

## **Moray Local Review Body**

Thursday, 27 May 2021

NOTICE IS HEREBY GIVEN that a Meeting of the Moray Local Review Body is to be held at Remote Locations via Video-Conference, on Thursday, 27 May 2021 at 09:30.

## **BUSINESS**

- 1 Sederunt
- 2 Declaration of Group Decisions and Members Interests \*
- Minute of Meeting dated 29 April 2021New Case
- 4 LR257 Ward 5 Heldon and Laich 9 56

Planning Application 20/01692/APP – Alterations and extension, dwelling house, 8 Moray Street, Hopeman

## **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.

Moray Council Committee meetings are currently being held virtually due to Covid-19. If you wish to watch the webcast of the meeting please go to:

<a href="http://www.moray.gov.uk/moray\_standard/page\_43661.html">http://www.moray.gov.uk/moray\_standard/page\_43661.html</a>
to watch the meeting live.

## **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.

## THE MORAY COUNCIL

## **Moray Local Review Body**

## **SEDERUNT**

Councillor Amy Taylor (Chair) Councillor David Bremner (Depute Chair)

Councillor George Alexander (Member)

Councillor Gordon Cowie (Member)

Councillor Paula Coy (Member)
Councillor Donald Gatt (Member)

Councillor Ray McLean (Member)

Councillor Laura Powell (Member)

Councillor Derek Ross (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	01343 563015
Clerk Email:	lissa.rowan@moray.gov.uk

## **MORAY COUNCIL**

## Minute of Meeting of the Moray Local Review Body

## Thursday, 29 April 2021

## **Remote Locations via Video-Conference**

## **PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor

## **APOLOGIES**

Councillor Gordon Cowie

## **IN ATTENDANCE**

Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs Gordon, Planning Officer and Mr Henderson, Planning Officer as Planning Advisers, Mr Hoath, Senior Solicitor as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

#### 1 Chair

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

## 2 Declaration of Group Decisions and Members Interests

In terms of Standing Order 20 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 25 March 2021

The Minute of the meeting of the Moray Local Review Body dated 25 March 2021 was submitted and approved.

## 4 LR254 - Ward 1 - Speyside Glenlivet

# Planning Application 20/01349/APP – Proposed dwellinghouse with integrated garage at Mulben View, Mulben

Under reference to paragraph 5 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 25 March 2021, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning application on the grounds that:

The development is contrary to Policy DP4: Rural Housing and DP1: Development Principles of the Moray Local Development Plan (MLDP) 2020 for the following reasons:

- 1. It would not fit with the local landscape character of the area and would not be integrated into the surrounding landscape which is characterised by dispersed rural properties with wooded features/setting.
- 2. There is not an acceptable level of enclosure, containment and backdrop for a new house.
- 3. It would detrimentally alter the rural character of the area by creating the beginnings of ribbon development beside an existing house on a site lacking sufficient visual containment in a prominent location adjacent to a main A class trunk road.

The Chair stated that, at the meeting of the MLRB on 25 March 2021, she had proposed that the MLRB consider new information included in the Applicant's paperwork ie a letter of support from Health and Social Care Moray and defer the case until a future meeting to allow the Appointed Officer the opportunity to comment on the letter of support which was subsequently unanimously agreed. The letter of support from Health and Social Care Moray was included within Appendix 2 and the response to the supporting letter was set out at Appendix 3 of the paperwork.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Planning Adviser advised of a typo within the Report of Handling which stated that the trunk road was the A98 when it should read the A95. This was noted. The Legal Adviser advised that he had circulated a document in relation Equalities Duties to members of the MLRB ahead of the meeting as a reminder of the general equalities duties on decision making bodies, rather than specific legal advice about this case.

Having received the letter of support from Health and Social Care Moray and the further comment from the Appointed Officer on the letter, 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 Gatt, having considered the case in detail, stated that he was of the view that the proposal complied with policy DP4 as it was in the open countryside and that, having researched the term ribbon development, he was of the view that the proposal did not constitute ribbon development as it was not in line with the existing property and was approximately 275 feet from the roadside. With regard to the reason for refusal in terms of an unacceptable level of enclosure and containment, Councillor Gatt was of the view that this could be addressed by adding a suitable condition to the consent and moved that the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/01349/APP in these terms.

Councillor Bremner agreed with the points raised by Councillor Gatt and seconded his motion. Councillor Bremner further stated that the MLRB's equalities duties were a material consideration and so the specific requirements of the applicant could be considered when determining this planning application. He further stated that, in terms of improving the level of enclosure and containment, wording of the

condition should be delegated to Officers so that the planting complies with the requirements of the MLDP 2020.

The Clerk sought clarification from Councillor Gatt as to whether he was prepared to accept Councillor Bremner's comments in relation to equalities as a material consideration in determining the planning application into his motion. In response Councillor Gatt agreed to accept all of Councillor Bremner's comments into his motion.

Councillor Alexander noted the points raised by Councillors Gatt and Bremner, in terms of the family's need for suitable housing however stated that adaptations could be made to their existing house. He raised concern in relation to the MLRB overturning the decision of the Appointed Officer by stating that the proposal complied with policy DP4 and that 2 houses did not constitute ribbon development as he was of the view that this could set a precedent for future similar proposals and therefore moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 20/01349/APP. On failing to find a seconder, his motion fell.

There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in respect of Planning Application 20/01349/APP as it complies with policy DP4 (Rural Housing) and DP1 (Development Principles) and does not constitute ribbon development, subject to a suitable condition in relation to improving the level of enclosure and containment, the wording of which to be delegated to the Appointed Officer, so that the planting complies with the requirements of the MLDP 2020.

#### 5 LR256 - Ward 2 - Keith and Cullen

# Planning Application 20/01549/APP – Erection of 1.8m high timber boundary fence at 10 Isla Road, Newmill, Keith, AB55 6US

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 position of the fence, forward of the principal elevation, interrupts the open aspect to the front of the house, failing to comply with policy DP1 – Development Principles of the Moray Local Development Plan 2020.

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, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the Moray Local Review Body (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 Bremner, having considered the case in detail, agreed with the decision of the Appointed Officer and moved that the MLRB dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in relation to Planning Application 20/01549/APP as the proposal does not comply with policy DP1 (Development Principles). This was seconded by Councillor Coy.

There being no-one otherwise minded, the MLRB agreed to dismiss the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in relation to Planning Application 20/01549/APP as the proposal does not comply with policy DP1 (Development Principles).



## **MORAY LOCAL REVIEW BODY**

## 27 MAY 2021

#### SUMMARY OF INFORMATION FOR CASE No LR257

Planning Application 20/01692/APP – Alterations and extension, dwelling house, 8 Moray Street, Hopeman

## Ward 5 - Heldon and Laich

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 22 February 2021 on the grounds that:

The proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1 (i) (e).

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

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

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



# **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

100339523-001

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

Description of Proposal	
Please describe accurately the work proposed: * (Max 500 characters)	
Proposed alterations and extension; extend existing single story extension to a 2nd story	
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

<b>Agent Details</b>			
Please enter Agent detail	s		
Company/Organisation:	Architectural & Planning		
Ref. Number:	You must enter a Building Name or Number, or both: *		
First Name: *	Martin	Building Name:	The Old Church
Last Name: *	Archibald	Building Number:	
Telephone Number: *	01343870408	Address 1 (Street): *	Church Road
Extension Number:		Address 2:	Garmouth
Mobile Number:		Town/City: *	Moray
Fax Number:		Country: *	Scotland
		Postcode: *	IV32 7SR
Email Address: *	martin.archibald@sky.com		
Is the applicant an individ	ual or an organisation/corporate entity? *		
_	nisation/Corporate entity		
Applicant Det	ails		
Please enter Applicant de	Mrs	You must enter a Bu	ilding Name or Number, or both: *
Other Title:		Building Name:	
First Name: *	Donna	Building Number:	8
Last Name: *	McArthur	Address 1 (Street): *	Moray Street
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Hopeman
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5SA
Fax Number:			
Email Address: *			

Site Address D	Details			
Planning Authority:	Moray Council			
Full postal address of the s	ite (including postcode where available	le):	_	
Address 1:				
Address 2:				
Address 3:				
Address 4:				
Address 5:				
Town/City/Settlement:				
Post Code:				
Please identify/describe the	e location of the site or sites			
Northing 86	69467	Easting	314272	
Pre-Applicatio	n Discussion			
Have you discussed your p	proposal with the planning authority? *		☐ Yes ☒ No	
Trees				
Are there any trees on or adjacent to the application site? *				
If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.				
Access and Pa	arking			
Are you proposing a new or altered vehicle access to or from a public road? *				
If yes, please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you proposed to make. You should also show existing footpaths and note if there will be any impact on these.				
Planning Service Employee/Elected Member Interest				
Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *				

Certificate 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 yourthe applicant the sole owner of ALL the land? *  Are you'the applicant the sole owner of ALL the land? *  Are you'the applicant the sole owner of ALL the land? *  Are you'the applicant and ownership of an agricultural holding? *  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 myselfithe applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lesse 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:  Martin Archibald  On behalf of:  Mrs Donna McArthur  Date:  09/12/2020  Please tick here to certify this Certificate. *					
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? *  Is any of the land part of an agricultural holding? *  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: Martin Archibald  On behalf of: Mrs Donna McArthur  Date: 09/12/2020	Certificate	es and Notices			
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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: Martin Archibald On behalf of: Mrs Donna McArthur  Date: 09/12/2020	Certificate	Required			
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On behalf of: Mrs Donna McArthur  Date: 09/12/2020					
Date: 09/12/2020	Signed:	Martin Archibald			
	On behalf of:	Mrs Donna McArthur			
☑ Please tick here to certify this Certificate. *	Date:	09/12/2020			
		☒ Please tick here to certify this Certificate. *			

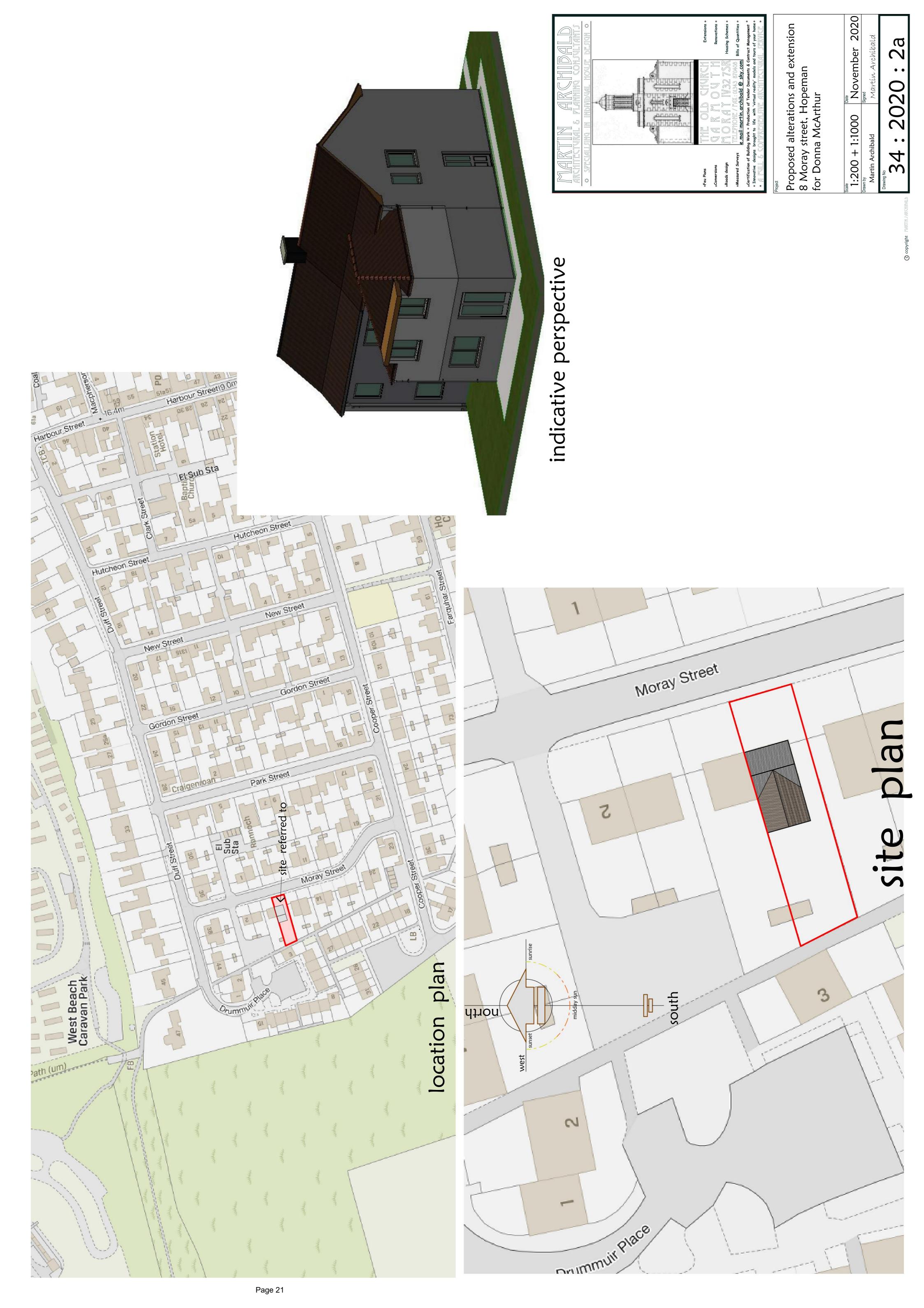
Checklist – App	lication for Householder Application		
in support of your application.	o complete the following checklist in order to ensure that you have provided all the Failure to submit sufficient information with your application may result in your apy will not start processing your application until it is valid.	necessar plication b	y information eing deemed
a) Have you provided a writte	n description of the development to which it relates?. *	X Yes	□No
b) Have you provided the pos has no postal address, a desc	stal address of the land to which the development relates, or if the land in question cription of the location of the land? $^*$	X Yes	□ No
c) Have you provided the nam applicant, the name and address	ne and address of the applicant and, where an agent is acting on behalf of the ess of that agent.? *	X Yes	□ No
d) Have you provided a locative land in relation to the locality and be drawn to an identified	on plan sufficient to identify the land to which it relates showing the situation of the and in particular in relation to neighbouring land? *. This should have a north point scale.	Yes	□ No
e) Have you provided a certifi	cate of ownership? *	X Yes	□No
f) Have you provided the fee p	payable under the Fees Regulations? *	X Yes	□No
g) Have you provided any oth	er plans as necessary? *	X Yes	□No
Continued on the next page			
A copy of the other plans and (two must be selected). *	drawings or information necessary to describe the proposals		
You can attach these electron	nic documents later in the process.		
■ Existing and Proposed elements     ■ Existing a Representation a Representation and Proposed elements     ■ Existing a Representation a Representation and Proposed elements     ■ Existing a Representation	levations.		
■ Existing and proposed flow     ■ Existing and proposed	por plans.		
Site layout plan/Block pla	ans (including access).		
Roof plan.			
Photographs and/or phot	tomontages.		
	about the structural condition of the existing house or outbuilding.	Yes	⊠ <sub>No</sub>
	u may wish to provide additional background information or justification for your and you should provide this in a single statement. This can be combined with a *	Yes	⊠ <sub>No</sub>
You must submit a fee with yo Received by the planning auth	our application. Your application will not be able to be validated until the appropriation hority.	te fee has	been
Declare – For H	ouseholder Application		
I, the applicant/agent certify the Plans/drawings and additional	nat this is an application for planning permission as described in this form and the Il information.	accompar	nying
Declaration Name:	Mr Martin Archibald		
Declaration Date:	09/12/2020		

# **Payment Details**

Telephone Payment Reference: xxxxx

Created: 09/12/2020 11:02





## **MORAY COUNCIL** PLANNING CONSULTATION RESPONSE

From: The Moray Council, Flood Risk Management Planning Application Ref. No: 20/01692/APP

Consultee: The Moray Council, Flood Risk Management

I have	the followin	ng comments to make on the app	lication:-		Please
(a)	I OBJECT to	o the application for the reason(s) as	s stated below	1	<b>x</b> □
(b)		DBJECTIONS to the application and to make on the proposal	have no cond	dition(s) and/or	
(c)		DBJECTIONS to the application sub about the proposal as set out below		on(s) and/or	
(d)	Further infor	rmation is required in order to consid	der the applica	ation as set out below	
Reas	on(s) for ob	jection			
Cond	itions(s)				
Furth	er commen	ts(s) to be passed to applicant			
Furth	er informat	ion required to consider the ap	pplication		
Conta email	ict: address:	Will burnish Will.burnish@moray.gov.uk	Date Phone No	17/12/20	

# **Consultee Comments for Planning Application 20/01692/APP**

## **Application Summary**

Application Number: 20/01692/APP

Address: 8 Moray Street Hopeman Elgin Moray IV30 5SA

Proposal: Alter and extend dwellinghouse at |cr|

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr CL Consultations

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

Email: clconsultations@moray.gov.uk
On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally

# Consultation Request Notification

Planning Authority Name	Moray Council	
Response Date	29th December 2020	
Planning Authority	20/01692/APP	
Reference	20/01092/ALT	
Nature of Proposal	Alter and extend dwellinghouse at	
(Description)	Alter and extend dwellinghouse at	
Site	8 Moray Street	
Site	Hopeman	
	Elgin	
	Moray	
	IV30 5SA	
	1V30 33A	
Site Postcode	N/A	
Site Fostcode Site Gazetteer UPRN	000133008935	
Proposal Location Easting	314273	
Proposal Location Northing	869464	
Area of application site (M <sup>2</sup> )	003404	
Additional Comment		
Development Hierarchy		
Level		
Supporting Documentation	https://myhlicococcomponer.com/h/cmlommin.c/co	
	https://publicaccess.moray.gov.uk/eplanning/ce	
URL	ntralDistribution.do?caseType=Application&ke	
	yVal=QL43IIBGMYF00	
Previous Application	02/01324/FUL	
Date of Consultation	15th December 2020	
Is this a re-consultation of	No	
an existing application?	A D MAG	
Applicant Name	Mrs Donna McArthur	
Applicant Organisation		
Name		
Applicant Address	8 Moray Street	
	Hopeman	
	Elgin	
	Moray	
	IV30 5SA	
Agent Name	Martin Archibald	
Agent Organisation Name	IVIALUIT ALGIIDAIG	
Agent Organisation Name	The Old Church	
	Church Road	
Agent Address	Garmouth	
/ igoni / iddi ooo	Moray	
	IV32 7SR	
Agent Phone Number		
Agent Email Address	N/A	
Case Officer	Fiona Olsen	
Case Officer Phone number		
Case Officer email address		
PA Response To	consultation.planning@moray.gov.uk	
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 <a href="http://www.moray.gov.uk/moray\_standard/page\_119859.html">http://www.moray.gov.uk/moray\_standard/page\_119859.html</a>

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

Please respond using the attached form:-

#### **MORAY COUNCIL**

## PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 20/01692/APP
Alter and extend dwellinghouse at
8 Moray Street Hopeman Elgin Moray for Mrs Donna McArthur

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

(a) I OBJECT to the application for the reason(s) as stated below

(b) I have NO OBJECTIONS to the application and have no condition(s) and/or

(c) I have NO OBJECTIONS to the application subject to condition(s) and/or x comment(s) about the proposal as set out below

(d) Further information is required in order to consider the application as set out below

## Further comment(s) to be passed to applicant

comment(s) to make on the proposal

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

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

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

Contact: AG Date 08 January 2021

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

Consultee: TRANSPORTATION

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

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <a href="http://publicaccess.moray.gov.uk/eplanning/">http://publicaccess.moray.gov.uk/eplanning/</a> (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.

01355-22584 E 0 5 JAN 2021 ECONOMY 31/12/2020 ENVIRONMENTO FINANC Da Fills PLANNING AMLICATIONS 20/01669/APP+20/DI529/APP+ 20/01669/APP+20/01692/APP PLINIS ENSUM ALL WILLLIO FLOMA FAUNA ON EACH SITS IS FULLY PROTOCTOD No BUILDINGS CN B. DSMOLISTSO UNTIL ZT IS CORTAIN THAT THIRI IS NO CONSETTION CONNUC-TION WITH BATS WHO COULD BO ZU HIBENNATION WITHIN 14 BUILDING(S) HEDGELLOCS AND RESO

II HIBSLNAZING AT THIS TIM, MONSULUS MOST B. TAKIN TO PROTUCT THAT PLANT THIS WIND TURBING AND P. RISK TO POORG AND TO WILDLIKE Las Laturaley STRY SAES STRY WOLL Bs57 W15405 FOR 2021 May IT BU VORY MUCH BUTTON 1

## **REPORT OF HANDLING**

Ref No:	20/01692/APP	Officer:	Fiona Olsen	
Proposal Description/ Address	Alter and extend dwellinghouse at 8 Mo	end dwellinghouse at 8 Moray Street Hopeman Elgin Moray		
Date:	22/02/21	Typist Initials:	FJA	

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

CONSULTATIONS				
Consultee	Date Returned	Summary of Response		
Contaminated Land	16/12/20	No Objections		
Moray Flood Risk Management	16/12/20	No Objections		
Transportation Manager	08/01/21	No Objections		

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Υ	
EP12 Management and Enhancement Water	N	
EP14 Pollution Contamination Hazards	N	

REPRESENTATIONS			
Representations Received		YES	
Total number of representations received			

Names/Addresses of parties submitting representations

Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.

Summary and Assessment of main issues raised by representations

Issue: Wildlife, flora and fauna on each site to be fully protected

**Comments (PO):** This is an application for a first floor extension and is not anticipated to impact on any protected species. Should the application be approved, an informative would be added tro the reminding the applicant their duties regarding bats.

Issue: No Buildings to be demolished until certain no bats are hibernating insue:

**Comments (PO):** Again, this is a first floor extension application and would not involve any demolition however should the applicant be approved, an informative should be added reminding the application of their duties regarding bats.

Issue: Hedgehogs are hibernating and should be protected

**Comments (PO):** The development is a first floor extension only and is not anticipated to impact on any protected species

**Issue:** Plant trees

**Comments (PO):** The application is for a first floor extension only and will not result in any tree removal. As a result no compensatory planting is required.

**Issue:** Wind Turbines are a risk to people and wildlife

**Comments:** This application does not involve any wind turbines.

## **OBSERVATIONS - ASSESSMENT OF PROPOSAL**

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

## **Proposal**

The application seeks planning permission to erect a first floor extension above an existing single storey extension. The extension would measure 6.2m x 4.5m x 6.1m (to the roof ridge, 4.7m to the eaves) and would form two bedrooms on the first floor.

The extension would incorporate a hipped roof, to be finished in reused tiles from the existing extension roof and new tiles to match. The external walls would be finished in render to match the existing main, parent property.

The existing extension was erected in the early 2000s under 02/01324/FUL and measures approx. 6.2m x 4.5m x 3.6m (to the roof ridge, 2.5m to the eaves) and contains a kitchen, dining area, bedroom and ensuite on the ground floor.

## Site

The existing property is a two storey, semi-detached dwellinghouse located at 8 Moray Street, Hopeman. The property has an existing single storey extension to the rear which was erected in the early 2000s (02/01324/FUL refers).

There are neighbouring properties to the north (attached), south and west of the site. The site is bound by the public road to the east.

## **Policy Assessment**

## Siting and Design (MLDP 2020 Policy DP1)

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

The original design of the extension measured approx. 6.2m x 4.5m x 7.6m (to the roof ridge, 5.m to the eaves) and incorporated a pitched roof. Following an initial review and site visit, concern was raised to the agent regarding the potential for the extension to give rise to an unacceptable level of overshadowing to the neighbouring (attached) property and in particular, the nearest neighbouring window which is believed to serve an open plan lounge/dining area. Following discussion with the agent, the design was altered to the current proposal which incorporates a hipped roof, a ridge height of approx. 6.1m and an eaves height of approx. 4.7m.

Although the overall height of the extension has been reduced by approx. 1.5m, the eaves height has only been reduced by approx. 0.7m. A BRE Information Paper on 'Site Layout Planning for Daylight'

sets out techniques which can be applied to assess developments for impact on levels of daylight. This does not form part of policy but is widely regarded as good practice. The guidance uses the 45 degree method for developments which are perpendicular to the window to be assessed. These techniques are only applied to 'habitable rooms' which would include all rooms designed for living, and sleeping. The method involves drawing a 45 degree line from the nearest corner of the proposed extension in both floor plan and elevation forms towards the neighbouring property. If the shape formed would enclose the centre point of a window on the neighbouring property, then the light to that window would be significantly affected. In the case of this proposal, a 45 degree line drawn on the floor plan from the south-western corner of the extension and on the elevation plan from eaves level to ground level would fully surpass the nearest neighbouring window on both plans and therefore would significantly affect the daylight to that window. It must be noted that the footprint of the proposed extension is unaltered from the existing single storey extension and therefore the 45 degree line on the floor plan would be the same across both the existing and proposed extensions. However the line drawn on the elevation plan would show a significant increase in overshadowing to the nearest neighbouring window than that on the existing rear elevation. This assessment demonstrates that there is already a degree of overshadowing from the existing single storev extension to the nearest neighbouring window (serving a lounge/dining area), however this would be increased by forming a first floor extension above the existing extension.

Policy DP1 states that proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. The existing single storey extension has a large footprint (more than half of the original property) and a projection of 4.5m from the rear elevation and as a result would already affect the daylight to the nearest neighbouring window. The proposal to form a first floor extension above the footprint of the existing single storey extension would result in a increase in height (as measured from ground to eaves level) of 2.2m crease in wall height to form a first floor extension would result in an increased level overshadowing and decrease in daylight to the nearest neighbouring window. This would lead to an unacceptable loss of amenity to that property and therefore is unacceptable in terms of policy DP1.

In terms of privacy, all openings within the proposed extension would be orientated onto the applicant's existing garden ground. A single additional opening on the south elevation of the main property is proposed however as this is an additional smaller opening on this elevation and would serve a bathroom only, would not give rise to any additional overlooking to neighbours.

With regard to the external finishes, the extension would incorporate a hipped roof, to be finished in reused tiles from the existing extension roof and new tiles to match. The external walls would be finished in render to match the existing main, parent property. Although these finishes would be acceptable and accord with the main dwellinghouse, they would not override the aforementioned objections.

Overall therefore, the proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north of the site) which would lead to an overbearing loss of amenity to that neighbouring property and the application will be refused.

## Conclusion

Refusal

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

HISTORY				
Reference No.	Description			
		Iterations extension Igin Moray IV30 5SA	and associated wor	ks at 8 Moray Street
02/01324/FUL	Decision	Permitted	Date Of Decision	21/08/02

ADVERT		
Advert Fee paid?	No	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	Departure from development plan	25/01/21
PINS	Departure from development plan	25/01/21

<b>DEVELOPER CONTRIBUTION</b>	S (PGU)
Status	N/A

DOCUMENTS, ASSESSMENTS etc. *  * Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access State TA, NIA, FRA etc	ement, RIA,
Supporting information submitted with application?	NO
Summary of main issues raised in each statement/assessment/report	
Document Name:	
Main Issues:	

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

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



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

### REFUSAL OF PLANNING PERMISSION

[Heldon And Laich]
Application for Planning Permission

TO Mrs Donna McArthur c/o Martin Archibald The Old Church Church Road Garmouth Moray IV32 7SR

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:-

### Alter and extend dwellinghouse at 8 Moray Street Hopeman Elgin Moray

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

Date of Notice: 22 February 2021



### HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Fincance Moray Council Council Office High Street ELGIN Moray IV30 1BX

(Page 1 of 3) Ref: 20/01692/APP

### 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 first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1 (i)(e).

### LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
34:2020:1	A	Elevations and floor plans
34:2020:2	A	Site and location plan

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

Amended Site and Location Plan, Elevations and Floor Plans submitted to show revised design.

### 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

(Page 2 of 3) Ref: 20/01692/APP

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.

(Page 3 of 3) Ref: 20/01692/APP



### **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

100339523-003

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  Applicant								
<b>Agent Details</b>								
Please enter Agent details	3							
Company/Organisation:	Architectural & Planning							
Ref. Number:		You must enter a Building Name or Number, or both: *						
First Name: *	Martin	Building Name:	The Old Church					
Last Name: *	Archibald	Building Number:						
Telephone Number: *	01343870408	Address 1 (Street): *	Church Road					
Extension Number:		Address 2:	Garmouth					
Mobile Number:		Town/City: *	Moray					
Fax Number:		Country: *	Scotland					
		Postcode: *	IV32 7SR					
Email Address: *	martin.archibald@sky.com							
Is the applicant an individual or an organisation/corporate entity? *								
Individual U Organisation/Corporate entity								

Applicant De	etails			
Please enter Applicant	details			
Title:	Mrs	You must enter a Building Name or Number, or both: *		
Other Title:		Building Name:		
First Name: *	Donna	Building Number:	8	
Last Name: *	McArthur	Address 1 (Street): *	Moray Street	
Company/Organisation		Address 2:		
Telephone Number: *		Town/City: *	Hopeman	
Extension Number:		Country: *	Scotland	
Mobile Number:		Postcode: *	IV30 5SA	
Fax Number:				
Email Address: *				
Site Address	s Details			
Planning Authority:	Moray Council			
Full postal address of th	ne site (including postcode where availab	le):		
Address 1:				
Address 2:				
Address 3:				
Address 4:				
Address 5:				
Town/City/Settlement:				
Post Code:				
Please identify/describe	e the location of the site or sites			
Northing	869467	Easting	314272	

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)
Alterations and extension, dwelling house, 8 Moray Street. Hopeman.
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 a 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.
supporting statement attached
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *
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 to rely on in support of your review. You can attach these documents electronically later in the			nd				
1. Supporting statement 2. Map of the area							
Application Details							
Please provide the application reference no. given to you by your planning authority for your previous application.	20/01692/APP						
What date was the application submitted to the planning authority? *	10/12/2020	2/2020					
What date was the decision issued by the planning authority? *	22/02/2021						
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 \sum No							
In the event that the Local Review Body appointed to consider your application decides to install	spect the site, in your op	oinion:					
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?. *		X Yes ☐ No					
Have you provided the date and reference number of the application which is the subject of treview? $^{\star}$	his 🗵 Yes 🗌 N	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? *		Ⅺ 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? *		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 *		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 Martin Archibald

Declaration Date: 05/04/2021

# MARTIN ARCHIDALD

### ARCHITECTURAL & PLANNING CONSULTANTS

Our Ref: MJA/mja/DM Your ref: 20/01692/APP

29<sup>th</sup> March 2021

The Moray Council Development Services Planning Department Elgin Moray IV30 9BX

### Dear Madam

Alterations and extension, dwelling house, 8 Moray Street. Hopeman.



Telephone: (01343) 870408 e.mail: martin.archibald@sky.com

### SUPPORTING STATEMENT FOR APPEAL

I refer to the above Planning application which was refused on the 22<sup>nd</sup> February 2021.

The application was refused with the following reason(s);

The proposed first floor extension, above the existing single storey extension would give rise to an unacceptable level of overshadowing to the nearest neighbouring property window (to the north) which would lead to an overbearing loss of amenity to that property and would be contrary to the requirements of policy DP1(i)(e)

### ORIGINAL PROPOSAL

Our original application was for an extension over an existing single story extension to create a second story (see drawing numbers 23:2020:1 and 2)

This proposal is exactly the same as what had been approved, literally next door at number 12, directly across the road at number 11 Moray Street and there is also an identical extension at number 7 Manse Road which is only 15m south of the proposal; 3 properties within view of this application all virtually identical to our proposal.

### AMENDED PROPOSAL

The planning officer raised the issue of overbearing with me, I discussed with the applicants and we reduced the height of the eaves by 750mm, the pitch by 10 degrees and the ridge considerably by 1550mm, or just over 5ft, (see drawing numbers 34:2020:1b and 2b) We felt that this was a satisfactory outcome in that the overall scale has been reduced by 1550mm and the wall head height is below that of the neighbours windows on the first floor; allowing the south and south west sun.

### JUSTIFICATION

- The applicants have discussed their proposals with their neighbours and they are happy with the proposals (original and amended) and they did not object, particularly given that there already is an extension in place.
- The existing extension (in place since 2004) already overshadows the only window affected on the ground floor and our amended proposal will have no further impact on the neighbouring property.
- On the ground floor, the room that is overshadowed has the 'main' window to the front and on the first floor the overshadowed bedroom has uninterrupted daylight facing west and enjoy the daylight from afternoon to sunset. It will also still catch the sun as the ridge height has been drastically reduced.

Our Ref: MJA/mja/DM Your ref: 20/01692/APP

29<sup>th</sup> March 2021

- The applicants love the area and really do not want to move house, they cannot extend their property on the ground floor and this type of proposal is their only option to extend so as they can remain residing here. It seems unjust that a planning policy can forbid an extension to allow folk to remain where they belong. It seems particularly unjust and difficult for agents to explain the situation with applicants, when in truth what is proposed is identical to neighbouring properties; numbers 11 and 12 Moray Street, and number 27 Manse road directly opposite to the west, and I will safely assume many more in the village.

#### CONCLUSION

We took on board the Planning concerns and reduced the size of the extension considerably and believe the proposals have very little additional impact if any on the neighbouring property and for this and the above reasons we feel the proposal should have been approved.

Martin Archibald (agent)





