



Moray Local Review Body

Thursday, 15 February 2024

NOTICE IS HEREBY GIVEN that a Meeting of the **Moray Local Review Body** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Thursday, 15 February 2024** at **09:30**.

BUSINESS

- 1 **Sederunt**
- 2 **Declaration of Group Decisions and Members Interests ***
- 3 **Minute of Meeting dated 18 January 2024** 5 - 8
- 4 **LR297 - Ward 8 - Forres** 9 - 96
Planning Application 23/00976/APP – Convert the Old Stable Bar to 3 holiday lets at Seaview Caravan Park, Findhorn Road, Kinloss
- 5 **LR298 - Ward 4 - Fochabers Lhanbryde** 97 - 184
Planning Application 23/01062/APP – Change of use of open land to private garden at 2 Duke Street, Portgordon, Buckie, Moray

Summary of Local Review Body functions:

To conduct reviews in respect of refusal of planning permission or unacceptable conditions as determined by the delegated officer, in terms of the Scheme of Delegation to Officers under Section 43(A)(i) of the Town & Country Planning (Scotland) Act 1997 and the Town & Country Planning (Scheme of Delegation and Local Review Procedure)(Scotland) Regulations 2013, or where the Delegated Officer has not determined the application within 3 months of registration.

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

MORAY COUNCIL

Moray Local Review Body

SEDERUNT

Councillor Marc Macrae (Chair)
Councillor Amber Dunbar (Depute Chair)

Councillor Neil Cameron (Member)
Councillor Juli Harris (Member)
Councillor Sandy Keith (Member)
Councillor Paul McBain (Member)
Councillor Draeyk Van Der Horn (Member)
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	07765 741754
Clerk Email:	committee.services@moray.gov.uk

Minute of Meeting of the Moray Local Review Body

Thursday, 18 January 2024

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Draeyk Van Der Horn, Councillor Sonya Warren

APOLOGIES

Councillor Neil Cameron

IN ATTENDANCE

Mrs MacDonald, Senior Planning Officer as Planning Adviser, Mr Hoath, Senior Solicitor and Ms Smith, Solicitor as Legal Advisers and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

1 Chair

Councillor Macrae, being Chair of the Moray Local Review Body, chaired the meeting.

2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 21 and 23 and the Councillor's Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

3 Minute of Meeting dated 14 December 2023

The Minute of the meeting dated 14 December 2023 was submitted and approved.

4 LR296 - Ward 8 - Forres

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

A request was submitted by the Applicant, seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission on the grounds that:

The proposal is contrary to policies 4, 7 and 14 of the National Planning Framework (NPF) and policies PP1, DP1, EP3 and EP9 of the Moray Local Development Plan (MLDP) 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.

A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, Mr Hoath, Legal Adviser advised that a query had been raised in relation to previous planning consent that had been given on the site and that it had been implied that the flagpole should have automatically received consent with this previous consent. He advised that the legal view is that this permission cannot be claimed in this way and was irrelevant to the case before the Moray Local Review Body (MLRB) and that the remit of the MLRB was to determine the review application in its own merits in accordance with the information provided in the agenda pack.

Mrs MacDonald, Planning Adviser further confirmed that the application for planning permission was in relation to the flagpole and not the flag itself and pointed out that the Agent had stated in his case that the Appointed Officer had misstated legislation in terms of Conservation Areas however clarified that the Officer had stated the Council Policy which is to preserve and enhance the character or appearance of the Conservation Area, not statutory requirement which is to preserve or enhance the character or appearance of the Conservation Area. This was noted.

The Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Councillor McBain, having visited the site and considered the case in detail was of the view that the presence of the flagpole is not contrary to policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) or policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020 as, in his opinion, there was no adverse impact to the surrounding area, the flagpole itself was of good quality and he was of the view it enhanced the

character of the area and moved that the MLRB uphold the appeal and grant planning permission in relation to Planning Application 23/01024/APP, for these reasons. This was seconded by Councillor Warren.

Councillor van der Horn, having visited the site and considered the case in detail, noted that the flagpole was situated in a very prominent position at the entrance to Findhorn and that, should it be granted planning permission, any flag could be flown there. He acknowledged that the Community Council had objected to the application and stated that the views of the Community should be considered. He further noted various road traffic signage at that particular part of Findhorn and stated that the presence of a flag on a flagpole could distract from the other signage. For these reasons, Councillor van der Horn moved that the MLRB uphold the original decision of the Appointed Officer and refuse planning permission in respect of Planning Application 23/01024/APP as the proposal is contrary to policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) and policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020. This was seconded by Councillor Macrae.

On a division there voted:

For the Motion (4):	Councillors McBain, Warren, Dunbar and Harris
For the Amendment (3):	Councillors van der Horn, Macrae and Keith
Abstentions (0):	Nil

Accordingly, the Motion became the finding of the Meeting and the MLRB agreed to uphold the appeal and grant planning permission in relation to Planning Application 23/01024/APP as the proposal complies with policies 4 (Natural Places), 7 (Historic Assets and Places) and 14 (Design, Quality and Place) of the National Planning Framework 4 (NPF4) and policies PP1 (Placemaking), DP1 (Development Principles), EP3 (Special Landscape Areas and Landscape Character) and EP9 (Conservation Areas) of the Moray Local Development Plan (MLDP) 2020.



MORAY LOCAL REVIEW BODY

15 FEBRUARY 2024

SUMMARY OF INFORMATION FOR CASE No LR297

Planning Application 23/00976/APP – Convert the Old Stable Bar to 3 holiday lets at Seaview Caravan Park, Findhorn Road, Kinloss

Ward 8 – Forres

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 20 September 2023 on the grounds that:

The proposal is contrary to policies 1, 2, 10 and 22 of the National Planning Framework 4 (NPF) and EP12 of the Moray Local Development Plan 2020 (MLDP) for the following reasons:-

- The proposal is located on a site that is at risk of coastal flooding as identified via the future SEPA flood maps and the redevelopment of this site from a bar to holiday accommodation where people are sleeping overnight is an increase in land use vulnerability as there is an increase to people from coastal flood risk therefore is contrary to NPF policies 10, 22 and MLDP policy EP12.
- The proposed development has no safe access and egress from the development in a flood event due to the public road used to access the site also being at flood risk therefore is it unacceptable under NPF policy 22.
- The proposal does not adapt to the future impacts of climate change (coastal flooding) therefore it is contrary to NPF policies 1 and 2.

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**.

A Further Representation received in response to the Notice of Review is attached as **Appendix 3**.

No representation was received from the Applicant in response to the Further Representation.

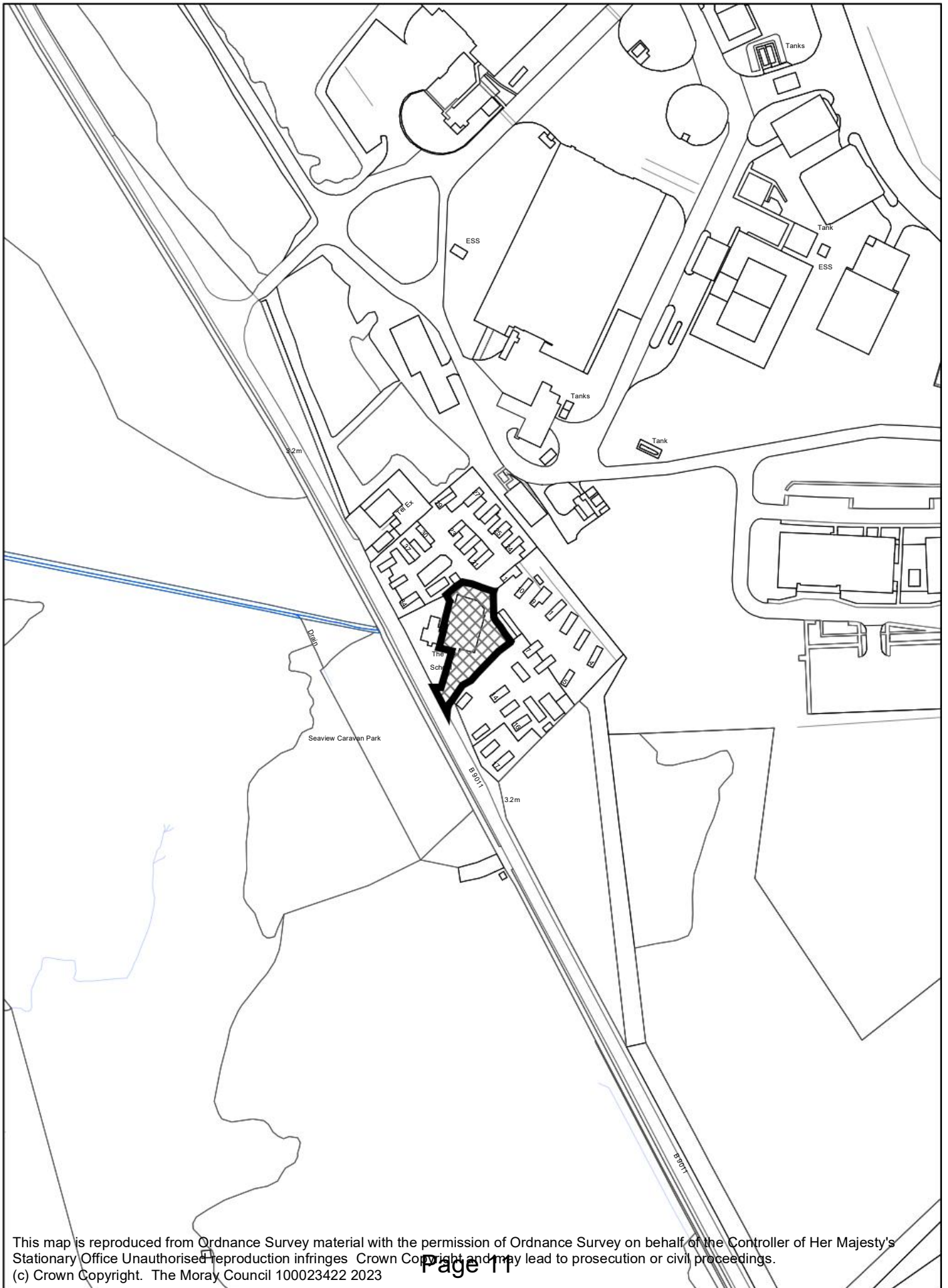
At the meeting of the Moray Local Review Body (MLRB) on [date], the MLRB deferred consideration of Case [No] to request further information from [details re who and what request is].

The Moray Local Review Body's request for further information from [Requestee] and subsequent response is attached as **Appendix 5**.

The Applicant's response to [Requestee]'s further information is attached as **Appendix 6**.



Location plan for Planning Application Reference Number : 23/00976/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 100631655-001

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

Type of Application

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

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

Description of Proposal

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

Convert The Old Stable Bar to 3 residential apartments.

Is this a temporary permission? * Yes No

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

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

No Yes – Started Yes - Completed

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:	WA MacDonald Building Design Limite		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	William	Building Name:	<input type="text"/>
Last Name: *	MacDonald	Building Number:	11
Telephone Number: *	07889722463	Address 1 (Street): *	11 Mansefield Park
Extension Number:	<input type="text"/>	Address 2:	Kirkhill
Mobile Number:	<input type="text"/>	Town/City: *	Inverness
Fax Number:	<input type="text"/>	Country: *	United Kingdom
		Postcode: *	IV5 7ND
Email Address: *	Bill@billmacdonald.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	Seaview Caravan Park
First Name: *	Duncan	Building Number:	<input type="text"/>
Last Name: *	Brown	Address 1 (Street): *	Kinloss
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	Forres
Extension Number:	<input type="text"/>	Country: *	UK
Mobile Number:	<input type="text"/>	Postcode: *	IV36 3TF
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

The Old Stable Bar, Seaview Caravan Park, Kinloss IV36 3TF

Northing

862267

Easting

305999

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

1360.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

The Stable Bar - public bar, kitchen and toilets

Access and Parking

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

Yes No

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

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * ≤ Yes **T** No

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

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site? 6

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? * 6

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * ≤ Yes **T** No

Do your proposals make provision for sustainable drainage of surface water?? * ≤ Yes **T** No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

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

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

T Yes

≤ No, using a private water supply

≤ No connection required

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

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * ≤ Yes **T** No ≤ Don't Know

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

Do you think your proposal may increase the flood risk elsewhere? * ≤ Yes **T** No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? * ≤ Yes **T** 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.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * **T** Yes ≤ No

If Yes or No, please provide further details: * (Max 500 characters)

Enclosure for waste and recycling bins - 6 number.

Residential Units Including Conversion

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

Yes No

How many units do you propose in total? *

3

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

All Types of Non Housing Development – Proposed New Floorspace

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

Yes No

Schedule 3 Development

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

Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

Yes No

Certificates and Notices

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

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

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

Yes No

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

Yes No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: William MacDonald

On behalf of: Mr Duncan Brown

Date: 09/06/2023

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

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

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

Provide copies of the following documents if applicable:

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

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

Declare – For Application to Planning Authority

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

Declaration Name: Mr William MacDonald

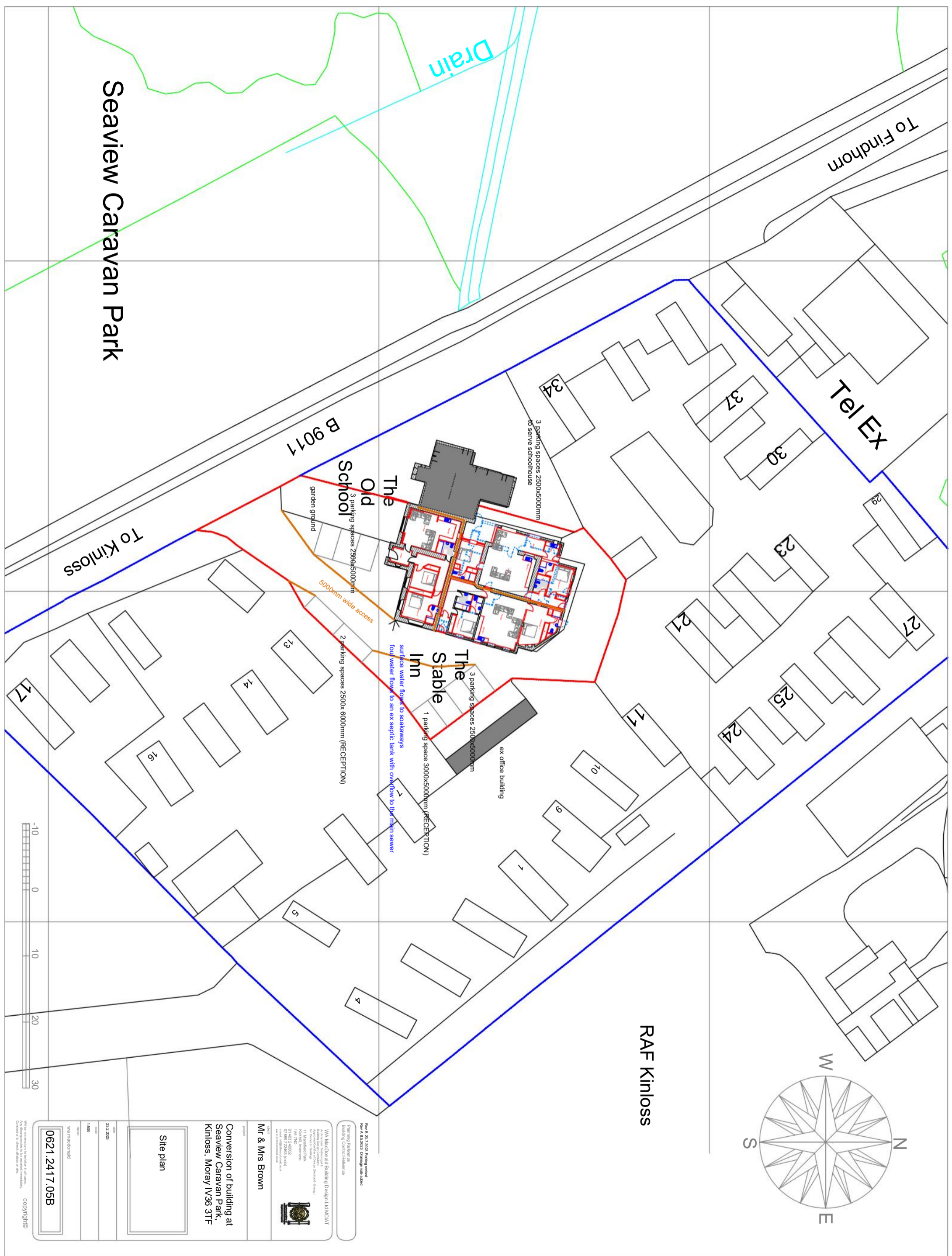
Declaration Date: 09/06/2023

Payment Details

Online payment: 856200

Payment date: 09/06/2023 12:48:45

Created: 09/06/2023 12:48



Seaview Caravan Park

To Findhorn

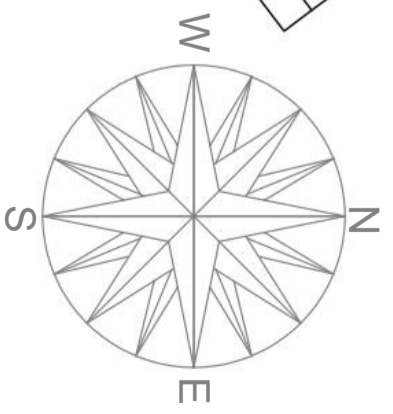
Tel Ex

B 9017

The Old School

The Stable Inn

RAF Kinloss



Rev A 3017 2023 Parking revised
 Rev A 8.5.2023 Drainage notes added
 Prepared By: Mr & Mrs Brown
 Drawing No: 3017 0000
 VIA MacDonald Building Design Ltd MCB/AT
 Building Design
 149 Dundee Road
 Dundee, Scotland DD1 1AA
 Tel: 01392 424242
 Fax: 01392 424243
 Email: info@viamacdonald.co.uk
 Website: www.viamacdonald.co.uk

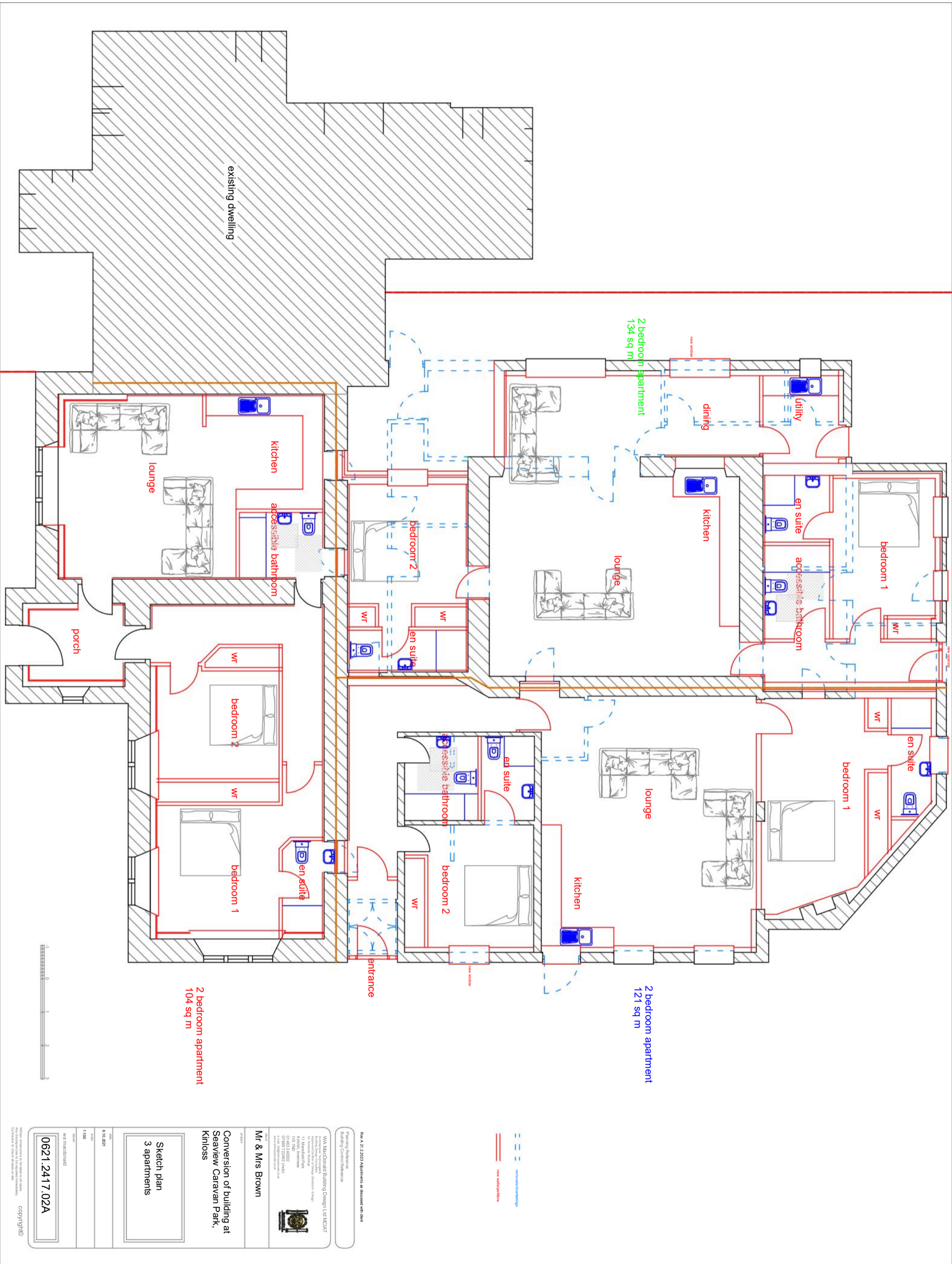
Mr & Mrs Brown
 Project:
Conversion of building at Seaview Caravan Park, Kinloss, Moray IV36 3TF

Site plan

Date: 23.2.2023
 Scale: 1:500
 Drawn: via.macdonald

0621.2417.05B

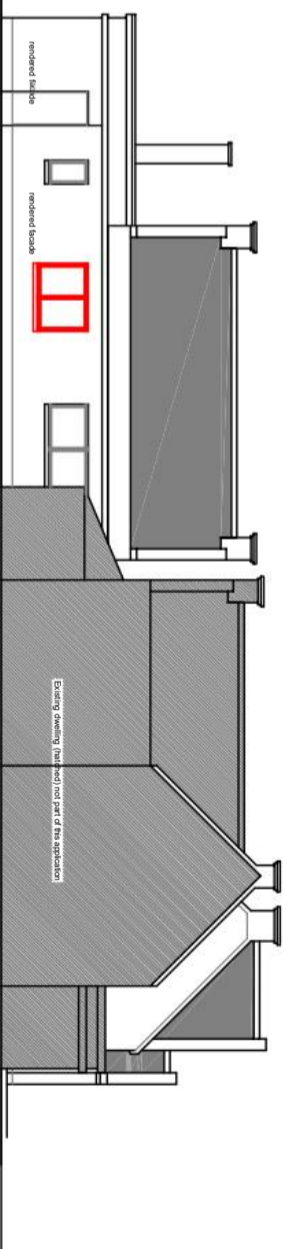
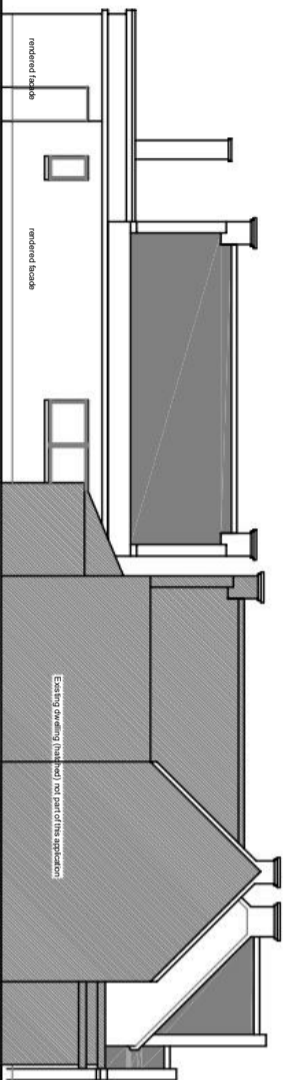
When completed by the client in all cases
 Copyright © 2023 VIA MacDonald Building Design Ltd



EXISTING ELEVATIONS

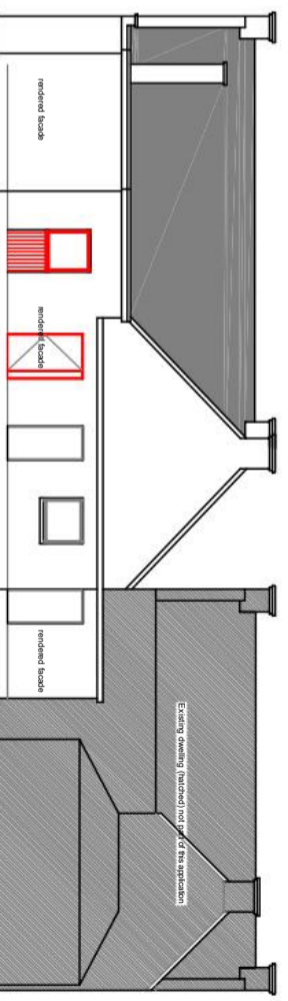
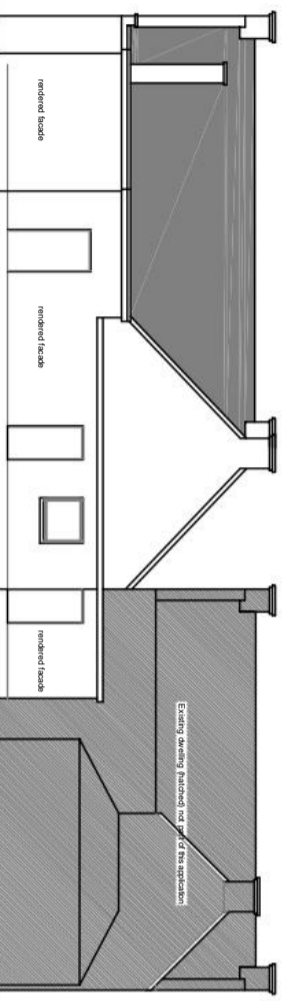
PROPOSED ELEVATIONS

FINISHES SCHEDULE	
Roof	All as existing - slate pitched roof & rubberised layer to flat roofs
Walls	As existing - render to bulk of building & stone to porch
Windows	Timber
Fascias & soffits	Painted timber where relevant
Rainwater goods	Cast iron



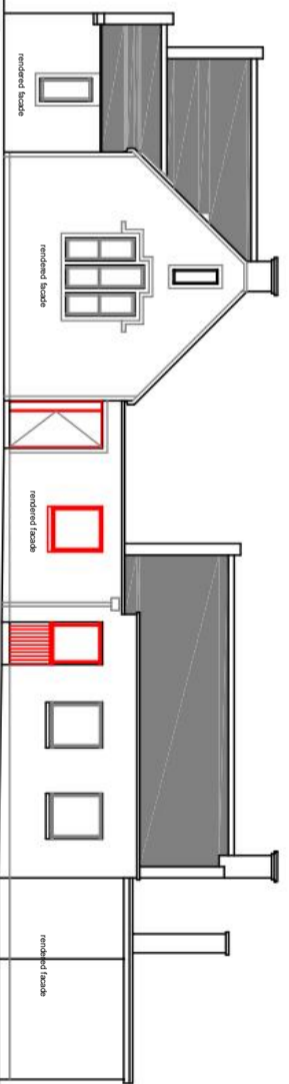
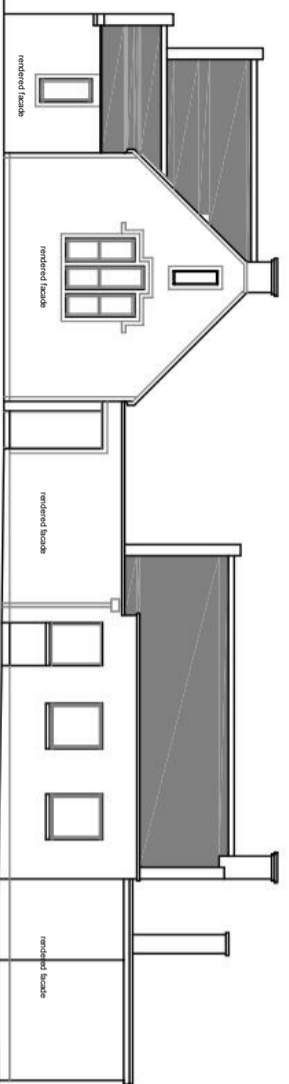
SIDE ELEVATION (West)

SIDE ELEVATION (West)



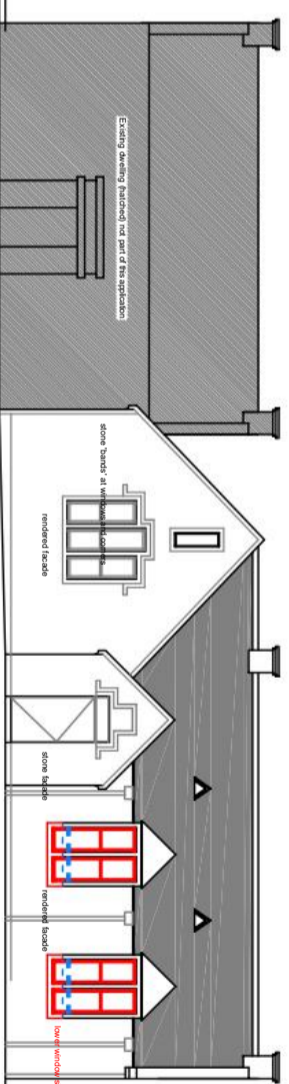
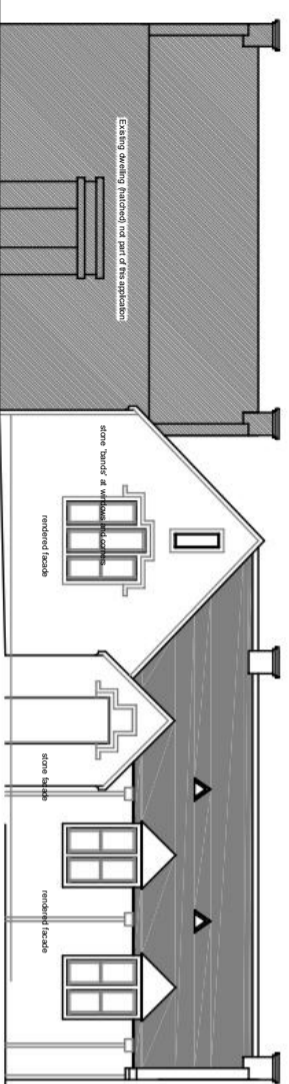
REAR ELEVATION (North)

REAR ELEVATION (North)



SIDE ELEVATION (East)

SIDE ELEVATION (East)



FRONT ELEVATION (South)

FRONT ELEVATION (South)

EXISTING ELEVATIONS

PROPOSED ELEVATIONS

Rev: A & B 2023 Existing & Proposed elevations added together

Planning Ref: 23/01003

Planning Section: 23/01003

VIA MacDonald Building Design Ltd INC/AT

15/5 TND 2023

07 8897 25405 (1100)

Mr & Mrs Brown

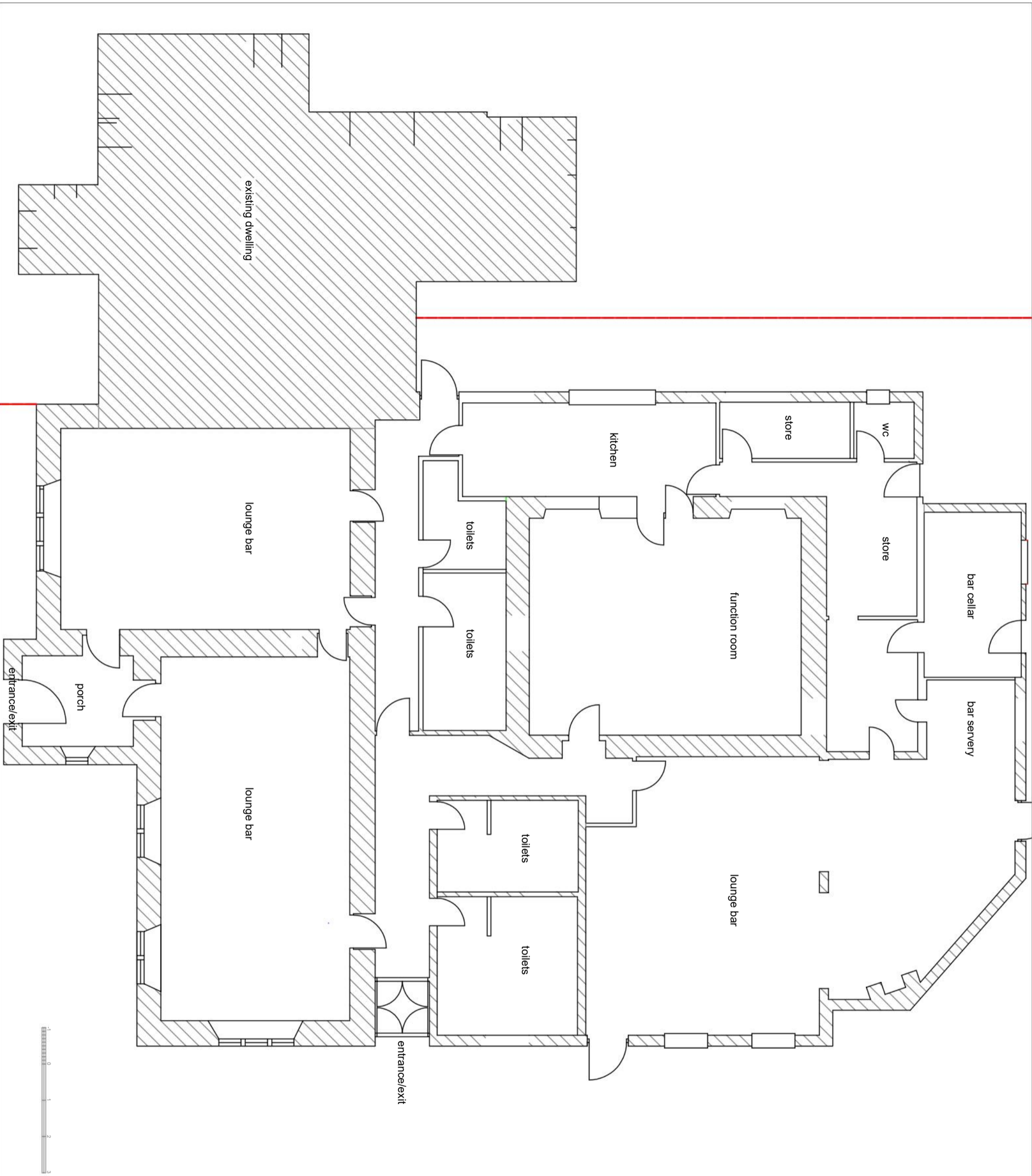
Conversion of building at Seaview Caravan Park, Kinloss

23.2.2020

1:200

0621.2417.04A

Elevations Existing & proposed



Planning Reference
Planning Consent Reference

VIA MacDonald Building Design Ltd MCD/AT
 Building Design
 145 TND
 07889 720405 (09:00)
 www.viamacdonald.com



Mr & Mrs Brown

Conversion of building at
 Seaview Caravan Park,
 Kinloss

Sketch plan
 as existing

DATE

6.10.2021

SCALE

1:100

DRAWN

via macdonald

0621.2417.01

When completed to be shown in all cases.
 All drawings are to be read in conjunction with the specification.
 Copyright ©

W.A. MacDonald (Building Design) Ltd

Chartered Architectural Technologist & Building Design Consultant

DESIGN STATEMENT (SUPPLEMENT) 23/00976/APP

CONVERSION OF A BUILDING TO 3 APARTMENTS

at

**SEAVIEW CARAVAN PARK
KINLOSS, MORAY IV36 3TF**

For

MR & MRS DUNCAN BROWN



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
Telephone: 01463 240002 Mobile:07889 722463
e-mail: bill@billmacdonald.co.uk
www.billmacdonald.co.uk

W A MacDonald MCIAT is a trading name of W A MacDonald (Building Design) Ltd
Registered at Companies House, Edinburgh June 2004 (SC269735)

W.A. MacDonald (Building Design) Ltd

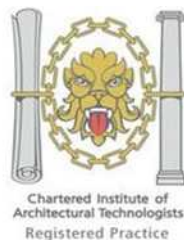
Chartered Architectural Technologist & Building Design Consultant



Generally

Originally, this building was the local school and the schoolhouse is adjacent. It has been used for many years as a Lounge Bar associated with the operation of the caravan park. The building is falling into disrepair. We propose to form three apartments each with their own private entrance. Car parking with two spaces for each apartment will be laid out adjacent. The property was built around 1870 with local sandstone and is unlisted.

The original part of the building has a stone clad porch, raised stone bands at corners and around windows. The bulk of the façade has been rendered with a wet dash render. This part of the building is slated with natural slate. Extensions have been formed around the two original parts of the building and these have been roofed with flat roofs. The property has been in the



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Chartered Architectural Technologist & Building Design Consultant

ownership of the Applicants for 18 years. The building until recently was a public house with a commercial kitchen. The pub commenced operation in the 1970's.

Site

The site is located between Kinloss and Findhorn to the East of the B9011 and to the West of RAF Kinloss.

Services

The site is fully serviced. Foul water drainage is via a public communal septic tank whose outfall is to the Kinloss public sewer. It is anticipated that there will be less of an impact on the foul system with 3 apartments being formed compared with a Public House, toilets and a commercial kitchen. Minimal adjustments will be made to the sewer to accommodate three apartments. Roof rainwater runs to existing soakpits and no change is proposed. The building has a water supply and electrical connection.

Proposal

We propose to upgrade the building, including, improving insulation values, repairing existing windows where possible, make good flashings and slating, upgrading electrical service, addition of showers/wc's, improving sound insulation between rooms.

Parking

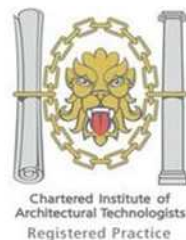
A revised parking proposal is shown on the site plan in light of comments made by The Transport Manager. Six spaces have been allocated to the three new apartments, 3 spaces for reception for the caravan site and a further 3 spaces for the schoolhouse which has 4 bedrooms.

Flooding

SEPA flood maps have been studied and for River, Coastal and Surface flooding, the noted incidents is no more than 0.5%.

Tourism Facilities and Accommodation (DP8)

Moray Council state that are here to help local enterprises as they look to operate safely and meet the increasing demand for tourism related experiences. Pre-Covid spend in Moray amounted to around £1.5bn where there are 3200 registered tourism businesses. Tourism jobs in the Highlands and Islands represent 43% of the workforce and this sustains many of our rural,



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regional and island economies and communities. The tourism and hospitality sector has been one of the worst hit industries since the Covid 19 pandemic. Caravans for let already exist on the Applicants site (adjacent). In terms of DP8, this is a low impact proposal as the substantial building already exists

Conclusion

The building has lain empty for some time and this proposal is reasonable in this situation. It lends itself quite well for residential use without affecting the privacy or amenity of others. It is significant that the Schoolhouse is already occupied and it has a similar floor level to the property under consideration.

The building exists, it is not in use currently and the property adjacent is occupied. It is inconceivable that a substantial property such as this should go through its life with limited use. The Moray Council mandate is to promote Tourism and a project such as this will achieve exactly that.

Scope of Works

The following is a list of works requiring attention;-

Repair windows where possible and replace if necessary – windows to be as existing style, sliding sash and case with similarly dimensioned timbers.

Re-wire and re-plumb the entire property.

Make good all elements of the structure, including walls, flooring, skirtings, architraves.

Point stonework as necessary.

Make slating and flashing repairs.

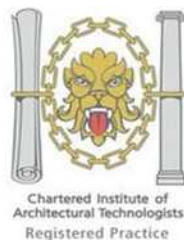
Make good rainwater gutters and downpipes.

Improve insulation values.

WA MacDonald MCIAT

Architectural Technologist &
Building Consultant

Wednesday 23rd August 2023



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
Telephone: 01463 240002 Mobile: 07889 722463

e-mail: bill@billmacdonald.co.uk

www.billmacdonald.co.uk

W A MacDonald MCIAT is a trading name of W A MacDonald (Building Design) Ltd
Registered at Companies House, Edinburgh June 2004 (SC269735)

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/00976/APP
Nature of Proposal (Description)	Convert The Old Stable Bar to 3 holiday let apartments at
Site	Seaview Caravan Park Findhorn Road Kinloss Moray
Site Postcode	N/A
Site Gazetteer UPRN	000133052333
Proposal Location Easting	306022
Proposal Location Northing	862267
Area of application site (M²)	1360
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RW4M1BBGH1P00
Previous Application	12/00987/APP 11/00072/APP 10/00594/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Duncan Brown
Applicant Organisation Name	
Applicant Address	Seaview Caravan Park Kinloss Forres UK IV36 3TF
Agent Name	William MacDonald
Agent Organisation Name	
Agent Address	11 Mansefield Park Kirkhill Inverness IV5 7ND
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: Aberdeenshire Council Archaeology Service

Planning Application Ref. No: 23/00976/APP

Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park Findhorn Road Kinloss Moray for Mr Duncan Brown

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

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

Reason(s) for objection

None

Condition(s)

None

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Claire Herbert
email address:
archaeology@aberdeenshire.gov.uk
Consultee: Archaeology service

Date...04/07/2023.....
Phone No01467537717

Return response to

consultation.planning@moray.gov.uk

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

Consultee Comments for Planning Application 23/00976/APP

Application Summary

Application Number: 23/00976/APP

Address: Seaview Caravan Park Findhorn Road Kinloss Moray

Proposal: Convert The Old Stable Bar to 3 holiday let apartments at

Case Officer: Emma Mitchell

Consultee Details

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

Comments

No objections

Adrian Muscutt, CLO

From: Shaya Anderson <Shaya.Anderson@moray.gov.uk>

Sent: 28 Jun 2023 09:13:58

To: DMSMyEmail@moray.gov.uk

Cc:

Subject: FW: 23/00976/APP Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park, Findhorn Road, Kinloss

Attachments:

From: DeveloperObligations <DeveloperObligations@moray.gov.uk>

Sent: 27 June 2023 15:57

To: Emma Mitchell <Emma.Mitchell@moray.gov.uk>

Cc: DC-General Enquiries <development.control@moray.gov.uk>

Subject: 23/00976/APP Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park, Findhorn Road, Kinloss

Hi,

Developer obligations are not being sought for the above planning application as given the nature and scale of the proposed development; it will not have a detrimental impact on local infrastructure that requires mitigation through developer obligations.

Thanks

Rebecca

Rebecca Morrison | Infrastructure Growth/Obligations Officer (Strategic Planning and Development) | Economic Growth and Development

rebecca.morrison@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)



Consultee Comments for Planning Application 23/00976/APP

Application Summary

Application Number: 23/00976/APP

Address: Seaview Caravan Park Findhorn Road Kinloss Moray

Proposal: Convert The Old Stable Bar to 3 holiday let apartments at

Case Officer: Emma Mitchell

Consultee Details

Name: Mr EH Consultations

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

Email: Not Available

On Behalf Of: Environmental Health C12

Comments

No objections

Andy Stewart, PEHO

**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No:
23/00976/APP

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

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

Reason(s) for objection

This application is being objected to under NPF4 Policy 10a.and 22a.

10a) Development proposals in developed coastal areas will only be supported where the proposal:

- i. does not result in the need for further coastal protection measures taking into account future sea level change; or increase the risk to people of coastal flooding or coastal erosion, including through the loss of natural coastal defences including dune systems; and
- ii. is anticipated to be supportable in the long-term, taking into account projected climate change.

22a) Development proposals at risk of flooding or in a flood risk area will only be supported if they are for:

- iii. redevelopment of an existing building or site for an equal or less vulnerable use
- iv. that the proposal does not create an island of development and that safe access/egress can be achieved.

NPF4 can be found on the Scottish Government website:

<https://www.gov.scot/publications/national-planning-framework-4/>

The redevelopment of this site from a bar to holiday accommodation where people are sleeping overnight is an increase in vulnerability due to the increase difficulty of save evacuation during a flood event. This is furthered by there is no safe access and egress from the development in a flood event due to the road also being at the same flood risk as the development. This would then result in a need for coastal protection measured especially when considering SEPAs future flood maps which take into account climate change.

The SEPA current and future flood maps can be found at: <https://map.sepa.org.uk/floodmaps>

Date: 12/09/2023

Contact: Natalie Dunton

email address: Natalie.dunton@moray.gov.uk

Phone No

Consultee: The Moray Council, Flood Risk Management



Defence
Infrastructure
Organisation

Adam Scott
Ministry of Defence
Safeguarding Department
DIO Head Office
St George's House
Whittington
Lichfield
Staffordshire WS14 9PY

Your reference: 23/00976/APP

Our reference: 10059237

Mobile: 07814885016

E-mail: adam.scott185@mod.gov.uk



5th July 2023

Dear Emma,

MOD Safeguarding- Kinloss Aerodrome

Proposal: Convert The Old Stable Bar to 3 holiday let apartments

Location: Seaview Caravan Park, Findhorn Road, Kinloss, Moray

Grid Ref's:

Thank you for consulting the Ministry of Defence (MOD) on the above proposed development.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the Ministry of Defence (MOD) as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.

The applicant is seeking to Convert The Old Stable Bar to 3 holiday let apartments.

The application site occupies the statutory height, technical and birdstrike safeguarding zones surrounding Kinloss Aerodrome and is approx. 1.59km from the centre of the airfield

After review of the documents, I can confirm that the MOD has no safeguarding objections to this proposal.

The MOD must emphasise that the advice provided within this letter is in response to the data and information detailed in the developer's document titled Existing and Proposed Elevations, Design Statement and Site location plan dated June 2023. Any variation of the parameters (which include the location, dimensions, form, and finishing materials) detailed may significantly alter how the development relates to MOD safeguarding requirements and cause adverse impacts to safeguarded defence assets or capabilities. In the event that any amendment, whether considered material or not by the determining authority, is submitted for approval, the MOD should be consulted and provided with adequate time to carry out assessments and provide a formal response.

I trust this is clear however should you have any questions please do not hesitate to contact me.

Yours Sincerely



Adam Scott

Assistant Safeguarding Manager

DIO Safeguarding

Thursday, 29 June 2023



Local Planner
Development Services
Moray Council
Elgin
IV30 1BX

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

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



Dear Customer,

Seaview Caravan Park Findhorn Road, Kinloss, Moray, IV36 3TX
Planning Ref: 23/00976/APP
Our Ref: DSCAS-0089611-5KF
Proposal: Convert The Old Stable Bar to 3 holiday let apartments

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ This proposed development will be fed from Glenlatterach Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via [our Customer Portal](#) or contact Development Operations.

Waste Water Capacity Assessment

- ▶ This proposed development will be serviced by Forres Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a

Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via [our Customer Portal](#) or contact Development Operations.

Please Note

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

Asset Impact Assessment

Scottish Water records indicate that there is live infrastructure in the proximity of your development area that may impact on existing Scottish Water assets.

- ▶ 150mm rising main at the boundary of your site.

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team via [our Customer Portal](#) for an appraisal of the proposals.

The applicant should be aware that any conflict with assets identified will be subject to restrictions on proximity of construction. Please note the disclaimer at the end of this response.

Written permission must be obtained before any works are started within the area of our apparatus

Surface Water

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

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

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

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
 - ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
 - ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
 - ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
 - ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
 - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
-

Next Steps:

▶ **All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

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

▶ **Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic

customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ **Trade Effluent Discharge from Non-Domestic Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 5kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Ruth Kerr.

Development Services Analyst

PlanningConsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

Emma Mitchell
Planning Department
Moray Council

Our Ref: 9855
Your Ref: 23/00976/APP

By email only to: consultation.planning@moray.gov.uk

SEPA Email Contact:
planning.north@sepa.org.uk

28 July 2023

Dear Emma Mitchell

Town and Country Planning (Scotland) Acts

23/00976/APP

**Convert The Old Stable Bar to 3 holiday let apartments at
Seaview Caravan Park, Findhorn, Kinloss, Moray**

Thank you for your consultation which was received by SEPA on 18 July 2023 in relation to the above application. We understand the reason for consultation is flooding.

Advice for the planning authority

In line with the advice in the [Transitional Arrangements for National Planning Framework 4 letter](#), issued by the Chief Planner, Fiona Simpson, on 8 February 2023 our position and advice given below is based on NPF4 policy.

We therefore **object in principle** to the application and recommend that planning permission should be refused. This is because the proposed development is expected to put people or property at risk of flooding, which is contrary to the duties set out under the Flood Risk Management (Scotland) Act 2009, and the policy principles of National Planning Framework 4.



Chairman
Bob Downes

CEO
Nicole Paterson

Angus Smith Building
6 Parklands Avenue
Eurocentral
Holytown
North Lanarkshire
ML1 4WQ

Tel: 03000 99 66 99
www.sepa.org.uk

If the planning authority proposes to grant planning permission contrary to this advice on flood risk, the [Town and Country Planning \(Notification of Applications\) \(Scotland\) Direction 2009](#) provides criteria for the referral to the Scottish Ministers of such cases. You may therefore wish to consider if this proposal falls within the scope of this Direction.

1. Flood Risk

- 1.1 We have a shared duty with Scottish Ministers and other responsible authorities under the Flood Risk Management (Scotland) Act 2009 to reduce overall flood risk and promote sustainable flood risk management. The cornerstone of sustainable flood risk management is the avoidance of flood risk as a first principle, and this is set out in National Planning Framework 4 (Policy 22).
- 1.2 The application involves a change of use from a bar to holiday letting apartments. In line with SEPA's [Land use vulnerability guidance](#), the current use is considered to be a 'Least Vulnerable Land Use' whereas the proposed use is considered to be a 'Highly Vulnerable Land Use'. As such there would be an increase in land use vulnerability as a result of the development.
- 1.3 The site is fully within an area shown to be at risk of flooding based on the SEPA Future Flood Maps. This indicates that there is a risk of flooding from the sea. You can view the SEPA Flood Maps and find out more about them at [Flood Maps | SEPA - Flood Maps | SEPA](#).
- 1.4 The approximate coastal flood level for the area is 4.1mAOD including an allowance for climate change. The flood level is derived from the 200 year still water level based on the Coastal Flood Boundary Method which does not account for the effects of wave action, funnelling or local bathymetry. The applied recommended sea level rise for the area by 2100 is based on the latest UK climate change predictions published in 2018 as outlined in SEPA's guidance. We therefore require that all development on the site is limited to land which is higher than 4.1mAOD. In addition to this, a separate minimum freeboard allowance of 0.6m to account for uncertainties and the effects of wave action is required for finished floor levels.

1.5 OS maps show spot elevations on the road adjacent to the site of 3.2mAOD and the land is relatively flat in this area. The information we hold therefore indicates that the site could be inundated by the sea to a depth of almost 1m when taking account of the impacts of future climate change on sea level rise. This would be considered a significant risk to people and property. The access road would also be inundated meaning evacuation may be restricted, or not possible. We believe the provision of detailed topographic information would only serve to confirm that the building is located on land below 4.1mAOD and therefore at risk of flooding and unsuitable for the proposed increase in vulnerability to holiday accommodation.

2. Other planning matters

2.1 For all other planning matters, please see our [trriage framework and standing advice](#) which are available on our website: www.sepa.org.uk/environment/land/planning/.

Advice for the applicant

3. Regulatory advice

3.1 Details of regulatory requirements and good practice advice, for example in relation to private drainage, can be found on the [regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team at: gs@sepa.org.uk

If you have queries relating to this letter, please contact us at the email above including our reference number in the email subject.

Yours sincerely

Nicki Dunn
Senior Planning Officer
Planning Service

Ecopy to: emma.mitchell@moray.gov.uk

Disclaimer: This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages - www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/).

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/00976/APP
Nature of Proposal (Description)	Convert The Old Stable Bar to 3 holiday let apartments at
Site	Seaview Caravan Park Findhorn Road Kinloss Moray
Site Postcode	N/A
Site Gazetteer UPRN	000133052333
Proposal Location Easting	306022
Proposal Location Northing	862267
Area of application site (M²)	1360
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RW4M1BBGH1P00
Previous Application	12/00987/APP 11/00072/APP 10/00594/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Duncan Brown
Applicant Organisation Name	
Applicant Address	Seaview Caravan Park Kinloss Forres UK IV36 3TF
Agent Name	William MacDonald
Agent Organisation Name	
Agent Address	11 Mansefield Park Kirkhill Inverness IV5 7ND
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
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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: 23/00976/APP

Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park Findhorn Road Kinloss Moray for Mr Duncan Brown

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

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

This proposal is to convert a former bar to 3 holiday let apartments within an existing caravan park, including the re-configuration of existing parking arrangements. No alterations are proposed to the existing access or boundary features. The following conditions would apply:

Condition(s)

1. Parking shall be the following:
 - 3 car parking spaces retained for the old schoolhouse
 - 2 car parking spaces for each new apartment
 - 3 car parking spaces retained for the existing site reception

The parking spaces shall be demarked on site in accordance with submitted drawing reference "0621.2417.05B" and made available for use prior to the first occupation of the first apartment, and thereafter be retained within the site throughout the lifetime of the development unless otherwise agreed in writing with the Council as Planning Authority.

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

2. A turning area shall be retained 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

Further comment(s) to be passed to applicant

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

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

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

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

Date 21 July 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.

REPORT OF HANDLING

Ref No:	23/00976/APP	Officer:	Emma Mitchell
Proposal Description/ Address	Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park Findhorn Road Kinloss Moray		
Date:	18.09.2023	Typist Initials:	LMC

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
MOD Safeguarding - Statutory	05/07/23	No objection
Moray Flood Risk Management	12/09/23	Object under policy 10 (a) and 22 (a) of NPF4
Planning And Development Obligations	27/06/23	None sought
Environmental Health Manager	28/06/23	No objection
Contaminated Land	27/06/23	No objection
Transportation Manager	21/07/23	No objection subject to conditions and informatives
Scottish Water	29/06/23	No objection
Aberdeenshire Council Archaeology Service	04/07/23	No objection
Scottish Environment Protection Agency	22/08/23	Object under policy 22 (a) of NPF4

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
National Planning Framework (NPF)		
NPF1 - Tackling the Climate	Y	
NPF2 - Climate mitigation and adaptation	Y	
NPF3 - Biodiversity	N	
NPF9 - Brownfield, vacant, derelict land	N	
NPF10 - Coastal development	Y	
NPF12 - Zero waste	N	

NPF13 - Sustainable transport	N	
NPF14 - Design, quality and place	N	
NPF16 - Quality homes	N	
NPF22 - Flood risk	Y	
NPF23 - Health and safety	N	
NPF29 - Rural development	N	
NPF30 - Tourism	N	
Moray Local Development Plan 2020 (MLDP)		
PP3 Infrastructure and Services	N	
PP1 Placemaking	N	
DP1 Development Principles	Y	
DP8 Tourism Facilities and Accommodation	N	
EP12 Management and Enhancement Water	Y	
EP13 Foul Drainage	N	
EP14 Pollution Contamination Hazards	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 conversion of The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park, Findhorn Road Kinloss.
- Each apartment has its own external entrance, two bedrooms (both en-suite), a bathroom, a kitchen and living area. The apartments range in size from 104 sqm to 134 sqm.
- Minimal external changes are proposed, these include the restoration and possible replacement (if necessary) of some windows, pointing stonework where required and making good rainwater gutters and downpipes.
- 7 car parking spaces are to be provided for the development.
- Existing drainage arrangements are proposed to be utilised.

Site Characteristics

- Seaview Caravan Park is located between Findhorn and Kinloss. It is located immediately off the B9011 Forres to Kinloss Road on the east side. The park covers an area of 1360 sqm.

- A dwelling is attached to the north side of The Old Stable Bar, it was formerly The Old Schoolhouse.
- 38 Static Caravans are currently located on the Park.
- The Old Stable Bar was built around 1870 and its most recent use was a Lounge Bar (it is unknown when the use ceased) associated with the operation of the Caravan Park. The building was previously a school. It is not listed.
- The original part of the Old Stable Bar is made with local sandstone and has a stone clad porch, most of the roof is natural slate. Flat roof extensions have been formed around the original two parts of the building to the rear.

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 (NPF) and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main issues are considered below:-

Flooding (NPF 10 & 22 / MLDP DP1 & EP12)

These policies seek together to ensure development would not be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term. Policy 10 (part a) states that development proposals in developed coastal areas will only be supported where the proposal does not result in the need for further coastal protection measures taking into account future sea level change; or increase the risk to people of coastal flooding or coastal erosion, including through the loss of natural coastal defences including dune system and is anticipated to be supportable in the long-term, taking into account projected climate change. Policy 22's intention is to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. Policy 22 also states that development proposals at risk of flooding or in a flood risk area will only be supported if they are for essential infrastructure where the location is required for operational reasons, water compatible use, redevelopment of an existing building or site for an equal or less vulnerable use or redevelopment of previously used sites in built up areas where the LDP has identified a need to bring these into positive use and where proposals demonstrate that long-term safety and resilience can be secured in accordance with relevant SEPA advice.

The site is fully within an area shown to be at risk of flooding from the sea based on the SEPA Future Flood Maps.

The application involves a change of use from a bar to holiday letting apartments. In line with SEPA's Land use vulnerability guidance, the current use is considered to be a 'Least Vulnerable Land Use' where as the proposed use is considered to be a 'Highly Vulnerable Land Use'. As such there would be an increase in land use vulnerability as a result of the development. This is contrary to policy 22 as it only allows the re-development of an existing building or site for an equal or less vulnerable use. The proposal results in an increase of risk to people through coastal flooding which is unacceptable under policy 10.

The approximate coastal flood level for the area is 4.1mAOD including an allowance for climate change. The flood level is derived from the 200 year still water level based on the Coastal Flood Boundary Method which does not account for the effects of wave action, funnelling or local bathymetry. The applied recommended sea level rise for the area by 2100 is based on the latest UK climate change predictions published in 2018 as outlined in SEPA's guidance. It is therefore required that all development on the site is limited to land which is higher than 4.1mAOD. In addition to this, a separate minimum freeboard allowance of 0.6m to account for uncertainties and the effects of wave action is required for finished floor levels.

OS maps show spot elevations on the road adjacent to the site of 3.2mAOD and the land is relatively flat in this area. The information held therefore indicates that the site could be inundated by the sea to a depth of almost 1m when taking account of the impacts of future climate change on sea level rise. This would be considered a significant risk to people and property. The access road would also be inundated meaning evacuation may be restricted, or not possible. The building is located on land below 4.1mAOD and therefore at risk of flooding and unsuitable for the proposed increase in vulnerability to holiday accommodation.

SEPA and Moray Flood Risk Management were consulted on the proposal and object to it. This is based on the above grounds. The proposal increases the number of people at risk from coastal flooding and there is no safe access and egress from the development in a flood event due to the public road used to access the site also being at risk from flooding therefore it is contrary to policies 10, 22 and EP12.

Climate Change (NPF 1 & 2)

Policy 1's aim is to encourage, promote and facilitate development that addresses the global climate change and nature crisis. Policy 2's intention is to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.

Given the above the proposal is subsequently contrary to policy 1 on the basis the impact of climate change must be considered for all proposals (noting significant weight must be given to the climate crisis). It is also contrary to NPF Policy 2 because the proposal is not sited and designed to adapt to current and future risks from climate change.

Siting and Design (NPF 9 & 14 / MLDP PP1 & DP1)

Policy 9 Brownfield, vacant and derelict land and empty buildings does encourage the use of existing buildings. Policy 14 Design, quality and Place is intended to encourage, promote and facilitate well designed development and requires development proposals to be designed to improve the quality of an area. In addition to this states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where it will result in an unacceptable impact on local amenity or character of an area. Policies PP1 and DP1 seek together to ensure that proposals meet siting and design requirements, these include development being of scale, density and character to its surroundings and integrating into the landscape, proposals not adversely impacting on neighbouring properties in terms of privacy daylight or overbearing loss of amenity.

The change of use of the bar to holiday accommodation would be acceptable if the site was not at risk from flooding (see flooding section below). The proposal clearly does make use of a redundant building. Merit is therefore attached under policy 9 to the proposed re-use of a derelict building and brownfield site. The re-use of building would see the existing resources used again. The existing site is a Caravan Park therefore the change of use to holiday accommodation would be in keeping with the rest of the site. There would be no issues in terms of loss amenity.

Rural Business Proposal / Tourist Accommodation (NPF 29 & 30 / MLDP DP8)

Policy 29 seeks to encourage rural economic activity, innovation and diversification whilst ensuring the distinctive character of a rural area. Policy 30 aims to encourage, promote and facilitate sustainable tourism development which benefits local people and requires new tourist facilities to be compatible with the surrounding area in terms of the nature and scale of the activity and impact of increased visitors. In addition to this it states development proposals for the reuse of existing buildings for short term holiday letting will not be supported where it will result in an unacceptable impact on local amenity or character of an area. Policy 30 also states that proposals for tourism related development will take into account accessibility for disabled people. Policy DP8 stipulates that proposals which contribute to Moray's tourism industry will be supported where they comply with relevant policies. A locational need for a specific site must be demonstrated.

A locational justification has been provided with the proposal and demonstrates the need for the site

to be holiday accommodation given the regions successful tourism industry and the existing building lending itself well for residential use.

The change of use does comply with the requirements of policies 29, 30 and DP8, it is compatible with the surrounding area in terms of nature and scale however given it is risk from flooding (see flooding section below) the change of use is overall not acceptable.

Access and Parking (NPF 13 / MLDP DP1)

Policy 13 Sustainable Transport and DP1 and require that proposals must provide a safe entry and exit from the development and conform with the Council's current policy on Parking Standards.

Transportation were consulted on the proposal and required an updated plan showing parking provision which accommodates both the existing ongoing arrangements and the provision for the 3 holidays lets. This was submitted and reviewed by Transportation who in turn have no objections to the proposal subject to conditions and informatives being attached to the consent if it were to be minded to be approved. The access and parking arrangements as amended therefore comply with policies 13 and DP1.

Drainage (NPF 22 / MLDP DP1 & EP12)

Policies 22, DP1 and EP12 together to seek to ensure that acceptable water and drainage provision is made, including the use of sustainable urban drainage (SUDS).

Moray Flood Risk Management were consulted on the proposal and have no objections to the drainage arrangements (existing system to be utilised). In terms of drainage the proposal complies with policies 22, DP1 and EP12.

Recommendation

Refuse on the above grounds.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY			
Reference No.	Description		
12/00987/APP	Apply for 11 month licence for 38 static stances including change of use of 8 touring vans to 8 static vans at Seaview Caravan Park Findhorn Road Kinloss Moray		
	Decision	Permitted	Date Of Decision 02/08/12
11/00072/APP	Change of use from 38 no static vans to 38 no residential vans by upgrading both vans and site to give 12 months continuous use at Sea View Park Findhorn Road Kinloss Forres Moray		
	Decision	Refuse	Date Of Decision 20/07/11
10/00594/APP	Change of use from 17 touring vans to 18 static vans and change of use from static chalet to residential managers house at Seaview Caravan Park Findhorn Road Kinloss Forres Moray		
	Decision	Permitted	Date Of Decision 29/09/10
08/00227/FUL	Apply for additional 12 static caravans and for additional 8 touring caravans also modify site licence from 11-month licence to 12-month licence at Seaview Caravan Park Findhorn Road Kinloss Moray		
	Decision	Permitted	Date Of Decision 17/06/08

92/01214/FUL	TEMPORARY CHANGE OF USE OF 4 STATIC HOLIDAY CARAVANS TO 4 STATIC RESIDENTIAL CARAVANS (FROM 1 NOV 92 TO 1 APR 94) Stable Inn Caravan Park Findhorn Forres Moray IV36 3TX			
	Decision	Permitted	Date Of Decision	21/12/92

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Forres Gazette	No Premises	25/07/23
PINS	No Premises	25/07/23

DEVELOPER CONTRIBUTIONS (PGU)	
Status	None sought

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?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Design Statement – Conversion of Building to 3 Apartments at Seaview Caravan Park, Kinloss, Moray IV36 3TF	
Main Issues:	Information on the site and proposal.	

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:-

Convert The Old Stable Bar to 3 holiday let apartments at Seaview Caravan Park Findhorn Road Kinloss Moray

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

Date of Notice: **20 September 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 1, 2, 10 and 22 of the National Planning Framework 4 (NPF) and EP12 of the Moray Local Development Plan 2020 (MLDP) for the following reasons:-

- The proposal is located on a site that is at risk of coastal flooding as identified via the future SEPA flood maps and the redevelopment of this site from a bar to holiday accommodation where people are sleeping overnight is an increase in land use vulnerability as there is an increase to people from coastal flood risk therefore is contrary to NPF policies 10, 22 and MLDP policy EP12.
- The proposed development has no safe access and egress from the development in a flood event due to the public road used to access the site also being at flood risk therefore is it unacceptable under NPF policy 22.
- The proposal does not adapt to the future impacts of climate change (coastal flooding) therefore it is contrary to NPF policies 1 and 2.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
0621.2417.05	B	Site arrangements
0621.2417.02	A	Proposed floor plan
0621.2417.04	A	Existing and proposed elevations

NOTICE OF APPEAL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

www.eplanning.scotland.gov.uk

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



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



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

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

Thank you for completing this application form:

ONLINE REFERENCE 100631655-003

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

Applicant or Agent Details

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

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	WA MacDonald Building Design Limite		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	William	Building Name:	
Last Name: *	MacDonald	Building Number:	11
Telephone Number: *	07889722463	Address 1 (Street): *	11 Mansefield Park
Extension Number:		Address 2:	Kirkhill
Mobile Number:		Town/City: *	Inverness
Fax Number:		Country: *	United Kingdom
		Postcode: *	IV5 7ND
Email Address: *	Bill@billmacdonald.co.uk		

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

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value=""/>
First Name: *	<input type="text" value="Duncan"/>	Building Number: <input type="text"/>
Last Name: *	<input type="text" value="Brown"/>	Address 1 (Street): * <input type="text" value=""/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text" value=""/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value=""/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value=""/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value=""/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

<input type="text" value="The Old Stable Bar, Seaview Caravan Park, Kinloss IV36 3TF"/>

Northing	<input type="text" value="862267"/>	Easting	<input type="text" value="305999"/>
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Description of Proposal

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

Convert the Old Stable Bar to 3 residential apartments - tourism

Type of Application

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

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

What does your review relate to? *

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

Statement of reasons for seeking review

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

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

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

See attached documentation.

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

Yes No

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

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

Letter from Applicant dated 5.12.2023. Letter from Douglas Ross MP dated 2.8.2023. My cover letter dated 5.12.2023. Design Statement Supplement.

Application Details

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

23/00976/APP

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

09/06/2023

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

20/09/2023

Review Procedure

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

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

Yes No

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

Please select a further procedure *

By means of inspection of the land to which the review relates

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

The site needs to be viewed by those who will decide. These persons need to see a building that is in excess of 100 years old (the old school and schoolhouse) and note that the schoolhouse has been occupied for many years and the floor level is at the same level as the school floor.

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

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

Yes No

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

Yes No

Checklist – Application for Notice of Review

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

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

Yes No

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

Yes No

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

Yes No N/A

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

Yes No

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

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

Yes No

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

Declare – Notice of Review

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

Declaration Name: Mr William MacDonald

Declaration Date: 05/12/2023

W.A. MacDonald (Building Design) Ltd

Chartered Architectural Technologist & Building Design Consultant

5th December 2023

Head of Economic Growth &
Development, Environment & Finance
Moray Council
Council Office
High Street
ELGIN
Moray
IV30 1BX

Dear Sir/Madam

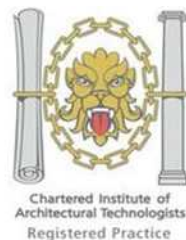
**23/00976/APP - APPLICATION FOR REVIEW OF REFUSAL TO CONVERT
THE OLD STABLE BAR TO 3 RESIDENTIAL APARTMENTS AT SEAVIEW
CARAVAN PARK, FINDHORN ROAD, KINLOSS**

I refer to my Application and to the recent refusal.

There are a few points that I would like to make to reinforce my argument as to why this Refusal might be overturned.

The possibility that use of this fine old building (1870) is limited because of a 0.5% flooding risk is unreasonable especially since there has been no reports or evidence of flooding to-date. I absolutely agree that we should be aware of possible changes in our climate.

One of The Council's objectives is to promote Tourism and in a small way the approval (overturning) of this Review would reinforce the intent. Confirmation was requested by Planning whether this Application was for Tourism or permanent residences and it was



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
Telephone: 01463 240002 Mobile:07889 722463
e-mail: bill@billmacdonald.co.uk
www.billmacdonald.co.uk

W A MacDonald MCIAT is a trading name of W A MacDonald (Building Design) Ltd
Registered at Companies House, Edinburgh June 2004 (SC269735)

W.A. MacDonald (Building Design) Ltd

Chartered Architectural Technologist & Building Design Consultant

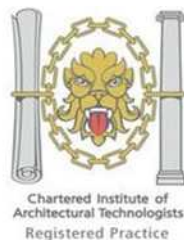
confirmed that this is a Tourism proposal. Figures announced today confirmed that Tourism/letting is the third largest employer in the UK.

It is a very different situation when considering Tourism properties for letting under extreme circumstances (such as flooding) compared with permanent residences – there is less of an impact on Tourists than permanent residents – after all, it is a short break for holiday makers.

I await an acknowledgment of this Application and any details of a site visit or meeting.

Yours faithfully

WA MacDonald
Building Design Consultant



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
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e-mail: bill@billmacdonald.co.uk
www.billmacdonald.co.uk

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DESIGN STATEMENT (SUPPLEMENT) 23/00976/APP

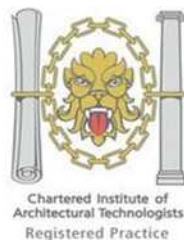
CONVERSION OF A BUILDING TO 3 APARTMENTS

at

**SEAVIEW CARAVAN PARK
KINLOSS, MORAY IV36 3TF**

For

MR & MRS DUNCAN BROWN



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
Telephone: 01463 240002 Mobile:07889 722463
e-mail: bill@billmacdonald.co.uk
www.billmacdonald.co.uk

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W.A. MacDonald (Building Design) Ltd

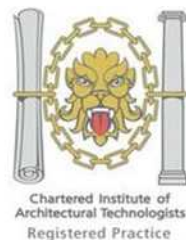
Chartered Architectural Technologist & Building Design Consultant



Generally

Originally, this building was the local school and the schoolhouse is adjacent. It has been used for many years as a Lounge Bar associated with the operation of the caravan park. The building is falling into disrepair. We propose to form three apartments each with their own private entrance. Car parking with two spaces for each apartment will be laid out adjacent. The property was built around 1870 with local sandstone and is unlisted.

The original part of the building has a stone clad porch, raised stone bands at corners and around windows. The bulk of the façade has been rendered with a wet dash render. This part of the building is slated with natural slate. Extensions have been formed around the two original parts of the building and these have been roofed with flat roofs. The property has been in the



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Chartered Architectural Technologist & Building Design Consultant

ownership of the Applicants for 18 years. The building until recently was a public house with a commercial kitchen. The pub commenced operation in the 1970's.

Site

The site is located between Kinloss and Findhorn to the East of the B9011 and to the West of RAF Kinloss.

Services

The site is fully serviced. Foul water drainage is via a public communal septic tank whose outfall is to the Kinloss public sewer. It is anticipated that there will be less of an impact on the foul system with 3 apartments being formed compared with a Public House, toilets and a commercial kitchen. Minimal adjustments will be made to the sewer to accommodate three apartments. Roof rainwater runs to existing soakpits and no change is proposed. The building has a water supply and electrical connection.

Proposal

We propose to upgrade the building, including, improving insulation values, repairing existing windows where possible, make good flashings and slating, upgrading electrical service, addition of showers/wc's, improving sound insulation between rooms.

Parking

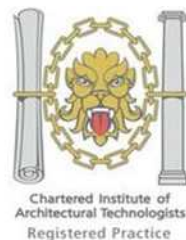
A revised parking proposal is shown on the site plan in light of comments made by The Transport Manager. Six spaces have been allocated to the three new apartments, 3 spaces for reception for the caravan site and a further 3 spaces for the schoolhouse which has 4 bedrooms.

Flooding

SEPA flood maps have been studied and for River, Coastal and Surface flooding, the noted incidents is no more than 0.5%.

Tourism Facilities and Accommodation (DP8)

Moray Council state that are here to help local enterprises as they look to operate safely and meet the increasing demand for tourism related experiences. Pre-Covid spend in Moray amounted to around £1.5bn where there are 3200 registered tourism businesses. Tourism jobs in the Highlands and Islands represent 43% of the workforce and this sustains many of our rural,



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e-mail: bill@billmacdonald.co.uk
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Chartered Architectural Technologist & Building Design Consultant

regional and island economies and communities. The tourism and hospitality sector has been one of the worst hit industries since the Covid 19 pandemic. Caravans for let already exist on the Applicants site (adjacent). In terms of DP8, this is a low impact proposal as the substantial building already exists

Conclusion

The building has lain empty for some time and this proposal is reasonable in this situation. It lends itself quite well for residential use without affecting the privacy or amenity of others. It is significant that the Schoolhouse is already occupied and it has a similar floor level to the property under consideration.

The building exists, it is not in use currently and the property adjacent is occupied. It is inconceivable that a substantial property such as this should go through its life with limited use. The Moray Council mandate is to promote Tourism and a project such as this will achieve exactly that.

Scope of Works

The following is a list of works requiring attention;-

Repair windows where possible and replace if necessary – windows to be as existing style, sliding sash and case with similarly dimensioned timbers.

Re-wire and re-plumb the entire property.

Make good all elements of the structure, including walls, flooring, skirtings, architraves.

Point stonework as necessary.

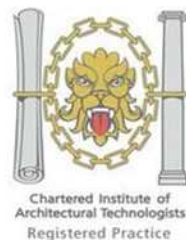
Make slating and flashing repairs.

Make good rainwater gutters and downpipes.

Improve insulation values.

WA MacDonald MCIAT
Architectural Technologist &
Building Consultant

Wednesday 23rd August 2023



11 Mansefield Park, Kirkhill, Inverness IV5 7ND
Telephone: 01463 240002 Mobile:07889 722463
e-mail: bill@billmacdonald.co.uk
www.billmacdonald.co.uk

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Registered at Companies House, Edinburgh June 2004 (SC269735)



Head of Economic Growth and Development
Economy, Environment and Finance
Moray Council
Council Office
High Street
Elgin
Moray
IV30 1BX

Dear Sir or Madam

I am writing to formally appeal the decision to refuse my planning application for the property located at The Old Stable Inn, Findhorn Road, Kinloss, IV36 3TS.

One of the primary reasons cited for the refusal was that the property is located in an area identified by the Scottish Environmental Protection Agency (SEPA) as a potential future flood risk area. Upon reviewing the relevant flood risk map, it is unclear whether the property falls wholly within the future flood risk area. If it does, it is only marginally so. The property, built in 1876, has withstood the test of time for nearly 150 years without any recorded incidence of flooding. This historical evidence strongly suggests that the property is resilient against flood risks.

According to SEPA's Technical Flood Risk Guidance, the complexity of the Flood Risk Assessment (FRA) should reflect the nature of the flooding problems, the mechanisms of flooding, and the characteristics of the site. I believe that the decision did not adequately consider these factors.

The flood risk is based on projections up to 2080. While it is important to consider future risks, it is also crucial to balance them with current realities and historical data. The 0.5% chance of flood by 2080 might be too small to warrant a refusal.

I am willing to take additional measures to further mitigate the potential flood risk, such as improving drainage systems, raising the level of the property, or using flood-resistant materials.

The decision also states that the proposed development has no safe access and egress from the development in a flood event due to the Findhorn road used to access the site also being at flood risk. This road is the only road that connects the villages of Kinloss and Findhorn. Therefore, under this analysis, no development could take place in the entire village of Findhorn due to the potential flood risk. This would have significant implications for the growth and development of the village.

One of the other reasons cited for the refusal was that the development represents a change of use from a lounge bar to holiday accommodation where people are sleeping overnight is an increase in land use vulnerability as there is an increase to people from coastal flood risk. I would like to argue that this reasoning is flawed. The change of use from a lounge bar to holiday accommodation could actually decrease the overall land use vulnerability. A lounge bar, by its nature, would generally accommodate more people than three holiday apartments. Therefore, the number of people potentially at risk in a flood event could actually decrease.

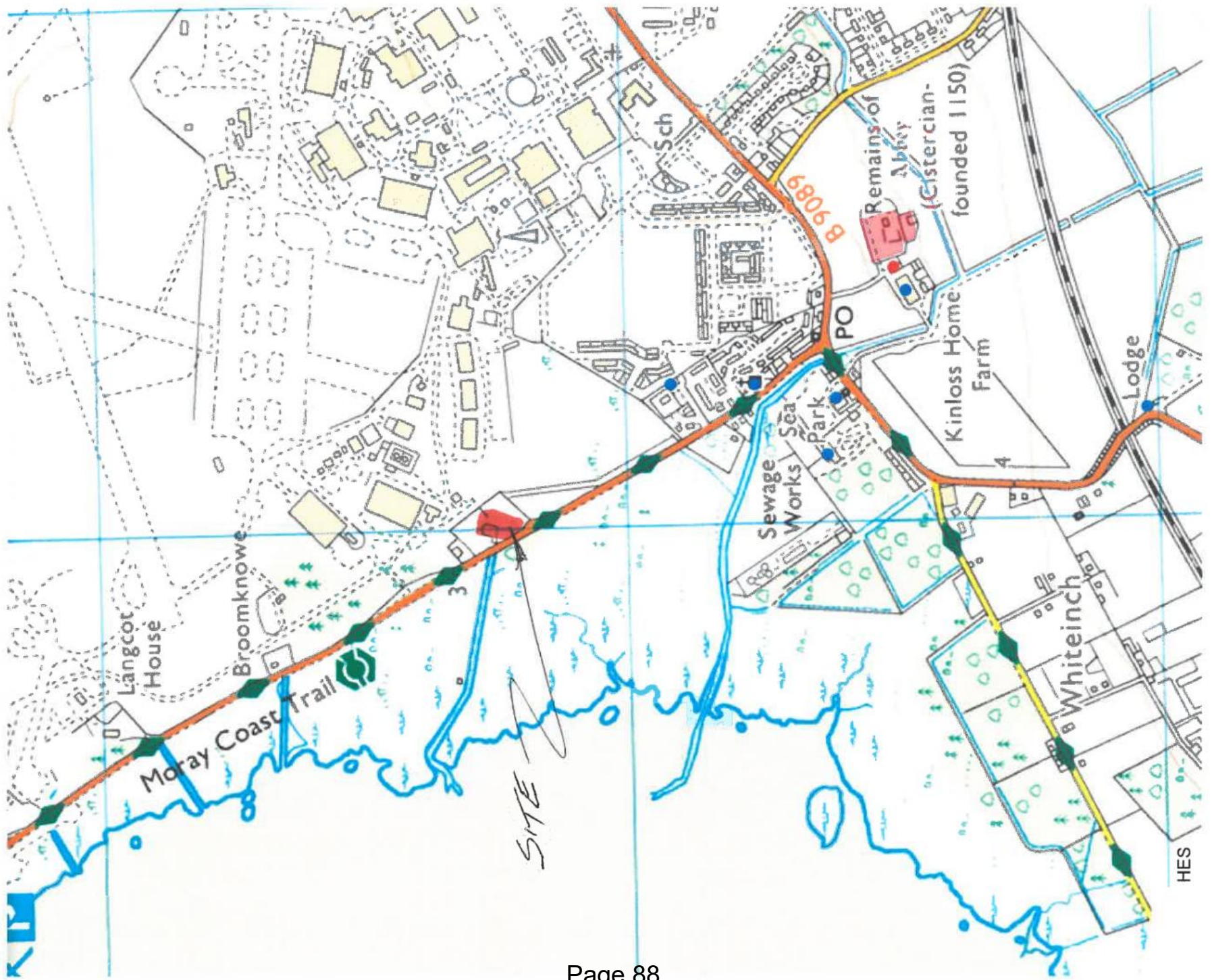
Furthermore, the overall footprint of the building will remain the same, and the development area is not increasing. This means that the physical vulnerability of the land to flooding remains unchanged. The change of use to holiday accommodation could allow for the implementation of specific adaptation measures to reduce flood risk. For example, the design of the holiday apartments could incorporate flood resilience measures such as raised electrical sockets, waterproof doors and windows, and flood barriers.

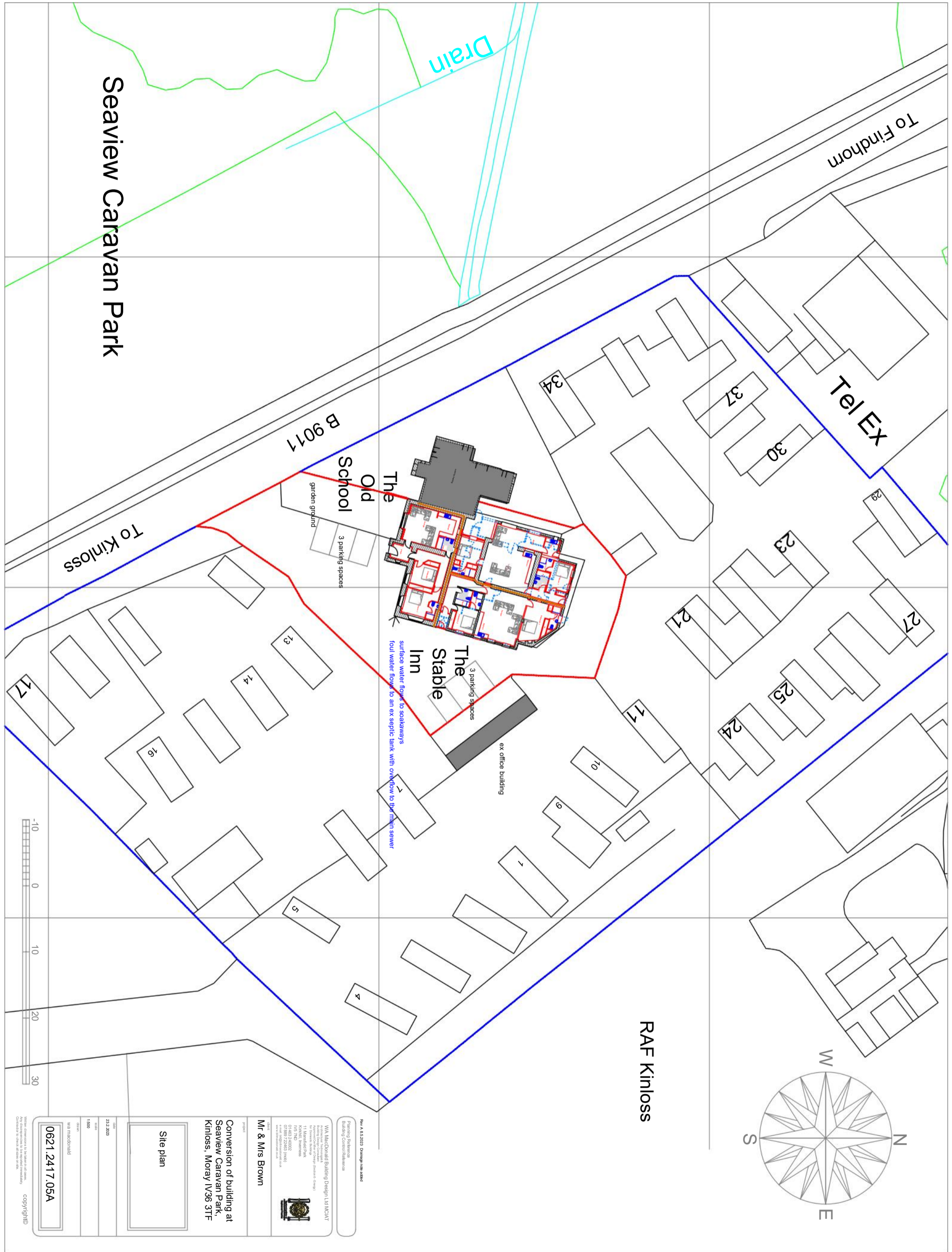
The change of use to holiday accommodation could bring significant economic benefits to the area, attracting tourists and boosting local businesses. These benefits should be considered.

I would appreciate if my above points could be considered and addressed during the appeals process.

Yours faithfully

Duncan Brown





Seaview Caravan Park

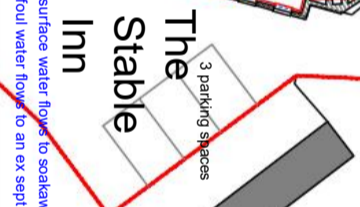
To Findhorn

Tel Ex

B 9017

The Old School

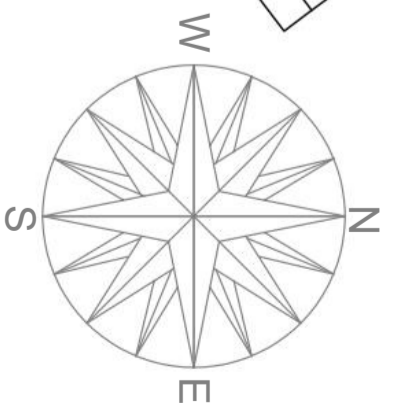
garden ground
3 parking spaces



The Stable Inn
3 parking spaces
ex office building

To Kinloss

RAF Kinloss



Rev A & S 2023 Drawing not added

Planning Reference
Planning Conditions

VIA MacDonald Building Design Ltd MCD/AT
 Building Design
 100, South Street
 Kinross, Angus
 145 7ND
 01889 750053 (01889)
 www.viamacdonald.com

Mr & Mrs Brown

Project
 Conversion of building at
 Seaview Caravan Park,
 Kinloss, Moray IV36 3TF

Site plan

date
23.2.2023

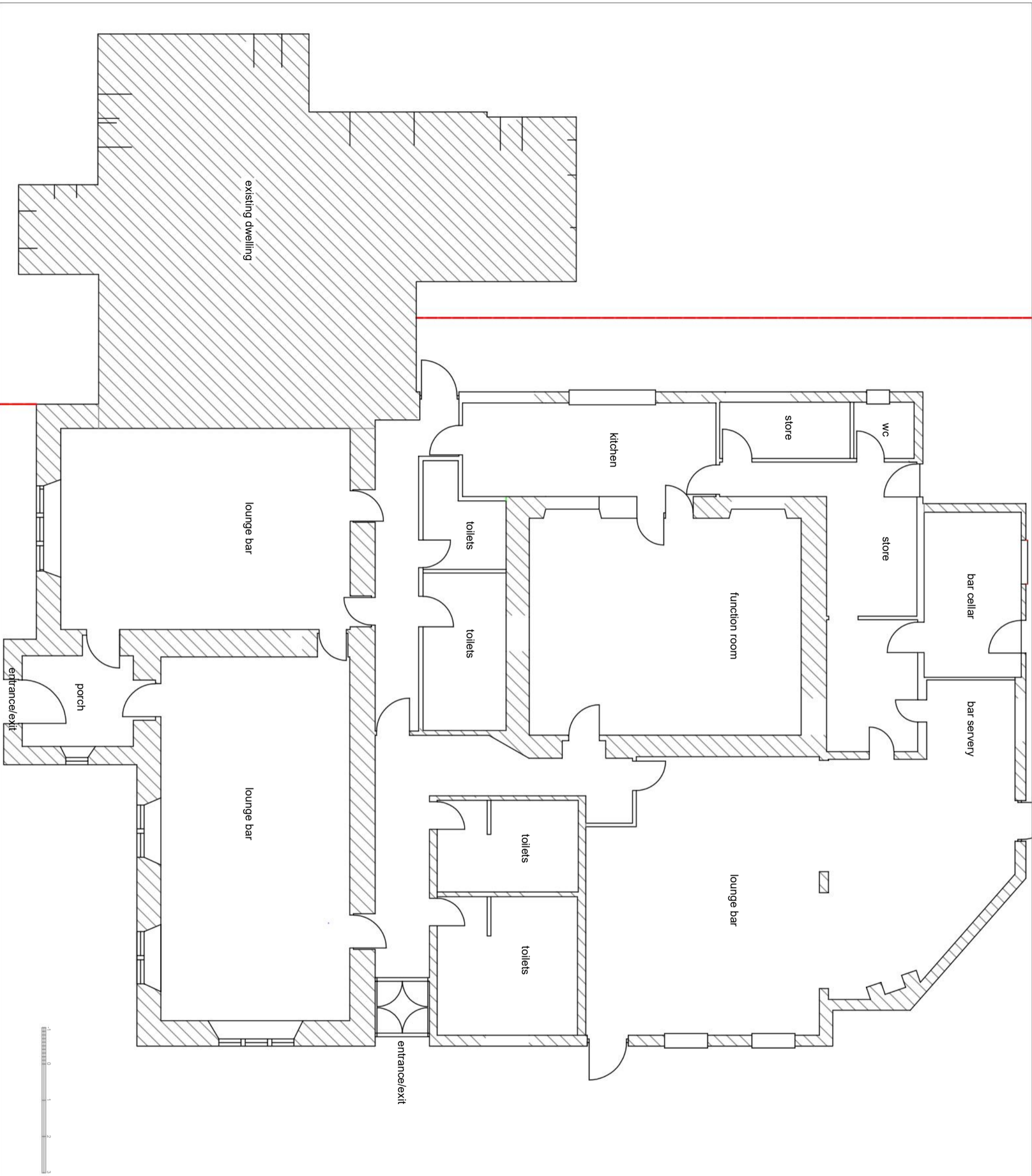
scale
1:500

drawn
via macdonald

0621.2417.05A

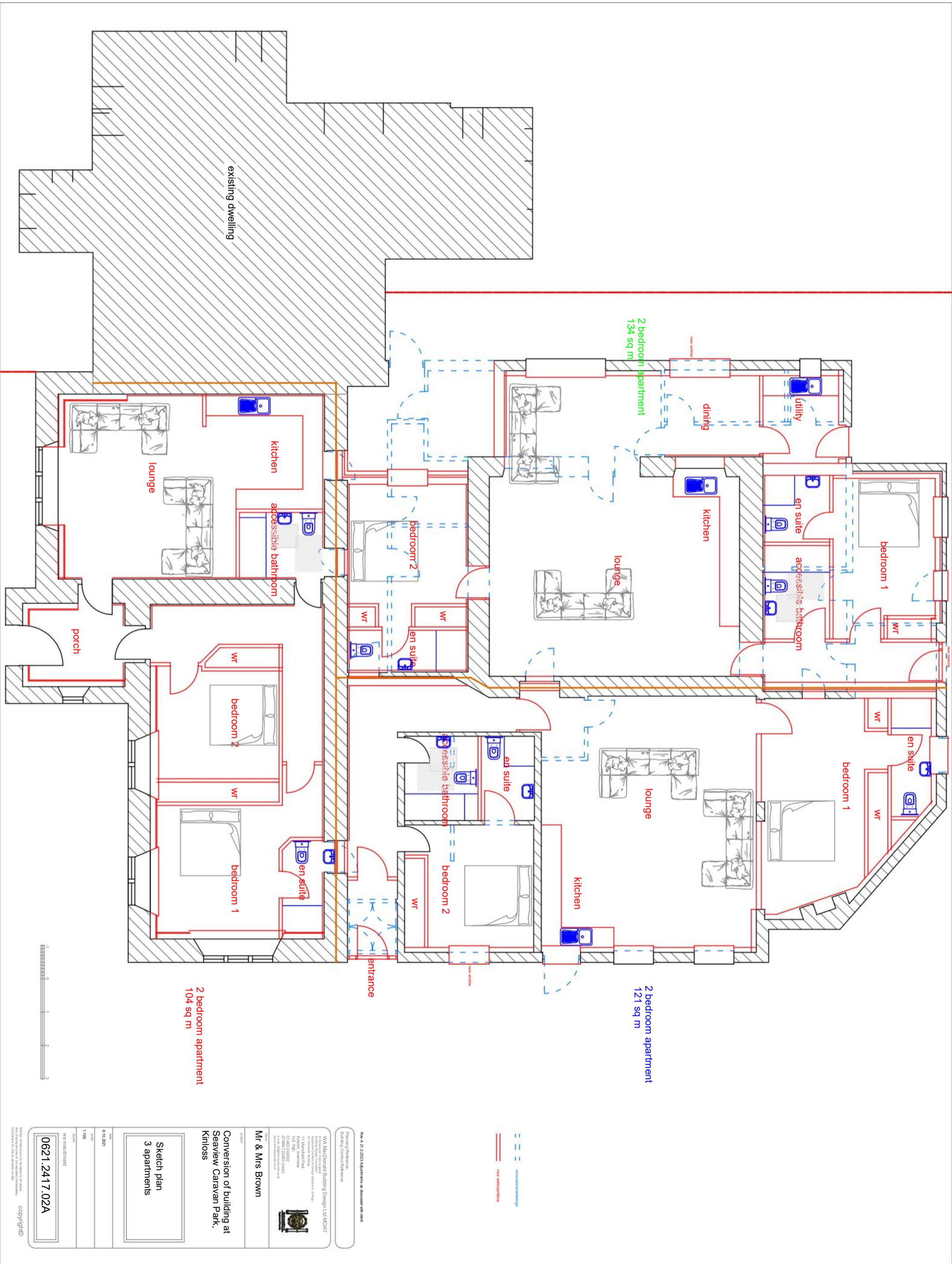
When completed by the client in all cases
 the drawings remain the property of
 the drawing office.

copyright©



<p>Planning Reference Planning Consent Reference</p>	
<p>VIA MacDonald Building Design Ltd MCD/AT Building Design 14/5 The Kinross, Dundee DD8 7ND 01382 720455 (09:00) Email: info@macdonaldbuildingdesign.com</p>	
<p>Client Mr & Mrs Brown</p>	
<p>Project Conversion of building at Seaview Caravan Park, Kinross</p>	
<p>Issue Sketch plan as existing</p>	
<p>Date 6.10.2021</p>	<p>Scale 1:100</p>
<p>Drawn via macdonald</p>	
<p>0621.2417.01</p>	

When completed to be shown in all cases.
 All drawings are to be read in conjunction with the specification.
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--- removable/demolition
--- new walls/partitions
--- new windows

Rev A 21 2023 Apartments as shown with client
 Planning Ref: 2023/0000
 Building Ref: 2023/0000
 Building Ref: 2023/0000

VIA MacDonald Building Design Ltd MCDAI
 Building Design
 145-147, Seaview Caravan Park,
 Kinloss, Banffshire
 145-147 Seaview
 Kinloss, Banffshire
 07889 720405 (0189)
 www.viamacdonald.com

Mr & Mrs Brown
 Project

Conversion of building at
 Seaview Caravan Park,
 Kinloss

Sketch plan
3 apartments

DATE

6.10.2021

SCALE

1:100

DRAWN

via macdonald

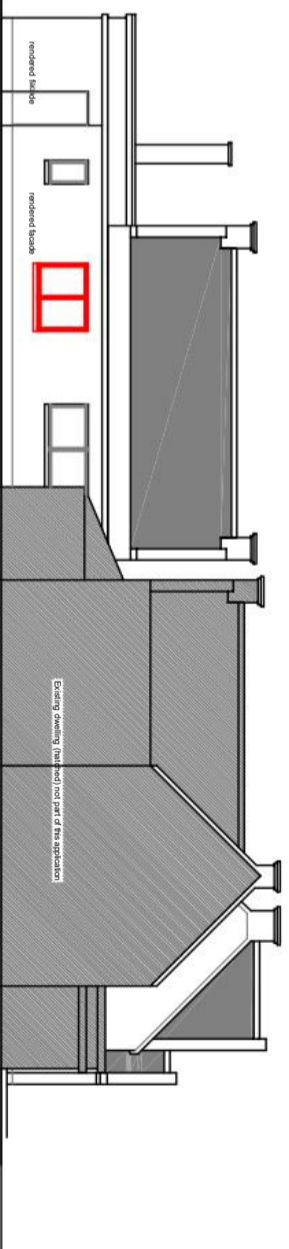
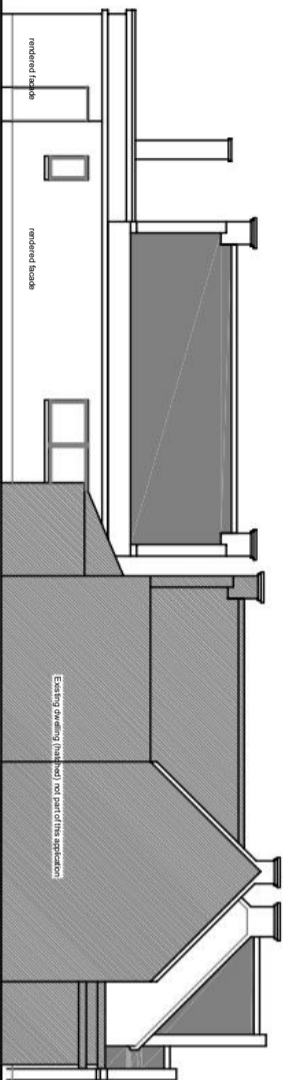
0621 2417 02A
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EXISTING ELEVATIONS

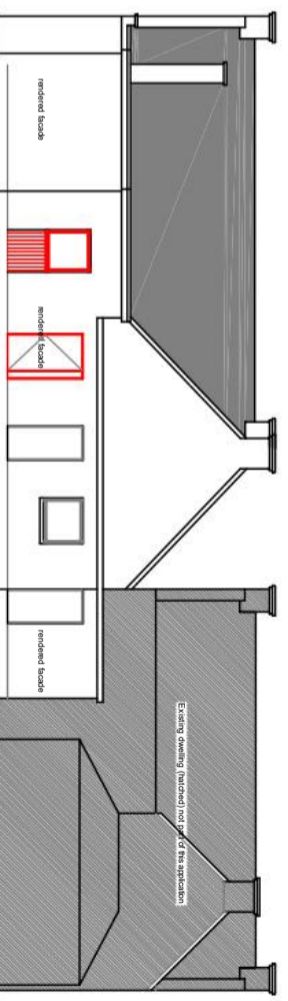
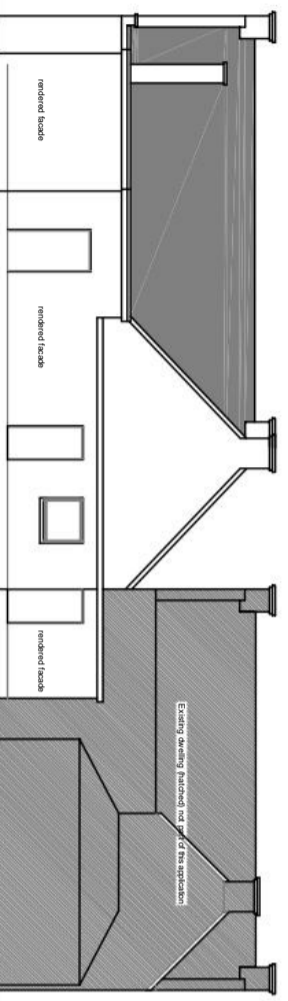
PROPOSED ELEVATIONS

FINISHES SCHEDULE	
Roof	All as existing - slate pitched roof & rubberised layer to flat roofs
Walls	As existing - render to bulk of building & stone to porch
Windows	Timber
Fascias & soffits	Painted timber where relevant
Rainwater goods	Cast iron



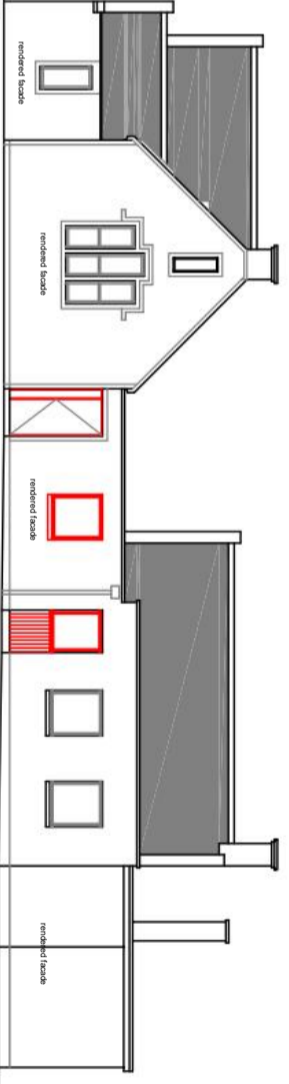
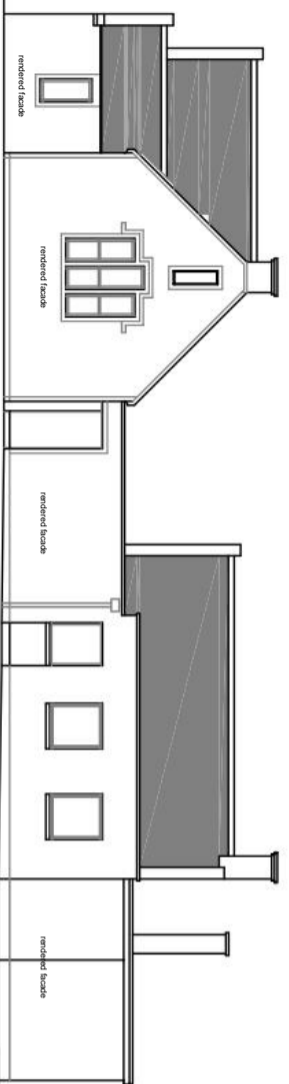
SIDE ELEVATION (West)

SIDE ELEVATION (West)



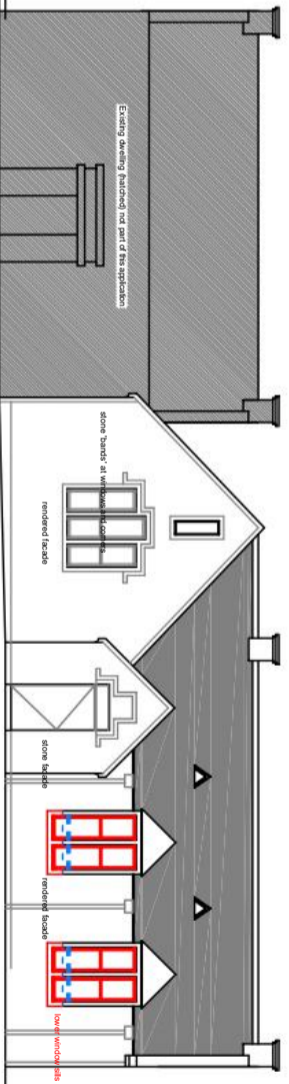
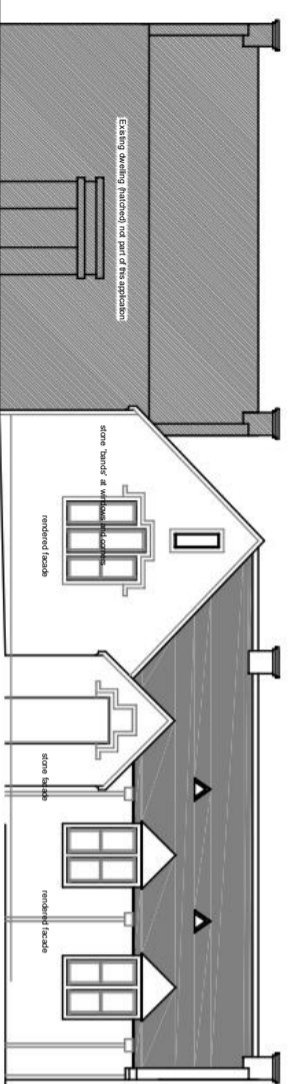
REAR ELEVATION (North)

REAR ELEVATION (North)



SIDE ELEVATION (East)

SIDE ELEVATION (East)



FRONT ELEVATION (South)

FRONT ELEVATION (South)

EXISTING ELEVATIONS

PROPOSED ELEVATIONS

Rev A & B 2023 Existing & Proposed elevations added together

Planning Ref: 2023/0000
Planning Section: 1/2023/0000

VIA MacDonald Building Design Ltd INCORPORATED
 14000 140th Street, Suite 100
 Richmond, BC V6V 1K1
 1457 WND 1002
 07 889 72005 (PH)
 www.viamacdonald.com

PROJECT
Mr & Mrs Brown
 Conversion of building at
 Seaview Caravan Park,
 Kinloss

DATE
 23.2.2020

SCALE
 1:200

DESIGNER
 VIA macdonald

0621.2417.04A

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APPENDIX 3

FURTHER REPRESENTATIONS FROM INTERESTED PARTIES

Lissa Rowan

Subject: RE: 20231220_MOD_Response

From: Adam.Scott185@mod.gov.uk <Adam.Scott185@mod.gov.uk>

Sent: 20 December 2023 12:45

To: Lindsey Robinson <Lindsey.Robinson@moray.gov.uk>

Subject: 20231220_MOD_Response

Warning. This email contains web links and originates from outside of the Moray Council network.

You should only click on these links if you are certain that the email is genuine and the content is safe.

Good afternoon Lindsey,

Thank you for consulting the Ministry of Defence (MOD) on Notice of Review reference LMR/LR297.

The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the MOD as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System.

I can confirm that, following review of the application documents, the proposed development would be considered to have no detrimental impact on the operation or capability of a defence site or asset. The MOD has no objection to the development proposed.

The MOD must emphasise that this email is provided specifically in response to the application documents and supporting information provided on the Moray Council website as of the date of this email.

Amendments to any element of the proposed development (including the location, dimensions, form, and/or finishing materials of any structure) may significantly alter how the development relates to MOD safeguarding requirements and may result in detrimental impact(s) on the operation or capability of defence sites or assets.

In the event that any:

- revised plans;
- amended plans;
- additional information; or
- further application(s)

are submitted for approval, the MOD, as a statutory consultee, should be consulted and provided with adequate time to carry out assessments and provide a formal response whether the proposed amendments are considered material or not by the determining authority.

Kind Regards

Adam Scott | Assistant Safeguarding Manager

Defence Infrastructure Organisation

Estates | Safeguarding

DIO Head Office | St George's House | DMS Whittington | Lichfield | Staffordshire | WS14 9PY

Mobile: 07814885016

Email: adam.scott185@mod.gov.uk



MORAY LOCAL REVIEW BODY

15 FEBRUARY 2024

SUMMARY OF INFORMATION FOR CASE No LR297

Planning Application 23/01062/APP – Change of use of open land to private garden at 2 Duke Street, Portgordon, Buckie, Moray

Ward 4 – Fochabers Lhanbryde

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 7 November 2023 on the grounds that:

The proposed change of use of an area of Open Space to domestic garden ground is contrary to the Moray Local Development Plan (2020) and National Planning Framework 4 for the following reasons:

1. The proposals would result in the loss of an area of identified as Open Space under ENV5 within the Moray Local Development Plan (MLDP) 2020 which would fail to comply with MLDP 2020 Policies DP1 and EP5.
2. The ENV5 Green Corridor forms part of the old railway/cycle path corridor which contributes to the setting and character of Portgordon and helps to connect the cycle path into the village centre. The location also provides amenity to the village hall opposite. Whilst the site makes up a small part of the green corridor, piecemeal erosion can negatively impact on the quality and character of the ENV and the role it plays in the setting of Portgordon and wider green networks and therefore the proposals would also fail to comply with NPF4 Policy 20 as the overall integrity of the green network would be fragmented.
3. The Tree Survey Report has not been updated to show the location of the rerouted footpath which would now go between the trees and an Arboricultural Method Statement has not been submitted which would set out how construction will minimise impacts on tree roots. As a result, MLDP 2020 Policy EP7 has not been complied with as additional information is required to confirm that the trees would be safeguarded from the impact of the construction of the path.

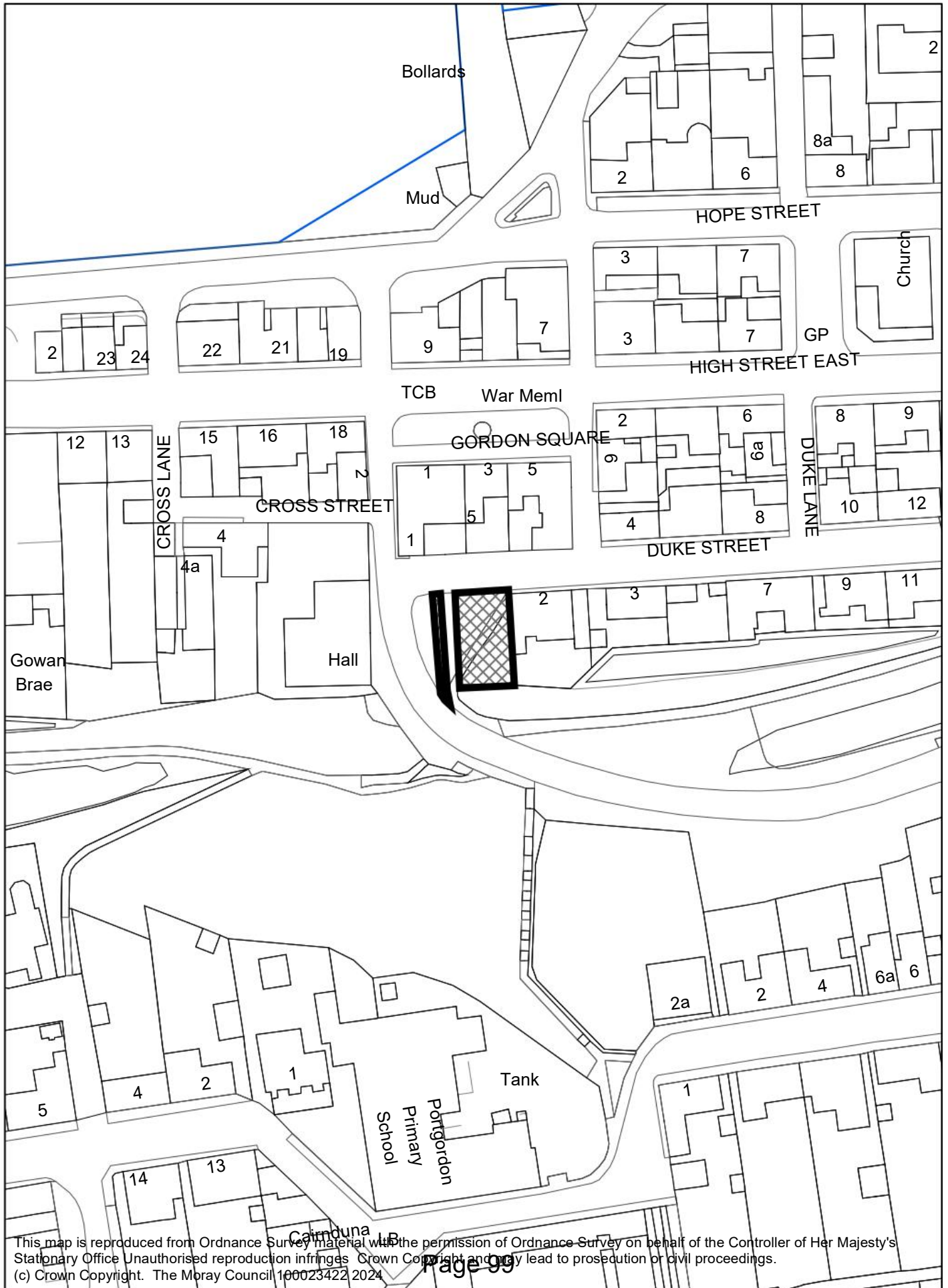
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

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

There were no further representations from any of the Interested Parties.



Location plan for Planning Application Reference Number : 23/01062/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 100633288-001

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

Type of Application

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

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

Description of Proposal

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

It is proposed to change the use of an area of land adjacent to 2 Duke Street Portgordon from open land to private garden.

Is this a temporary permission? * Yes No

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

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

No Yes – Started Yes - Completed

Applicant or Agent Details

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

Applicant Agent

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="2"/>
First Name: *	<input type="text" value="Audrey"/>	Building Number:	<input type="text" value="2"/>
Last Name: *	<input type="text" value="Murray"/>	Address 1 (Street): *	<input type="text" value="2 Duke Street"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="[REDACTED]"/>	Town/City: *	<input type="text" value="Portgordon"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB56 5RH"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="[REDACTED]"/>		

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="2 DUKE STREET"/>
Address 2:	<input type="text" value="PORTGORDON"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BUCKIE"/>
Post Code:	<input type="text" value="AB56 5RH"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="864206"/>	Easting	<input type="text" value="339629"/>
----------	-------------------------------------	---------	-------------------------------------

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

Liaison with Moray Council Planning Department on previous applications, reference numbers, 22/00905/APP and 23/00695/APP

Title:

Ms

Other title:

First Name:

Fiona

Last Name:

Olsen

Correspondence Reference Number:

23/00695/APP

Date (dd/mm/yyyy):

08/06/2023

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

Site Area

Please state the site area:

161.70

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

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

Open land

Access and Parking

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

Yes No

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

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

Yes No

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

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

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

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

Yes No

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

Yes No

Note:-

Please include details of SUDS arrangements on your plans

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

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

Yes

No, using a private water supply

No connection required

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

Assessment of Flood Risk

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

Yes No Don't Know

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

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

Yes No Don't Know

Trees

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

Yes No

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

Waste Storage and Collection

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

Yes No

If Yes or No, please provide further details: * (Max 500 characters)

All garden waste will be composted on site

Residential Units Including Conversion

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

Yes No

All Types of Non Housing Development – Proposed New Floorspace

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

Yes No

Schedule 3 Development

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

Yes No Don't Know

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

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

Planning Service Employee/Elected Member Interest

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

Yes No

Certificates and Notices

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

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

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

Yes No

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

Yes No

Are you able to identify and give appropriate notice to ALL the other owners? *

Yes No

Certificate Required

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

Certificate B

Land Ownership Certificate

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

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] 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;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

The Moray Council The Moray Council The Moray Council

Address:

The Moray Council PO Box 6760, PO Box 6760, Elgin, IV30 1BX

Date of Service of Notice: *

25/05/2022

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

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: *

Signed: Mrs Audrey Murray

On behalf of:

Date: 23/06/2023

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Yes No Not applicable to this application

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

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

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

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. *	≤	Yes	T	N/A
A Design Statement or Design and Access Statement. *	≤	Yes	T	N/A
A Flood Risk Assessment. *	≤	Yes	T	N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤	Yes	T	N/A
Drainage/SUDS layout. *	≤	Yes	T	N/A
A Transport Assessment or Travel Plan	≤	Yes	T	N/A
Contaminated Land Assessment. *	≤	Yes	T	N/A
Habitat Survey. *	≤	Yes	T	N/A
A Processing Agreement. *	≤	Yes	T	N/A

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

Declare – For Application to Planning Authority

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

Declaration Name: Mrs Audrey Murray

Declaration Date: 23/06/2023

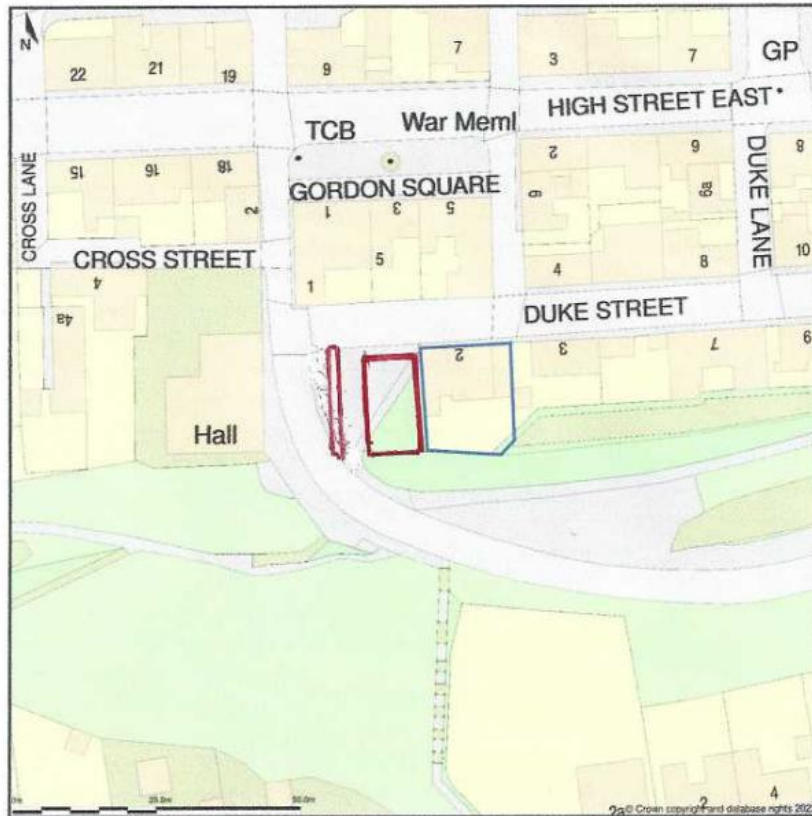
Payment Details

Online payment: 023122

Payment date: 23/06/2023 14:19:59

Created: 23/06/2023 14:20

2. Duke Street, Portgordon, Moray, AB56 5RH - Change of Use from Open Space to Private Garden
Location Plan



Location Plan shows area bounded by: 339551.33, 864126.88 339692.75, 864269.3 (at a scale of 1:1250), OSGridRef: NJ39626419. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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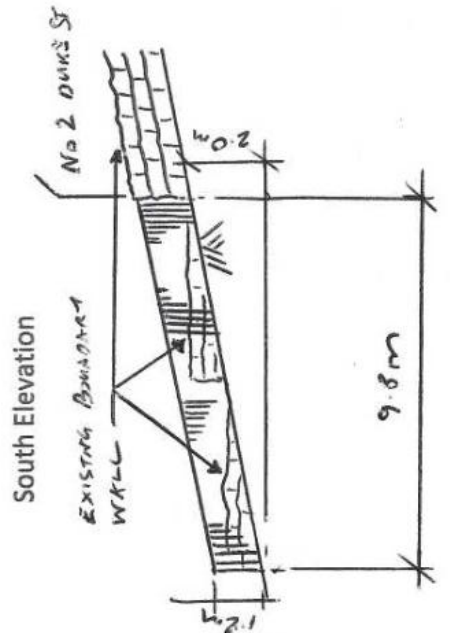
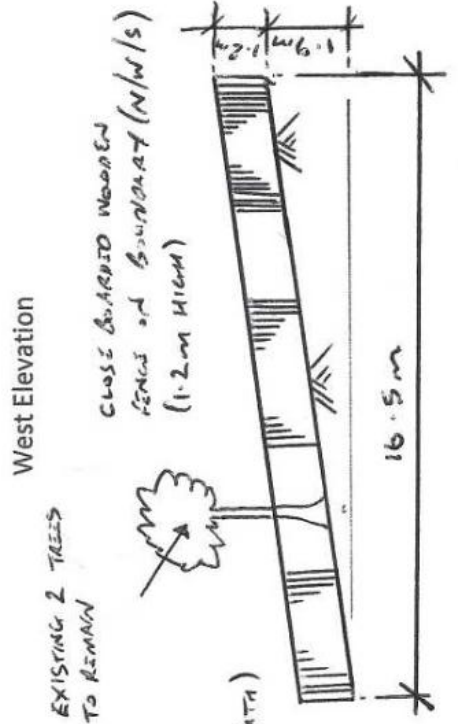
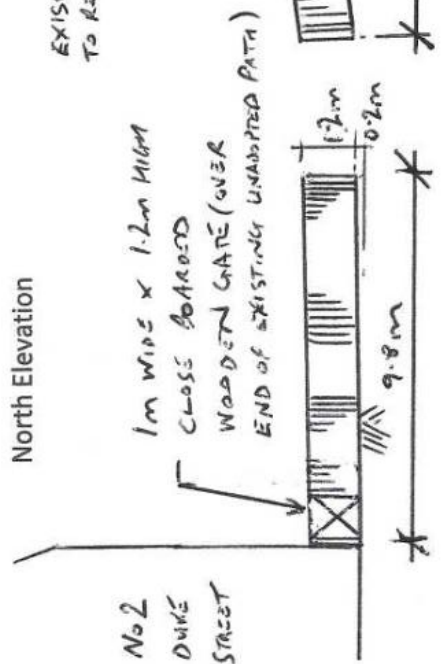
Drawing Title:

2 Duke Street, Portgordon, AB56 5RH
Planning Application
Change of Use to Private Garden

Applicant:

Mr & Mrs D. Murray
2 Duke Street
Portgordon
Banffshire
AB56 5RH

Drawn: DM Date: 20/04/23 Scale: 1:200
Drawing No. 3 – Proposed Boundary Fence
Elevations (North / West / South) 1:200



2. Duke Street, Portgordon, Moray, AB56 5RH - Change of Use from Open Space to Private Garden
- Site Plan








Site Plan (also called a Block Plan) shows area bounded by: 339604.04, 864179.59 339640.04, 864215.59 (at a scale of 1:200), OSGridRef: NJ39626419. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Notes/Key:

1.  Boundary of land owned by applicant.
2.  Boundary of land subject to change of use (from open space to private garden) and new unadopted footway.
3.  Close boarded wooden fence around new boundary, 1.2m high with 1m wide pedestrian gate in NW corner (Fence on southern boundary to be erected on Council land as agreed with Estates (ref letter dated 25/02/22))
4.  Existing trees (2no) to be retained as per tree report.
5. 
6. New footway specification to be whin dust (semi tray excavation) as agreed with Council Planning and Transportation (Roads Development) teams (ref discussions 07/06/23) with construction to be as per drawing and specification no SD/WDP/02. 1.2m wide as per existing unadopted footway x approx. 190mm deep, 100mm thick type 1 granular sub-base and 25mm thick quarry whinstone surface course.

Applicants Statement to Support the Planning Application for the change of use of the ground adjacent to 2 Duke Street Portgordon

We would be grateful if the history of the area of ground at the side of our house could be considered as part of our planning application as it has not always been a green corridor area. The land is currently owned by The Moray Council whose Estates Department have agreed to the sale, confirmed in May 2022.

Prior to 1977, the area had long been used as a private yard for industrial/commercial purposes (as noted from photographic records), leased by the Crown Estate Commissioners to a tenant. There had also been a building on the site.

In 1978 and then in 1979 the railway line to the west and then the east of the site was purchased by Moray District Council for the specific purpose of providing amenity areas such as a play park, bowling green and country type walks.

The land at Duke Street immediately west of No 2 was purchased by Grampian Regional Council Roads Department from The Crown Estate Commissioners in January 1977 for the specific purposes of constructing a road improvement, linked to the removal of the existing railway bridge.

Following our approach to Moray Council's Estates team in 2021, there was subsequent consultation and site meetings with Moray Council Roads Service who confirmed that on the basis that the existing substandard footway was rerouted at our expense and that visibility was maintained at the junction, Roads were prepared to declare the area was surplus to their requirements.

Following the land sale consultation phase, in their letter dated 25-05-2022, the Estates Team agreed to the sale of the land subject to planning permission.

It is appreciated that in the 2020 Local Plan, both the railway line and the grassed area west of 2 Duke Street are categorised as an 'ENV5 Green Corridor' area. However, while it is recognised that land use can change over time, the land purchased by the Roads Department in 1977 was not purchased specifically for amenity value. Indeed, during 2019 and 2020 due to financial constraints, Moray Council took the decision to stop cutting the grass in this area and, had it not been for our intervention in maintaining part of the area ourselves over this 2-year period, the area would have been left to grow wild, with no apparent alternative maintenance plan in place. This indicates to us that the area was not considered to be of high public amenity value and undermines the case for protection under the local plan.

The Moray Council's " Moray Food Growing Strategy 2020 " guidance document, developed to support the Moray Local Development Plan 2020, aims to ensure that there are more opportunities for people who would like to grow their own food. They recommend a variety of food growing spaces and many communal open spaces have been identified within this document as potential food growing sites.

There is a community garden in Portgordon at which we volunteer, but there is no allotment provision and at the moment there does not seem to be a plan to provide this in our area. The purchase of the land next to our house would allow us to grow the fruit and vegetables to sustain our family and also to have the space to compost our garden waste and some of the household waste as well as the positive impact the garden would have on our mental health and that of our visiting friends and family.

Applicants Statement to Support the Planning Application for the change of use of the ground adjacent to 2 Duke Street Portgordon

We feel passionately about increasing the biodiversity of the area and this space would give us the opportunity to increase the area for birdlife, insects, bees, and amphibians which are all present in our existing small garden. We envisage using a variety of plants and flowers as well as creating small habitat areas for these creatures. The Moray Food Growing Strategy states as one of its actions to prepare and demonstrate how food growing can be integrated into green and blue networks to support biodiversity enhancement as well as to deliver allotment sites and food growing areas.

We noted the previous concerns of the Planning Department about the re-routed path impacting on the tree roots and have since commissioned an Arborist to complete a tree survey and report. The option of rerouting the path between the trees using a whin dust construction would support the requirement to protect the trees.

There were no objections to the previous planning application, (22/00905/APP), from neighbours, or the Hall Committee and we do have local support to see the ground used to grow food and increase the biodiversity of this area. We have been given compliments for 26 years now from villagers appreciating the floral display we have maintained at the side of our house and have shown our commitment to maintaining this area.

TREE SURVEY REPORT

PROPOSED CHANGE OF LAND USE AT

**2 DUKE STREET
PORTGORDON
MORAY**

March 2023

Prepared by:

Struan Dalgleish Arboriculture
The Bothy
Drumoak
Aberdeenshire
AB31 5EP

struan@sdarbor.com

For:

Derek and Audrey Murray
2 Duke Street
Portgordon
Moray
AB56 5RH

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APPENDIX 1 – Tree Survey Drawing

APPENDIX 2 – Tree Survey Schedule

Explanation of terms

1.0 INTRODUCTION

This tree survey and report relates to two (2) trees which occur within an area of public green space adjacent to the property at 2 Duke Street, Portgordon, Moray.

It was commissioned by the Derek and Audrey Murray, owners and occupiers of 2 Duke Street in support of Planning Application 22/00905/APP, to change the land use to private garden.

The survey and assessment has been carried out in accordance with BS5837:2012 '*Trees in relation to design, demolition and construction – Recommendations*' and sets out to achieve the following objectives.

1. To provide details of trees in close proximity to the planning application area.
2. To assess the impact the required re-alignment of the footpath and installation of new fence would have on the trees.
3. To make recommendations for tree management in light of the proposals.

The area to be included by the survey was indicated on a sketched site drawing, showing the proposed location of the re-aligned path and new garden fence.

Trees in close proximity were subject to detailed visual inspection undertaken from ground level by Arboricultural Consultant, Struan Dalgleish on 10th March 2023. Weather conditions at the time were dull and overcast with a thin layer of snow on the ground.

Tree numbers, trunk positions, crown spreads, and root protection areas have been added to the drawing using CAD. See Appendix 1 – Tree Survey Drawing.

Details of the trees and recommendations for their management have been recorded in spreadsheet format in Appendix 2 - Tree Survey Schedule.

Author's qualifications: Struan Dalgleish is a Chartered Forester (MICFor) and Chartered Environmentalist (CEnv). He holds an Honours Degree in Forestry and is a Professional Member of the Arboricultural Association. He has over 23 years of experience of arboriculture at a professional level.

1.1 Limitations

- ❑ The findings and recommendations contained within this report are valid for a period of twelve months from the date of survey (i.e. until 10th March 2024). Trees are living organisms subject to change and it is strongly recommended that they are inspected on an annual basis for reasons of safety.

- ❑ The recommendations relate to the site as it exists at present, and to the current level and pattern of land use. The degree of risk and hazard may alter if the site or its surroundings are developed or changed, and as such re-inspection and re-appraisal may be required.

- ❑ The report relates only to those trees shown on the attached Tree Survey Drawing in Appendix 1. Trees elsewhere have not been inspected.

- ❑ Whilst every effort has been made to detect defects within the trees inspected, no guarantee can be given as to the absolute safety or otherwise of any individual tree. Extreme climatic conditions can cause damage to even apparently healthy trees.

- ❑ Dense ivy, shrubs and epicormic shoot growth around the base of trees can make full and thorough inspection impractical. Tree assessment is based on the visible parts of the trees only. Further inspection maybe required following the cutting back of basal growth.

- ❑ This report has been prepared for the sole use of Derek and Audrey Murray and their appointed agents. Any third party referring to this report or relying on the information contained herein does so entirely at their own risk.

2.0 TREE SURVEY METHODOLOGY

The trees are easily identifiable and have not been tagged. They are numbered 1 and 2 on the Tree Survey Drawing and Schedule.

Trunk positions were measured on site with a 30m tape have been plotted onto the supplied site drawing, which has been digitized using CAD. While a reasonable degree of accuracy can be assumed, absolute precision cannot be guaranteed. Where a higher degree of accuracy is necessary trees and existing site features should be plotted by a topographical surveyor.

Crown spread, measured to the nearest 0.5m, and Root Protection Areas (RPA's), calculated in-accordance with BS 5837:2012 have been added to the drawing.

An assessment of the impact the proposed path and fence would have on the trees has been made. Tree work to accommodate construction and tree protection measures require during the process are identified.

3.0 TREE SURVEY RESULTS

3.1 General Description

The two semi-mature trees occur 2.6m apart, measured to trunk centres, on an area of flat and level mown grass which adjoins the gable-end of the house at 2 Duke Street.

The larger tree, a sycamore (*Acer pseudoplatanus*) is in good condition with a well-formed spreading crown. It is of healthy vigour and a small wound on the lower trunk, which has closed. The base of the trunk occurs 11.3m from the property wall to the east, 7.8m from the road to the north and 6.7m from the road to the west.

The smaller tree, a rowan (*Sorbus aucuparia*) is considered to be in fair condition. It displays a restricted spread, lower branches have been pruned and has a small wound, probably caused by mowing or strimming at the base. The base of the trunk occurs 14m from the house wall to the east, 8.1m from the road to the north and 4.1m from the road to the west.

The area of land is currently owned and managed by Moray Council.

3.2 Tree Condition and Preliminary Recommendations

No significant issues relating to the health and condition of the trees were noted and no essential preliminary tree work is required for reasons of safety.

The trees occur within a frequently accessed area and should be subject to routine inspection. It is recommended this is carried out by a suitably qualified and experienced arborist. on a 5-yearly period

Additional inspections may be required in the aftermath of severe storms.

3.3 Photographs

The photographs below show the trees at the time of assessment.



Photo 1 – Trees in proximity of 2 Duke Street.



Photo 2 – Taller semi-mature sycamore and smaller rowan.

4.0 TREES AND DEVELOPMENT

To help inform the development process the trees have been provided with a retention category and root protection area (RPA) in-accordance with BS 5837:2012 '*Trees in relation to design, demolition and construction – recommendations*'.

4.1 Tree Retention Category

Retention category is intended to give an indication of the value of the tree and its suitability for retention within the development context.

It grades the trees in terms of quality and takes account of health, condition, and future life expectancy.

Small or relatively young trees may receive a lower grading where they could be easily replaced.

Trees with a **Category A** grading are of highest quality and value and often have a life expectancy of +40 years.

Trees with a **Category B** grading are of moderate quality and value and often have life expectancy of +20 years.

Trees with a **Category C** grading are of low quality and value either due to their poor condition and limited life expectancy, or relatively young age.

Where trees are considered to have a <10 years' life expectancy they have been graded **Category U** and could be removed for reasons of good arboricultural practice.

4.2 Root Protection Areas

Root Protection Areas (RPA's) are areas surrounding the tree that contains sufficient rooting volume to ensure its survival.

These have been calculated in-accordance with BS 5837:2012 and are shown as a dark circle around the trunk position as shown on the Tree Survey Drawing.

RPA's have also been provided in the Tree Survey Schedule as the radius of a circle to be measured from the base of the trunk.

Where trees have grown-up next to physical barriers such as very hard compacted soils, deep foundations or water courses the development of roots may have been restricted.

The default position of BS 5837:2012 is that where tree health is to be protected new structures should be located outside the RPA.

4.3 Arboricultural Impact Assessment and Tree Protection Plan

The proposed site layout drawing has been used to assess the impact the construction would have on trees and the following comments made.

1) Impact of New Footpath on Roots

The proposed footpath, in the location shown on the drawing is to be constructed around 1m from the base of Tree 2, the rowan.

This appears likely to impact around 13% of the calculated Root Protection Area (RPA).

This relatively small incursion is likely to have a fairly minor impact on tree health, although it is possible the life expectancy will be reduced as a result of the work.

The tree is considered to be Category C – of low quality and value and of limited life expectancy.

It could be retained, and its condition monitored.

Replacement planting of 2 new rowan trees should be established nearby to mitigate for the impacts.

The base of Tree 1, the sycamore will be approximately 3.7m from the footpath and unlikely to be significantly impacted by the construction of the footpath.

2) Tree Protection Barrier

During construction a temporary Tree Protection Barrier should be erected to protect the undisturbed rooting area, trunk and branches of the trees.

The proposed layout of the Tree Protection Barrier is shown on the Tree Survey Drawing in Appendix 1.

A suitable Tree Protection Barrier could be constructed as illustrated over-page.

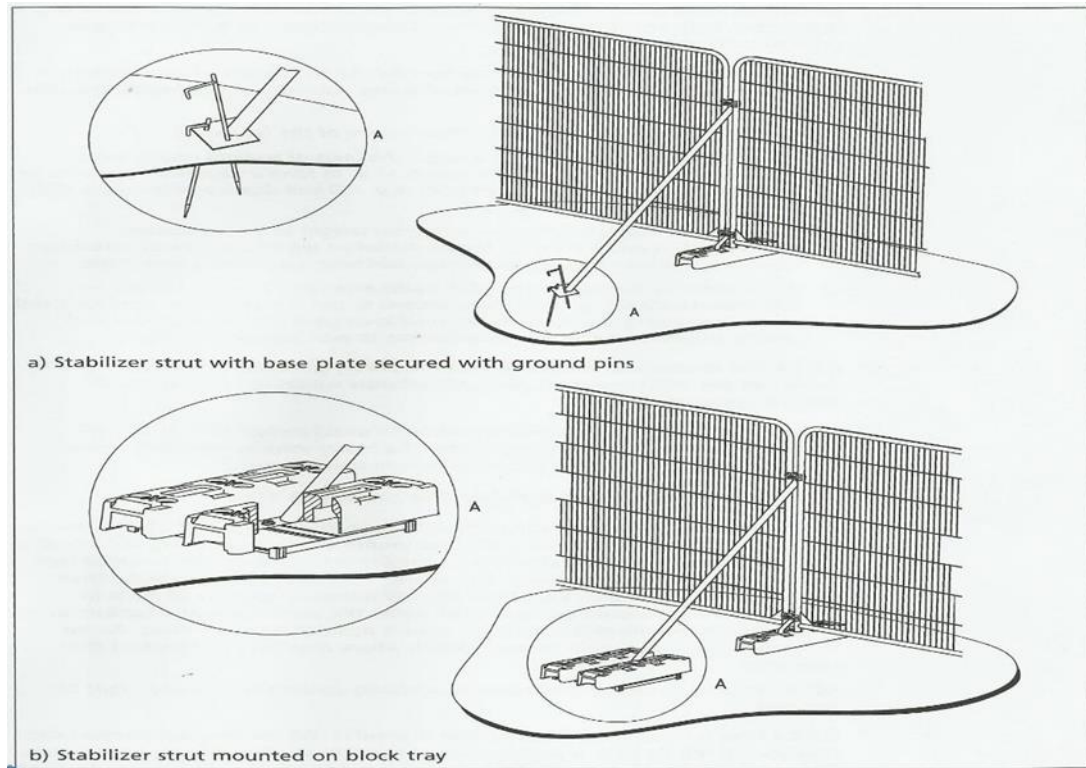


Figure 1 – BS 5837:2012 Tree Protection Barrier

3) Impact of New Fence

The new fence proposed is to be 1.2m tall and will be constructed beneath the canopy of the sycamore without the need for pruning.

To minimize the new fences impact on tree roots, excavation and the use of cement within the rooting area should be avoided.

Within the RPA fence posts should be supported on metal spiked feet driven into the ground.

4.4 New Tree Planting

There is significant scope within the area to establish new tree(s) to mitigate the impact re-aligning the footpath has on the rowan tree.

Trees of small to medium mature size would be best suited to the built-up area.

The planting of 2 rowan (*Sorbus aucuparia*) trees at locations identified on the Tree Survey Drawing is suggested.

The trees should be well suited to the site conditions and as native species will bring biodiversity benefits in the long term.

Tree planting should be carried out by a competent person on completion of the construction of the footpath.

Planting should be undertaken in a period of frost-free weather during the dormant season (October to March).

Young trees should be obtained from a local nursery as healthy 1.5m tall, light-standards.

The newly planted trees may require to be supported with a stake and where grazing rabbits maybe an issue suitable tree protection will be required.

Prior to digging a planting hole turf should be stripped from a 1m diameter circular planting area.

On completion of planting this area should be mulched with well composted wood chips to help retain soil moisture and provide organic material to encourage the establishment of the trees.

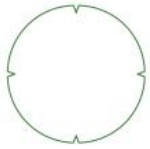
Mulch should be topped up annually and the mulched area kept weed free until the trees are well established.

Additional watering will be required during periods of drought.

APPENDIX 1 – TREE SURVEY DRAWING

Key –

Scale: 1:125 at A4



Tree to be retained.



Root Protection Area (RPA) calculated in accordance with BS 5837



Location of proposed new tree planting

BS 5837: 2012 Tree Category Grading Colour Coding



Category A tree - High quality and value: considered to make a substantial contribution (+40 years).



Category B tree - Moderate quality and value: considered to make a significant contribution (minimum of 20 years).



Category C tree - Low quality and value: currently in adequate condition to remain until new planting could be established (minimum of 10 years), or young trees with a diameter <150mm.



Category U tree - Any existing value would be lost within 10 years and which should, in the current context could be removed for reasons of sound arboricultural management.

APPENDIX 2 – TREE SURVEY SCHEDULE

Explanation of Tree Survey Schedule Terms

Tree No.	Identification number of tree as shown on drawing and schedule.
Species	Common name of species.
Ht. (m)	Height of tree assessed in metres
Dia. (mm)	Diameter at breast height, measured in millimetres at 1.5m.
Crown Spread (m)	Spread of branches from centre of trunk to drip line in N, E, S and W directions.
Ht. Cl. (m)	Minimum crown clearance above ground level, estimated in meters.
Age class	Young, semi-mature, mature, veteran.
Condition	Overall physiological and structural condition: Good, fair, poor, dead. See explanation over page.
Comments	General comments, made as required, relating to health, structural condition and form, highlighting any defects or areas of concern.
Life Exp. (yrs)	Estimated remaining contribution, estimated in years e.g. <10, 10-20, 20-40, +40.
Retention Category	BS 5837 category grading: Tree quality assessment – see explanation over page.
RPA radius (m)	Root Protection Radius calculated in accordance with BS 5837:2012
Recommendation	Tree work in the interest of good arboricultural management or to accommodate the development.

Tree Condition Categories

Good	<ul style="list-style-type: none">(1) Healthy trees with no major defects(2) Trees with a considerable life expectancy(3) Trees of good shape and form
Fair	<ul style="list-style-type: none">(1) Healthy trees with small or easily remedied defects(2) Trees with a shorter life expectancy(3) Trees of reasonable shape and form
Poor	<ul style="list-style-type: none">(1) Trees with significant structural defects and/or decay(2) Trees of low vigour and under stress(3) Trees with a limited life expectancy(4) Trees of inferior shape and form
Dead	<ul style="list-style-type: none">(1) Dead trees

Category Grading

Categories for tree quality assessment, based on guidance given in British Standard BS 5837: 2012 'Trees in relation to design, demolition and construction – Recommendations

Trees unsuitable for retention (see Note)

Category and definition	Criteria – Subcategories
<p>Category U</p> <p>Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years</p>	<p>Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning)</p> <p>Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline</p> <p>Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality</p> <p><i>NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve.</i></p>

Trees to be considered for retention

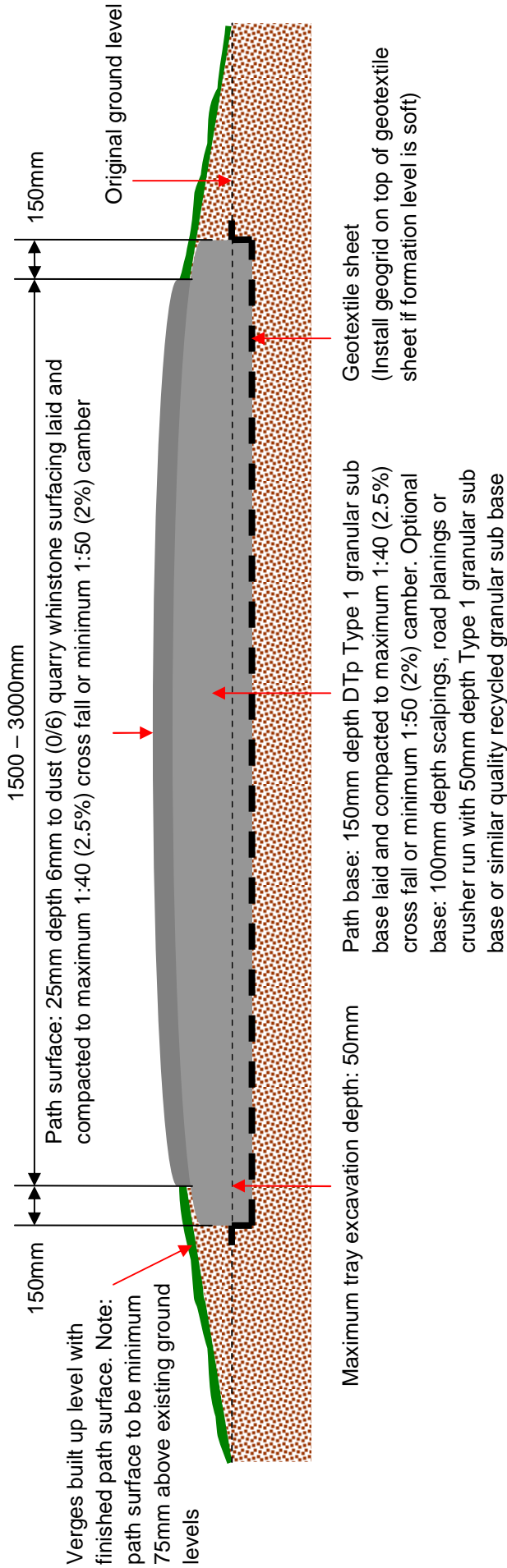
Category and definition	Criteria – Subcategories		
<p>Category A</p> <p>High quality and value with an estimated life expectancy of at least 40 years.</p>	<p>1 Mainly arboricultural values</p> <p>Particularly good example of their species, especially if rare or unusual; or those that are essential components of formal or semi-formal arboricultural feature (e.g. principle trees in avenues)</p>	<p>2 Mainly landscape values</p> <p>Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features.</p>	<p>3 Mainly cultural values, including conservation</p> <p>Trees, groups or woodlands of significant conservation, historical, commemorative or other value (e.g. veteran trees or wood-pasture).</p>
<p>Category B</p> <p>Moderate quality and value with an estimated life expectancy of at least 20 years.</p>	<p>Trees that might be in category A, but are downgraded because of impaired condition (e.g. presence of significant though remediable defects, including unsympathetic past management or storm damage), such that they are unlikely to be suitable for retention for beyond 40 years; or trees lacking the special quality necessary to merit the category A designation.</p>	<p>Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality.</p>	<p>Trees with material conservation or other cultural value.</p>
<p>Category C</p> <p>Low quality and value with an estimated life expectancy of at least 10 years, or young trees with a diameter <150mm.</p>	<p>Unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.</p>	<p>Trees present in groups or woodlands, but without this conferring on them significantly greater landscape value, and/or trees offering low or only temporary/transient landscape benefit.</p>	<p>Trees with no material conservation or other cultural value.</p>

Tree ID	Species	Ht. (m)	Dia. (mm)	Crown Spread (m)				Ht. Cl. (m)	Age Class	Condition	Comments	Life Exp.	Retention Category	Root Protection Radius (m)	Recommendations
				N	E	S	W								
1	Sycamore	9	300	3	4	4	4	3	Semi mature	Good	Well formed. Old wound on lower trunk has closed.	40+yrs	B	3.6	1.2m tall fence to be erected beneath canopy. Within the RPA, fence posts should be supported by spiked metal bases driven into the ground to avoid the need for excavation and cement.
2	Rowan	6	120: 120	0.5	1	2	2	3	Semi mature	Fair	Restricted spread from fork near base. Small wound at base.	10-20yrs	C	2	Formation of proposed path would impact around 13% of the rooting area. This relatively small incursion is likely to have a fairly minor impact on the health of the tree in the short term. Its condition should be monitored. New planting of 2 rowans would be provided to mitigate the impact.

Tree ID 135

Construction notes:

1. Stripped turfs and excavated soil to be re-used to form verges and stabilise path edges.
2. Lay path base and surface with drag box if available.
3. Path base and surface to be laid to maximum 1:40 (2.5%) cross fall or minimum 1:50 (2%) camber and compacted to refusal using heavy vibrating roller (minimum 120 type roller recommended).
4. Surface regularity - maximum 10mm gap under 3.0 metre straight edge placed along the base surface and maximum 5mm gap for path surface.
5. Soft spots to be excavated and filled with lower quality sub base e.g. scalplings, crusher run, crushed demolition waste.
6. This drawing should be read in conjunction with specification details SPEC/WDP/02. Granular sub base to be produced according to SHW Clause 803.



This standard detail is indicative only and not intended to be relied upon in specific site cases. A designer should satisfy themselves of site conditions and vary details and dimensions to suit. Paths for All accept no liability for any inaccuracies or for any loss, expense, damage or injury or accident arising from the use or application of information contained here in.



Whin Dust Path (Semi Tray Excavation) Standard Detail

Date: 08/06/11

Scale: Not to scale

Drawn by: Technical Officer

Drawing nr: SD/WDP/02

SPECIFICATION DETAILS – SPEC/WDP/02

Whin Dust Path

Note: These specification details should be read in conjunction with standard detail drawing SD/WDP/02 – Whin Dust Path (Semi Tray Excavation).

Material Specification Details

Sub base layer	40mm (0/40) or 20mm (0/20) DTp Type 1 granular sub base. Optional base: scalpings, road planings, crusher run or crushed demolition waste with DTp Type 1 granular sub base or similar quality recycled granular sub base laid on top
Surface layer	6mm (0/6) quarry whin dust
Geotextile (If required)	Autoway 120 or alternative equivalent product grade (Terram 2000, Lotrak 16/15)
Geogrid (If required)	Auto Grid

Construction Specification Details

Formation tray excavation

- Excavate the ground to expose sub soil and grade out irregularities to form 1.8m wide formation tray (width of formation tray for 1.8m wide path base with 1.5m wide path surface) to maximum depth of 50mm below ground levels.
- Formation tray should be rectangular in section with vertical sides and level base.
- Stripped vegetation and excavated topsoil to be stacked neatly either side of formation tray to form raised path shoulders.
- If soft spots are present, excavate the area below formation level until the sub grade is stable. Back fill with scalpings, crusher run or crushed demolition waste to formation level and compact to refusal.

Geotextile sheet installation (including geogrid if required)

- Lay and secure geotextile sheet in formation tray. Geotextile sheet should line the base and both sides. Overlap joining sheets by 1.0m.
- Lay and secure geogrid on top of geotextile sheet. Geogrid should not protrude up the sides of the formation tray. Overlap joining sheets by 1.0m.

Sub base layer

- Using a drag box lay 150mm depth of DTp Type 1 granular sub base upon the geotextile sheet in the formation tray to falls and levels, to form 1:50 (2%) camber or 1:40 (2.5%) crossfall. If no drag box is available, DTp Type 1 granular sub base should be laid, spread and raked to falls and levels using asphalt rake.

- Compact sub base layer thoroughly to refusal using a heavy ride-on tandem vibrating roller until full compaction is achieved (minimum 120 type roller recommended).
- Once sub base layer is compacted, check levels of the surface at regular intervals along the compacted sub base layer for consistent even surface regularity, which should be accurate to maximum gap of 10mm under a 3metere long straight edge, with no high or low points or hollows.
- Any part of the sub base layer deviating from the required level must be raked off or topped up with additional DTp Type 1 granular sub base and re-compacted to the correct levels.
- Check the finished compacted sub base layer is closed tightly with no exposed surface voids before laying the surface layer. If necessary, fill any voids with 6mm quarry whin dust.

Surface layer

- Using drag box lay 25mm depth of 6mm quarry whin dust to falls and levels, to form 1.5m wide path surface with 1:50 (2%) camber or 1:40 (2.5%) crossfall along the centre line of compacted sub base layer. If no drag box is available, 6mm quarry whin dust should be laid, spread and raked to falls and levels using asphalt rake.
- Compact surface layer thoroughly to refusal using a heavy ride-on tandem vibrating roller and continue rolling non-stop until there is no roller marks in the finished surface (minimum 120 type roller recommended).
- Once rolling is finished, check levels of the surface at regular intervals along the compacted surface layer for consistent even surface regularity, which should be accurate to maximum gap of 5mm under a 3metere long straight edge, with no high or low points or hollows.
- Any part of the surface layer deviating from the required level must be raked off or topped up with additional 6mm quarry whin dust and re-compacted to the correct levels.

Landscaping

- Both sides of path form and build up verges level with path surface using available topsoil and turfs to cover path base edges and to support path surface edges. Butt turfs tightly together to cover exposed roots and topsoil.
- Landscaped verges and edges should be finished level with path surface and taper down and away from the path surface to allow surface water to run off onto adjacent verges unimpeded by landscaped materials.

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/01062/APP
Nature of Proposal (Description)	Change the use of open land to private garden at
Site	2 Duke Street Portgordon Buckie Moray AB56 5RH
Site Postcode	N/A
Site Gazetteer UPRN	000133029785
Proposal Location Easting	339629
Proposal Location Northing	864206
Area of application site (M²)	162
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RWUJE1BGHFE00
Previous Application	22/00905/APP 23/00695/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Audrey Murray
Applicant Organisation Name	
Applicant Address	2 Duke Street Portgordon Buckie Moray AB56 5RH
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@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: Estates, Central Services

Planning Application Ref. No: 23/01062/APP

Change the use of open land to private garden at 2 Duke Street Portgordon Buckie Moray for Mrs Audrey Murray

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

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

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Cameron Queen
email address: cameron.queen@moray.gov.uk
Consultee: MC Estates

Date...26 June 2023.....
Phone No ...07855146198.....

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.

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/01062/APP
Nature of Proposal (Description)	Change the use of open land to private garden at
Site	2 Duke Street Portgordon Buckie Moray AB56 5RH
Site Postcode	N/A
Site Gazetteer UPRN	000133029785
Proposal Location Easting	339629
Proposal Location Northing	864206
Area of application site (M²)	162
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RWUJE1BGHFE00
Previous Application	22/00905/APP 23/00695/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Audrey Murray
Applicant Organisation Name	
Applicant Address	2 Duke Street Portgordon Buckie Moray AB56 5RH
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

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Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 23/01062/APP

Change the use of open land to private garden at 2 Duke Street Portgordon Buckie Moray for Mrs Audrey Murray

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

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

Condition(s)

1. Prior to the erection of the new site boundary a replacement 1.2m wide footpath shall be constructed in accordance with the agreed specification at the location shown on 'Site Plan' drawing submitted 29 June 2023. Note – the footpath shall remain private and shall not be adopted by the Roads Authority.

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

2. New boundary walls/fences fronting onto Duke Street shall be set back from the edge of the public carriageway at a minimum distance of 2.0m.

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

3. The opening path of the new access gate shall be fully contained within the site and not encroach onto the public verge.

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

Further comment(s) to be passed to applicant

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

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.

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

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.

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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Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/01062/APP
Nature of Proposal (Description)	Change the use of open land to private garden at
Site	2 Duke Street Portgordon Buckie Moray AB56 5RH
Site Postcode	N/A
Site Gazetteer UPRN	000133029785
Proposal Location Easting	339629
Proposal Location Northing	864206
Area of application site (M²)	162
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RWUJE1BGHFE00
Previous Application	22/00905/APP 23/00695/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Audrey Murray
Applicant Organisation Name	
Applicant Address	2 Duke Street Portgordon Buckie Moray AB56 5RH
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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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: Aberdeenshire Council Archaeology Service

Planning Application Ref. No: 23/01062/APP

Change the use of open land to private garden at 2 Duke Street Portgordon Buckie Moray for Mrs Audrey Murray

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

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

Reason(s) for objection

None

Condition(s)

None

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Claire Herbert
email address:
archaeology@aberdeenshire.gov.uk
Consultee: Archaeology service

Date...04/07/2023.....
Phone No01467537717

Return response to

consultation.planning@moray.gov.uk

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

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Moray Access Manager

Planning Application Ref. No: 23/01062/APP

**Change the use of open land to private garden at 2 Duke Street Portgordon Buckie
Moray for Mrs Audrey Murray**

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

- | | Please |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | x
<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 |
x |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below |

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

Reason(s) for objection

Condition(s)

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Ian M Douglas

email address:ian.douglas@moray.gov.uk

Date06/07/2023.....

.....

Phone

7049.....

No

Consultation Request Notification – Development Plans

Planning Authority Name	Moray Council
Response Date	10th July 2023
Planning Authority Reference	23/01062/APP
Nature of Proposal (Description)	Change the use of open land to private garden at
Site	2 Duke Street Portgordon Buckie Moray AB56 5RH
Site Postcode	N/A
Site Gazetteer UPRN	000133029785
Proposal Location Easting	339629
Proposal Location Northing	864206
Area of application site (M²)	162
Additional Comments	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RWUJE1BGHFE00
Previous Application	22/00905/APP 23/00695/APP
Date of Consultation	26th June 2023
Is this a re-consultation of an existing application?	No
Applicant Name	Mrs Audrey Murray
Applicant Organisation Name	
Applicant Address	2 Duke Street Portgordon Buckie Moray AB56 5RH
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Iain T Drummond
Case Officer Phone number	01343 563607
Case Officer email address	iain.drummond@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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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:-

PLEASE COMPLETE AND RETURN WITHIN 48 HOURS
to consultation.planning@moray.gov.uk

MORAY COUNCIL PLANNING CONSULTATION RESPONSE

From: Development Plans

Planning Application Ref. No: 23/01062/APP

Change the use of open land to private garden at 2 Duke Street Portgordon Buckie Moray for Mrs Audrey Murray

Ward: 04_17 Fochabers Lhanbryde

DETERMINATION - DEPARTURE FROM DEVELOPMENT PLAN

(For Structure/Local Plan Comment)

		Page No	Policy No(s)	Yes	No
1	Departure from Moray Local Development Plan 2020		Policy EP5 Open Space Policy EP7 Forestry, Woodland and Trees	X X	
2	NPF4		Policy 20 Blue and Green Infrastructure	X	
3	Further Discussion Required				

REASONING FOR THIS DECISION:

POLICY COMMENTS

Moray Local Development Plan 2020

Policy EP5 Open Space and ENV5

The site forms part of the ENV5 Green Corridor at Portgordon. Policy EP5 Open Space states that development that would result in a change of use of an ENV designation to anything other than an open space use will be refused. The proposal to change the open space to private garden ground is therefore not supported by policy. The site is part of the ENV5 Green Corridor that forms part of the old railway/cycle path corridor. The area contributes to the setting and character of Portgordon and helps to connect the cycle path into the village centre. The location also provides amenity to the village hall opposite. Whilst the site makes up a small part of the green corridor piecemeal erosion of this can incrementally negatively impact on the quality and character of the ENV and the role it plays in the setting of Portgordon and wider green networks.

The principle of the proposal is not supported by policy EP5.

Policy EP7 Forestry, Woodland and Trees

Policy EP7 Forestry, Woodland and Trees states that where trees exist on or bordering a site a tree survey, tree protection plan and a mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be impacted by construction activity. Whilst it is not proposed to remove trees it appears that the re-routed footway and fencing could impact on trees and their roots. The applicant has submitted a Tree Survey Report completed by a Member of the Arboricultural Association. The survey has been carried out in accordance with BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations'. This confirms the condition and health of two trees adjacent to 2 Duke Street and includes a plan showing the root protection area. The Tree Survey states that tree protection barriers should be installed and the proposed garden fence should avoid using cement with post driven into the ground to avoid excavation within the root protection area. However, the tree report does not appear to have been updated to show the revised path route which now goes between the two trees. This would suggest the root protection area of both trees could be impacted rather than the one referred to in the report. Whilst additional information has been submitted this is not an Arboricultural Method Statement setting out how construction will minimise impacts on tree roots and does not provide sufficient information to confirm the trees would be safeguarded from impacts. Further information is required to confirm compliance with policy EP7.

National Planning Framework 4 (NPF4)

Policy 20 Blue and Green Infrastructure

Policy 20 states that development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained. The proposal represents a net loss of green infrastructure. The site is part of the ENV5 Green Corridor within the LDP that forms part of the old railway/cycle path corridor. The proposal site helps connect the cycle path into the village centre. The location also provides amenity to the village hall opposite. Whilst the proposal site makes up a small part of the green corridor piecemeal erosion of this can incrementally negatively impact on the quality and character of the ENV and the role it plays in wider green networks.

In conclusion the proposal is a departure from policy EP5 Open Space as it proposes to change an ENV to private garden ground and further information is required in respect of an updated tree survey and a method statement for the construction of the footpath to demonstrate compliance with EP7 Forestry, Woodland and Trees.

Contact: Rowena MacDougall

Date.....29/09/23.....

email address:Rowena_macdougall@moray.gov.uk

Phone No

Consultee: Development Plans

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.

REPORT OF HANDLING

Ref No:	23/01062/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Change the use of open land to private garden at 2 Duke Street Portgordon Buckie Moray		
Date:	03.11.2023	Typist Initials:	LMC

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 Objections subject to conditions and informatives
Estates, Central Services	26/06/23	No Objections
Strategic Planning And Development	02/10/23	Proposal is a departure from policy EP5 Open Space as it proposes to change the use of an area designated as ENV to private garden ground. An updated tree survey and Arboricultural Method Statement are also required to be submitted to demonstrate compliance with EP7 Forestry, Woodland and Trees.
Aberdeenshire Council Archaeology Service	04/07/23	No Objections
Moray Access Manager	06/07/23	No Objections

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
NPF1 - Tackling the Climate		
NPF2 - Climate mitigation and adaptation		
NPF3 - Biodiversity		
NPF4 - Natural Places		
NPF5 - Soils		
NPF6 - Forestry, woodland and trees		

NPF7 - Historic assets and places		
NPF13 - Sustainable transport		
NPF14 - Design, quality and place		
NPF16 - Quality homes		
NPF20 - Blue and green infrastructure	Y	See below
NPF22 - Flood risk		
PP1 Placemaking		
PP2 Sustainable Economic Growth		
PP3 Infrastructure and Services		
DP1 Development Principles	Y	See below
EP2 Biodiversity		
EP5 Open Space	Y	See below
EP7 Forestry Woodland and Trees	Y	See below
EP8 Historic Environment		
EP14 Pollution Contamination Hazards		

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

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted National Planning Framework 4 (NPF4) and Morar Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

Proposal

The application seeks to change the use of an area of amenity ground to domestic garden ground and to erect a 1.2m fence to enclose the site.

Site

The site is located immediately adjacent to 2 Duke Street, Portgordon and is currently an area of open amenity ground with two trees present.

The area of amenity ground is currently designated as Open Space under ENV5 within the MLDP2020 and forms part of the old railway/cycle path corridor at Portgordon.

An area of archaeological interest also lies over the site relating to the historical settlement of Portgordon.

Policy Assessment (Moray Local Development Plan 2020, National Planning Framework 4) Siting (DP1, EP5, NPF4 Policies 14, 20)

Policy DP1 states that development proposals will be supported if they conform the relevant Local Development Plan Policies, proposals and additional guidance and meet the criteria set out in DP1.

NPF4 Policy 14 requires that development proposals be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. It also states that development proposals will be supported where they are consistent with the six qualities of successful places; Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable. Finally, NPF Policy 14 states that proposals which are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places will not be supported.

Policy EP5 states that development that would result in a change of use of an ENV designation to anything other than an open space use will be refused.

NPF4 Policy 20 states that development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained.

In this case, the application seeks to change the use of an area of amenity ground identified as open space under ENV5 (within the MLDP2020) to domestic garden ground which is not supported by policies EP5 and NPF4 Policy 20. The site is part of the ENV5 Green Corridor that forms part of the old railway/cycle path corridor. The area contributes to the setting and character of Portgordon and helps to connect the cycle path into the village centre. The location also provides amenity to the village hall opposite. Whilst the site makes up a small part of the green corridor, piecemeal erosion can negatively impact on the quality and character of the ENV and the role it plays in the setting of Portgordon and wider green networks. Therefore the application will be refused as it does not comply with policies EP5 and NPF4 Policy 20.

The applicant has submitted a supporting statement which refers to the Moray Food Growing Strategy and states that the purchase of the land would allow the applicant to grow fruit and vegetables, compost garden and household waste and use the garden for recreational purposes for family and friends. It is also outlined that the area of garden ground would allow the applicants the opportunity to promote biodiversity within the site. Whilst these overall aims are supported, this would not override the aforementioned objections with regard to the change of use of the area of ground from amenity ground to private garden ground which would fragment the existing green corridor within Portgordon whilst also resulting in the loss of open space designated under ENV5 which would fail to comply with MLDP2020 policies DP1, EP5 and NPF4 Policy 20.

Road Safety (DP1, NPF4 Policy 13)

The site is proposed to be enclosed by an approx. 1.2m high close boarded wooden fence on all three sides (including a gate in the north-west corner of the site). The fence would enclose an area identified as open space under ENV5 and therefore is not permitted under policies EP5 and MLDP2020 Policy 20. Moray Council Transportation were consulted on the application and raised no objections, subject to compliance with a series of conditions. These required that prior to the erection of the fence, a new public footpath be constructed and that any new boundaries fronting Duke Street be set back a minimum of 2.0m. Finally the conditions require that the proposed gate be contained within the site and not encroach on the public verge. Should the application be permitted, these would be matters controlled by condition in order to comply with the Transportation requirements of policies DP1 and NPF Policy 13.

Trees (EP7, NPF4 Policy 6)

Policy EP7 requires that proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site have the potential to be affected by development and construction activity.

NPF4 Policy 6 refers to tree removal and states that development proposals will not be supported where they will result in any loss of ancient woodland, veteran trees or have an adverse impact on their ecological condition or any adverse impact on native woodlands and individual trees of high biodiversity value.

No trees are proposed to be removed from the site, however it is proposed to re-route a public footpath between the two trees and there is the potential that the formation of the path and fencing to impact on the tree roots. A Tree Survey Report and Schedule has been submitted which confirms the condition and health of two trees adjacent to 2 Duke Street (one category B Sycamore and one category C Rowan tree). The Tree Survey states that tree protection barriers should be installed and the proposed garden fence should avoid using cement with post driven into the ground to avoid excavation within the root protection areas. However, the tree survey report has not been updated to show the revised path route which now goes between the two trees. As a result, the impact of the construction of the path on the root protection area of both trees area cannot be fully assessed and therefore the proposals would fail to comply with MLDP2020 Policy EP7. Additional information has been submitted outlining details of the proposed path (Whin Dust Path - semi-tray excavation) however this does not set out how construction will minimise impacts on tree roots. It also does not provide sufficient information to confirm the trees would be safeguarded from impacts and this information is required to be submitted in the form of a formal Arboricultural Method Statement which is also required under Policy EP7.

Conclusion

The proposals would result in the loss of an area of identified as Open space under ENV5 within the Moray Local Development Plan 2020 which is not permitted under MLDP2020 Policy EP5. The ENV5 Green Corridor forms part of the old railway/cycle path corridor which contributes to the setting and character of Portgordon and helps to connect the cycle path into the village centre and as such the application would fail to comply with MLDP2020 Policies DP1, EP5 and NPF4 Policy 20.

The Tree Survey Report has not been updated to show the location of the rerouted footpath which would now go between the trees and an Arboricultural Method Statement has not been submitted which would set out how construction will minimise impacts on tree roots. As a result, MLDP2020 Policy EP7 has not been complied with as additional information is required to confirm that the trees would be safeguarded from the impact of the construction of the path.

As such the application will be refused as it fails to comply with policies DP1, EP5, EP7 and NPF4 Policy 20.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY			
Reference No.	Description		
22/00905/APP	Change of use from open space to private garden ground erect a wall/fence and relocate the existing pathway at 2 Duke Street Portgordon Buckie Moray AB56 5RH		
	Decision	Withdrawn	Date Of Decision

23/00695/APP	Change of use of Council land to garden land and relocated public path at 2 Duke Street Portgordon Buckie Moray AB56 5RH			
	Decision	Withdrawn	Date Of Decision	08/06/23

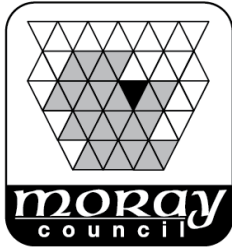
ADVERT		
Advert Fee paid?	N/A	
Local Newspaper	Reason for Advert	Date of expiry

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?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Outlines history of site and policy background to the proposal.	
Document Name:	Tree Survey Report	
Main Issues:	Outlines details of a tree survey undertaken of the two trees on the site	
Document Name:	Tree Survey Schedule	
Main Issues:	Gives details of each tree surveyed.	
Document Name:	Whin Dust Path (Semi-Tray Excavation) Standard Detail	
Main Issues:	Gives details of 'whin dust' path proposed to be constructed.	

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

**[Fochabers Lhanbryde]
Application for Planning Permission**

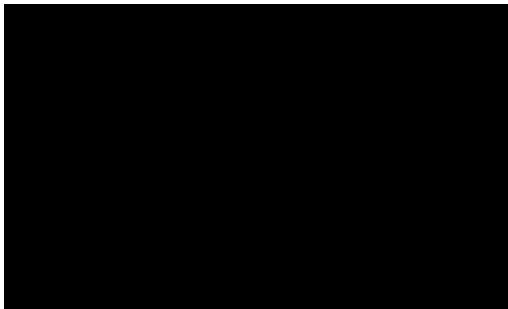
TO Mrs Audrey Murray
2 Duke Street
Portgordon
Buckie
Moray
AB56 5RH

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:-

**Change the use of open land to private garden at 2 Duke Street Portgordon
Buckie Moray**

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

Date of Notice: **7 November 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 proposed change of use of an area of Open Space to domestic garden ground is contrary to the Moray Local Development Plan (2020) and National Planning Framework 4 for the following reasons:

1. The proposals would result in the loss of an area of identified as Open Space under ENV5 within the Moray Local Development Plan 2020 which would fail to comply with MLDP2020 Policies DP1 and EP5.
2. The ENV5 Green Corridor forms part of the old railway/cycle path corridor which contributes to the setting and character of Portgordon and helps to connect the cycle path into the village centre. The location also provides amenity to the village hall opposite. Whilst the site makes up a small part of the green corridor, piecemeal erosion can negatively impact on the quality and character of the ENV and the role it plays in the setting of Portgordon and wider green networks and therefore the proposals would also fail to comply with NPF4 Policy 20 as the overall integrity of the green network would be fragmented.
3. The Tree Survey Report has not been updated to show the location of the rerouted footpath which would now go between the trees and an Arboricultural Method Statement has not been submitted which would set out how construction will minimise impacts on tree roots. As a result, MLDP2020 Policy EP7 has not been complied with as additional information is required to confirm that the trees would be safeguarded from the impact of the construction of the path.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
		Location plan
		Elevations
		Site plan

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	Mrs	Ref No.	
Forename	Audrey	Forename	
Surname	Murray	Surname	
Company Name		Company Name	
Building No./Name	2	Building No./Name	
Address Line 1	Duke Street	Address Line 1	
Address Line 2		Address Line 2	
Town/City	Portgordon	Town/City	
Postcode	AB56 5RH	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	The Moray Council		
Planning authority's application reference number	23/01062/APP		
Site address	2 Duke Street Portgordon Buckie AB56 5RH		
Description of proposed development	Change the use of open land to private garden at 2 Duke Street Portgordon, Buckie, Moray.		

Date of application

26/06/2023

Date of decision (if any)

07/11/2023

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

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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.

Form does not allow to click two boxes but we would also be requesting a site inspection. The further written submissions would be to consider in more detail our supporting information submitted with the original planning application and the subsequent email exchanges with the planning officer regarding the tree survey report and the arboricultural method statement.

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:

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.

We would like a review of the reasons for the refusal based on the information we submitted with our planning proposal.

The land was historically not part of green open space, there had been a building on it. The path would continue to connect the upper part of the village with the centre but there is no pavement on this side of the road and the cycle path does not extend into the village square.

The growing of food and flowers would greatly enhance the biodiversity of the area as well as increase our ability to feed our family and use our household food waste to sustain the area through composting and stop the need for any food and garden waste collection. There is currently no allotment provision in our area.

The area does not provide any amenity to the hall and hall activities do not take place on this land.

Also regarding the trees on site, we followed the Moray Council's request to have a tree survey completed and we are willing to follow the recommendations, as per the arborist, for the re-routing of the path to prevent any damage to tree roots. It was agreed with the planning officer that an email detailing the path specification and method of construction would suffice, and this is attached with our information.

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

Applicants statement supporting information
Email evidence from Arborist to Planning Officer
Whin dust path standard detail
Refused Loction Plan
Refused Site Plan
Refused Elevation Plan

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.

Page 176

Signature:

Name:

Audrey Murray

Date:

03/01/2024

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.

Applicants Statement to Support the Planning Application for the change of use of the ground adjacent to 2 Duke Street Portgordon

We would be grateful if the history of the area of ground at the side of our house could be considered as part of our planning application as it has not always been a green corridor area. The land is currently owned by The Moray Council whose Estates Department have agreed to the sale, confirmed in May 2022.

Prior to 1977, the area had long been used as a private yard for industrial/commercial purposes (as noted from photographic records), leased by the Crown Estate Commissioners to a tenant. There had also been a building on the site.

In 1978 and then in 1979 the railway line to the west and then the east of the site was purchased by Moray District Council for the specific purpose of providing amenity areas such as a play park, bowling green and country type walks.

The land at Duke Street immediately west of No 2 was purchased by Grampian Regional Council Roads Department from The Crown Estate Commissioners in January 1977 for the specific purposes of constructing a road improvement, linked to the removal of the existing railway bridge.

Following our approach to Moray Council's Estates team in 2021, there was subsequent consultation and site meetings with Moray Council Roads Service who confirmed that on the basis that the existing substandard footway was rerouted at our expense and that visibility was maintained at the junction, Roads were prepared to declare the area was surplus to their requirements.

Following the land sale consultation phase, in their letter dated 25-05-2022, the Estates Team agreed to the sale of the land subject to planning permission.

It is appreciated that in the 2020 Local Plan, both the railway line and the grassed area west of 2 Duke Street are categorised as an 'ENV5 Green Corridor' area. However, while it is recognised that land use can change over time, the land purchased by the Roads Department in 1977 was not purchased specifically for amenity value. Indeed, during 2019 and 2020 due to financial constraints, Moray Council took the decision to stop cutting the grass in this area and, had it not been for our intervention in maintaining part of the area ourselves over this 2-year period, the area would have been left to grow wild, with no apparent alternative maintenance plan in place. This indicates to us that the area was not considered to be of high public amenity value and undermines the case for protection under the local plan.

The Moray Council's "Moray Food Growing Strategy 2020" guidance document, developed to support the Moray Local Development Plan 2020, aims to ensure that there are more opportunities for people who would like to grow their own food. They recommend a variety of food growing spaces and many communal open spaces have been identified within this document as potential food growing sites.

There is a community garden in Portgordon at which we volunteer, but there is no allotment provision and at the moment there does not seem to be a plan to provide this in our area. The purchase of the land next to our house would allow us to grow the fruit and vegetables to sustain our family and also to have the space to compost our garden waste and some of the household waste as well as the positive impact the garden would have on our mental health and that of our visiting friends and family.

Applicants Statement to Support the Planning Application for the change of use of the ground adjacent to 2 Duke Street Portgordon

We feel passionately about increasing the biodiversity of the area and this space would give us the opportunity to increase the area for birdlife, insects, bees, and amphibians which are all present in our existing small garden. We envisage using a variety of plants and flowers as well as creating small habitat areas for these creatures. The Moray Food Growing Strategy states as one of its actions to prepare and demonstrate how food growing can be integrated into green and blue networks to support biodiversity enhancement as well as to deliver allotment sites and food growing areas.

We noted the previous concerns of the Planning Department about the re-routed path impacting on the tree roots and have since commissioned an Arborist to complete a tree survey and report. The option of rerouting the path between the trees using a whin dust construction would support the requirement to protect the trees.

There were no objections to the previous planning application, (22/00905/APP), from neighbours, or the Hall Committee and we do have local support to see the ground used to grow food and increase the biodiversity of this area. We have been given compliments for 26 years now from villagers appreciating the floral display we have maintained at the side of our house and have shown our commitment to maintaining this area.

2. Duke Street, Portgordon, Moray, AB56 5RH - Change of Use from Open Space to Private Garden
Location Plan



Location Plan shows area bounded by: 339551.33, 864126.88 339692.75, 864268.3 (at a scale of 1:1250), OSGridRef: NJ39626419. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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

REFUSED

07 November 2023

Development Management
Environmental Services
The Moray Council

AMENDED PLANS

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

REFUSED

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Environmental Services
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2, Duke Street, Portgordon, Moray, AB56 5RH - Change of Use from Open Space to Private Garden
- Site Plan



Site Plan (also called a Block Plan) shows area bounded by 339604.04, 864175.59 339640.04, 864216.69 (at a scale of 1:200), OSGridRef: NJ38626419. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Notes/Key:

1. — Boundary of land owned by applicant.
2. — Boundary of land subject to change of use (from open space to private garden) and new unadopted footway.
3. — Close boarded wooden fence around new boundary, 1.2m high with 1m wide pedestrian gate in NW corner (Fence on southern boundary to be erected on Council land as agreed with Estates (ref letter dated 25/02/22))
Fence posts within root zone to be driven avoiding need for excavation as per tree report dated March 2023.
4. Existing trees (2no) to be retained as per tree report.
- 5.
6. New footway specification to be whin dust (semi tray excavation) as agreed with Council Planning and Transportation (Roads Development) teams (ref discussions 07/06/23) with construction to be as per drawing and specification no SD/WDP/02. 1.2m wide as per existing unadopted footway x approx. 19.0m long. 150mm thick type 1 granular sub-base and 25mm thick quarry whinstone surface course.

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

REFUSED

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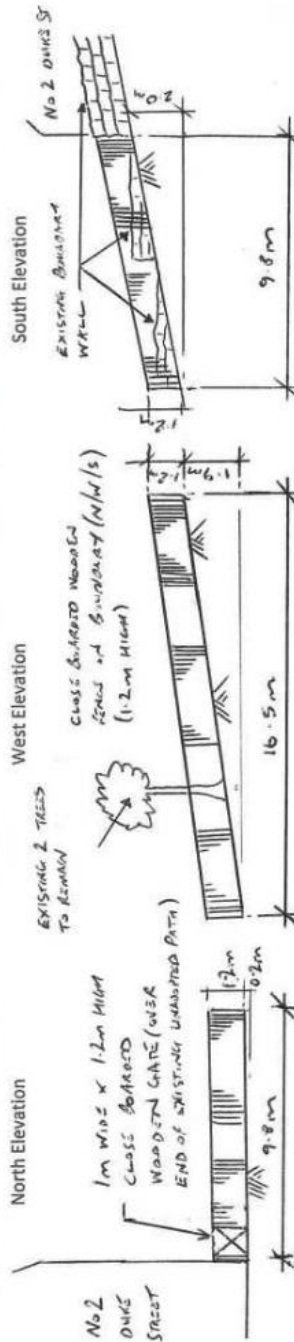
Drawing Title:

2 Duke Street, Portgordon, AB56 5RH
Planning Application
Change of Use to Private Garden

Applicant:

Mr & Mrs D. Murray
2 Duke Street
Portgordon
Banffshire
AB56 5RH

Drawn: DM Date: 20/04/23 Scale: 1:200
Drawing No. 3 – Proposed Boundary Fence
Elevations (North / West / South) 1:200



Email Evidence from Arborist

Fiona Olsen <Fiona.Olsen@moray.gov.uk>

Sep 6, 2023,
10:45 AM

to me

Hi Audrey,

I have spoken with a senior colleague and with Rowena MacDougall in Development Plans who is providing comments in relating to planning policy for the application.

We do require something from the Tree Specialist to confirm that the whin dust path will not affect the tree roots. An email should be sufficient, can you obtain this? I know that the path specification was suggested by Transportation however we would need written confirmation from a Tree Specialist that the roots will not be affected in order to meet policy requirements for Policy EP7 and therefore this not be an additional reason for refusal.

Can you let me know if you are able to provide this?

Thanks

Fiona

Audrey Murray [REDACTED]

Mon, Sep 25, 2023,
3:28 PM

to Fiona

Hi Fiona,

I have the information from Struan Dalglish the Arborist which is attached below.

Many thanks,

Audrey and Derek

----- Forwarded message -----

From: **Struan Dalglish** <[REDACTED]>

Date: Fri, Sep 22, 2023 at 10:41 AM

Subject: RE: Planning Application 23/01062/APP: Garden at 2 Duke Street,Portgordon

To: Audrey Murray <[REDACTED]>

Dear Mr and Mrs Murray,

Email Evidence from Arborist

With reference to the above planning application and our subsequent discussions relating to the re-location of the proposed footpath, I am pleased to provide additional information regarding protection of the trees.

Two trees were recorded and root protection areas (RPA's) identified by the March 2023 Tree Survey. The revised path layout requires it to be constructed between trees and through their RPA's.

Where significant incursion into RPA's is unavoidable the use of a geo-grid, such as Geosynthetics Golpla can be used to reduce the impact on tree roots. The Geo-grid minimizes the requirement for excavation and compaction of soils which contain tree roots, protecting the health of the trees.

It is noted that the path will be suitable for pedestrian use only.

Following the careful removal of turf using hand tools and avoiding damage to tree roots, Golpla Geo-grid can be laid directly onto the existing level without the need for soil compaction.

The link below provides details of the product, however it is noted that underlying soils with RPA's should not be compacted. <https://www.geosyn.co.uk/downloads?pld=310>

All construction within rooting areas should be undertaken by hand and heavy machinery, which may compact soils should not enter RPA's.

Kind regards,

Struan

Struan Dalgleish MICFor, CEnv
Arboricultural Consultant
0777 367 4623

**Struan Dalgleish MICFor, CEnv
Arboricultural Consultant**

0777 367 4623

Struan Dalgleish Arboriculture Ltd

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Kind Regards,
Audrey.

