



INTERURBAN DEVELOPMENTS LTD
LAND ACQUISITION - PLANNING - DEVELOPMENT

**STATEMENT ON ADDITIONAL REPRESENTATIONS RECEIVED FROM
LOCAL REVIEW BODY'S CONSULTATION EXERCISE**

IN RESPONSE TO

**REFUSAL OF PLANNING PERMISSION BY MORAY COUNCIL FOR THE
ERECTON OF 4 RESIDENTIAL UNITS AT SITE TO THE REAR OF
HEATHERLEA, MAIN STREET, TOMINTOUL, MORAY, (TOMNABAT LANE).**

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1 INTRODUCTION

The Local Review Body issued a Notice of Review to interested parties who made comment on planning application 16/00241/PPP for the erection of four dwellings on land to the rear of Heatherlea, Main Street, Tomintoul at Tomnabat Lane. A total of three representations were received: -

- Mr and Mrs Foran
- Mr P Rushton and;
- Moray Council Transportation (D Anderson).

2 RESPONSE TO CORRESPONDENCE FROM MR AND MRS FORAN AND MR P RUSHTON

Interurban notes that no new issues are raised in the correspondence from Mr and Mrs Foran or Mr P Rushton. There is no need to reiterate the points incorporated into the Appeal Statement. Accordingly, Interurban would direct the Local Review Body Members to the content of document 00_Appeal Statement.

3 RESPONSE TO MORAY COUNCIL TRANSPORTATION (D ANDERSON)

UNREASONABLE BEHAVIOUR

Interurban has significant concerns with the response from Moray Council Transportation and how this relates to Reason 2 of the decision notice and the resultant impact on the appeal process.

The planning officer's reason for refusal of planning permission, as set out in the Moray Council Decision Notice dated 11 April 2016, is as follows:-

The proposal is contrary to policies 1 and 3 of the Cairngorms National Park Local Development Plan 2015 for the following reasons:

- 1. Erection of 4 dwellings within the proposed site would result in overdevelopment of the site, to the detriment of the character and appearance of the surrounding streetscape and resulting in an unacceptable overbearing impact on the surrounding residential properties.*
- 2. The proposed development does not incorporate adequate on-site vehicular parking to the standard required by the Roads Authority. The proposal, if permitted, would therefore be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.*

Reason 2 relates to vehicular car parking and as explained in the Planning Officer's report of handling:-

"the Transportation service has recommended refusal of the application on the basis that the indicative plans show a shortfall of two car parking spaces, in that the plans show 4 spaces and the Council's car parking standards require 6".

At this late stage in the appeal process Moray Council Transportation have significantly changed the goals posts in their response to the Notice of Review stipulating that the requirement is for 8 car parking spaces.

Scottish Government Circular 6/1990 confirms that the Planning Authority's Decision Notice should be carefully framed and should set out the full reasons for refusal. Reasons should be complete, precise, specific and relevant to the application. The purpose of this requirement is to ensure that where an application is refused the applicant is clearly informed as to why the application is unacceptable. This enables the applicant to have a full and complete understanding on whether an appeal or a revised application is more appropriate.

This has not occurred in this instance. The appellant has been robbed of the opportunity to gain a full understanding of the issues surrounding Reason 2 as the updated response from Moray Council Transportation now seeks eight spaces. Interurban has incurred expense in embarking and pursuing an appeal based on the requirement of six car parking spaces and considers this constitutes unreasonable behaviour.

INTERURBAN'S RESPONSE TO THE UPDATED TRANSPORTATION POSITION

The updated Moray Transportation at Paragraph 9 concludes:-

Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Moray Local Development Plan Policy T5: Parking Standards is not satisfied.

Interurban would note that the Moray Local Development Plan Policy T5: Parking Standards is not applicable to this development as the site falls within the Cairngorms National Park. As correctly noted in the Planning Officer's appraisal section of O2_Report of Handling:-

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Cairngorms National Park Local Development Plan 2015 unless material considerations indicate otherwise.

Accordingly, the application of Moray Local Development Plan Policy T5: Parking Standards by Moray Transportation is flawed.

Interurban would draw the Local Review Body's attention to page 6 of Scottish Government Planning Advice Note 75 on Planning for Transport which confirms that:-

'Parking policies should support the overall locational policies in the development plan. The availability of parking, for both cars and cycles, influences the choice of transport. Parking policies must be handled sensitively and adapted to particular local circumstances'.

The thrust of Government Policy seeks to provide greater variety of transport options to influence attitudes and change the behaviour of individuals to avoid car dominance. Interurban's ability to assist in this aim is limited due to the sites location which effectively drives the potential modes of transport that could be used by any future occupants.

Interurban considered that limiting parking provision to one space per unit was the only potential way it could assist in achieving the aims of national guidance in this case, to promote sustainable modes of travel by limiting the extent of parking provided at the site to change the occupant's attitude and behaviour to travel.

Interurban would also refer the Local Review Body to page 60 of the Scottish Government, Designing Streets which notes that: -

'There is a tendency among some designers and approving authorities to treat design guidance as hard and fast rules because of the mistaken assumption that to do otherwise would be illegal or counter to a stringent policy. This approach is wrong. It restricts innovation, and leads to standardised streets with little sense of place or quality. In fact, there is considerable scope for designers and approving authorities to adopt a more flexible approach on many issues. It is, therefore, Scottish Government policy in Designing Places and Designing Streets to encourage street design which engenders place and quality'.

In this case Interurban is of the view that the members of the Local Review Body are able to take account of the Scottish Government's Planning Advice Note 75 and Designing Streets and approve the development as originally envisaged i.e four spaces.

However, if members of the Local Review Body consider that the level of car parking should be increased Interurban is content for a condition to be imposed which would secure six spaces within the site, four designated spaces for the residential units and two for visitors.

Such a condition could be worded as follows: -

Condition:-The development hereby permitted shall not be occupied until details of six parking spaces for motor vehicles ('the parking') shall be submitted to the Local Planning Authority for approval and the parking constructed and finished strictly in accordance with the approved details. Thereafter the parking shall be made available for use and permanently retained for that use alone.

Reason:-To ensure off-street parking facilities are provided in the interests of highway and pedestrian safety in accordance with the policies of the adopted Cairngorms National Park Development Plan.

Interurban believe that the wording of the above condition is competent and meets the six tests as contained in Scottish Government Circular 4/1998. However, the Local Review Body may wish to seek reassurance wording from their Legal and/or Planning Advisor on the competence of the condition.

4 CONCLUSIONS

This statement responds to the additional representations received from the Local Review Body's consultation exercise and in particular the new matter raised by Moray Transportation at this late stage in the planning process.

Interurban still contests the decision by the appointed officer to refuse the proposed in-principle application for residential development.

Taking account of the reasons set out in the appeal statement and the content contained within this response it is respectfully submitted to the Local Review Body that the appeal should be allowed.

John Russell Bsc MRTPI

6 KEY SUPPORTING DOCUMENTS

Local Review Body Application Form

00_Appeal Statement
01_Decision Notice
02_Report of Handling
03_Planning Permission Application Form
04_Planning and Design Statement
05_Existing Proposed Location Plan (Refused)
06_Existing Proposed Site Plan (Refused)
07_Tomnabat Lane Planning Drawings x4
08_Developer Contribution Consultation Response
09_E-mail to Developer Contribution Officer