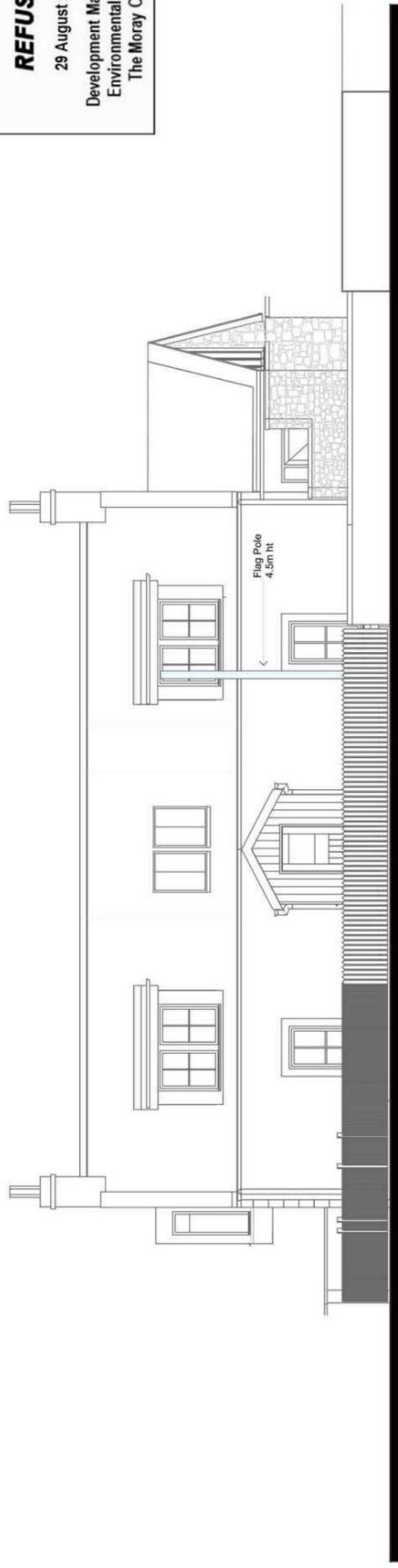
Address: 195 Findhorn, Moray IV36 3YN

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

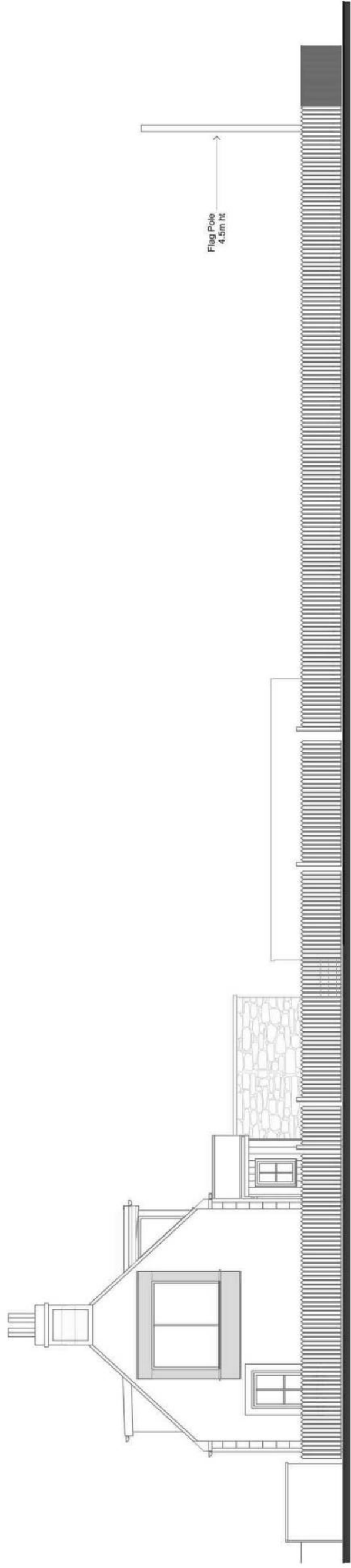
REFUSED

29 August 2023

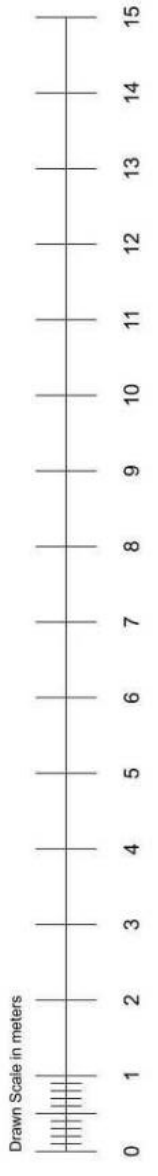
Development Management
Environmental Services
The Moray Council



1:100 SW Front (Approach) Elevation SW2



1:100 Side (Bay) Elevation W



Title: Front & Side Elevations

Drawing No: L_23_P_03

Scale: 1:100

Date: 16th June 2023

Client: Mrs Andrea & Mr Craig Robertson

Project: Alterations to "Alba"

Address: 195 Findhorn, Moray IV36 3YN

