

NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	16/68.
Forename	IFRAN	Forename	COLIN
Surname	ASHRAF.	Surname	KEIR.
Company Name		Company Name	PLANS PLUS
Building No./Name		Building No./Name	MAIN STREET
Address Line 1		Address Line 1	OFFICES
Address Line 2		Address Line 2	URQUHART
Town/City		Town/City	BYEGUN
Postcode		Postcode	IV30 8LG
Telephone		Telephone	01343 842635
Mobile		Mobile	07766 315501
Fax		Fax	
Email		Email	ctkplans@aol.com
3. Application Details			
Planning authority	MORAY COUNCIL.		
Planning authority's application reference number	17/01401/APP.		
Site address	<div>1 SPRINGFIELD ROAD. NEW EGUN, EGUN MORAY IV30 6BY.</div>		
Description of proposed development	<div>CHANGE OF USE OF FORMER BARBERS SHOP TO HOT FOOD TAKEAWAY</div>		

Date of application

29/8/17

Date of decision (if any)

10/11/17

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

4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



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



Application for approval of matters specified in conditions



5. Reasons for seeking review

Refusal of application by appointed officer



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



Conditions imposed on consent by appointed officer



6. Review procedure

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

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

Further written submissions



One or more hearing sessions



Site inspection



Assessment of review documents only, with no further procedure



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

7. Site inspection

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

Can the site be viewed entirely from public land?



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



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

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8. Statement

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

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

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

SEE SEPARATE SHEET

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

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

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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

REFUSAL OF PLANNING PERMISSION NOTICE
PLAN ASSOCIATED WITH " " "
REVIEW STATEMENT.
PHOTOGRAPH X 2 OF STREET IN FRONT OF PREMISES.
PHOTOCOPY OF SITE 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.

Signature:

[Redacted Signature]

Name:

COLIN KEIR

Date:

23/11/17

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.

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

CERTIFICATE A, B, C, D OR CERTIFICATE E MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than ~~myself~~ **APPLICANT** was owner 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 application. ☒
- (2) None of the land to which the application relates constitutes or forms part of agricultural land. ☒

Signed:

[Redacted Signature]

On behalf of:

MR IFRAH ASHRAF

Date:

23/11/17

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land ☐
- or
- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address		Date of Service of Notice

Signed:

On behalf of:

Date:

CERTIFICATE C

Certificate C is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where it has not been possible to identify ALL or ANY owners/agricultural tenants.

- (1) I have been unable to serve notice on **every** person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. ☐

or

- (2) I have been unable to serve notice on **any** person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates. ☐

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

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have been unable to serve notice on any person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. ☐

or

- (5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address		Date of Service of Notice

- (6) I have taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have been unable to do so.

Steps taken:

--

Signed:

--

On behalf of:

--

Date:

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CERTIFICATE D

Certificate D is for use where the application is for mineral development.

- (1) No person other than myself was an owner 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

- (2) I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

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

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant. ☐

- (5) Notice of the application as set out below has been published and displayed by public notice ☐

Signed:

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On behalf of:

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Date:

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CERTIFICATE E

Certificate E is required where the applicant is the sole owner of all the land and the land to which the application relates is agricultural land and there are or are not agricultural tenants.

I hereby certify that -

(1) No person other than myself was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☐

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are no agricultural tenants. ☐

or

(1) No person other than myself was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☐

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are agricultural tenants. These people are: ☐

Name	Address	Date of Service of Notice

(3) I have taken reasonable steps, as listed below, to ascertain the names and addresses of the other agricultural tenants and have been unable to do so. ☐

Steps taken:

--

Signed:

--

On behalf of:

--

Date:

--

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

REVIEW

1 SPRINGFIELD ROAD, NEW ELGIN.

**CONVERT FORMER BARBERS SHOP TO HOT FOOD TAKE AWAY
PREMISES AT 1 SPRINGFIELD ROAD, NEW ELGIN.**

PLANNING REFERENCE NUMBER 17/01401/APP

REFUSAL DATE 10TH NOVEMBER 2017.

THE PROJECT BACKGROUND.

The project is to convert an older stone and slate clad building from a dis-used barbers shop to a hot food takeaway unit. The property lies to the South of Springfield Road in New Elgin in a quiet area off the bus route and the main road so to speak.

During the course of the application we were asked to confirm if the extraction system would cause any sound problems to neighbouring properties. A sound engineer has submitted a report confirming that the proposals all conform to the required level of prevention of noise pollution.

Environmental Health are also satisfied with the type of canopy and extraction system proposed so as not to become a nuisance to any nearby domestic properties.

There is a Chinese takeaway next door along with a laundrette. This area has always had a commercial aspect going back over 60 years at least when there was Johnny Geddes's shop where the Chinese takeaway and laundrette are at present and "Hamish the Barber" was renowned in his day for his haircuts. Traffic has always been a part of this area popping into shops and away again.

REASONS FOR REFUSAL.

Transportation have cited 3 reasons for refusal in their comments to the planning officer who dealt with this case. Policy T5, Policy IMP1 and Policy R3. All 3 points make reference to 1 point which is that there are no dedicated off street parking available to this unit. We propose to base our Review on this single point.

CONSIDERATION.

We wonder what the percentage of takeaway facilities in Elgin, Moray or Scotland as a whole have dedicated parking associated with their shops. Quite simply, very, very few. Most takeaway buildings are about 3 to 4 meters wide and perhaps 12 to 15 meters deep as a rough average. Quite often they are sandwiched between other units of similar size. Rarely is there any parking available for these units.

Taking Elgin as an example it is very difficult to come up with a single takeaway unit where dedicated parking is available. We have taken a picture of this area photographed around 3pm. The car in the photograph is our own and we did not have to wait for an appropriate moment to take the picture, this is the street when it is busy.

There is a large roundabout to the North of the site which opens the road up and creates parking on both sides of the road with plenty room for another vehicle to pass between. As there are no residential properties here, parking requirements are for vehicles stopping to pick food up resulting in maximum 10 minute stops. Our client expects most of his trade to be local and that patrons would actually walk to the unit to pick up food.

Anyone who has used a takeaway premises will know that there are only so many meals that can be prepared at a time and they tend to stagger patrons times to make sure they are not hanging around the shop waiting. The parking times envisaged for stopping is averaged at no more than 3 minutes per person.

In further support of our application we would ask you to look at what dedicated parking facilities were required for the recently opened Dominos Pizzas and also the toilet block converted not 20m away to form another Pizza outlet. The truth is that takeaway premises are quick turn around facilities and dedicated parking would almost certainly prevent any food outlets from opening in the future. We see peak times for vehicles being between 5pm and 7pm as with most other outlets. This area is not a busy thoroughfare and there does not appear to be any danger to pedestrians or vehicle users should this building be brought back into commercial use. There does not appear to be any evidence to suggest that this is an accident black spot.

CONCLUSION.

Looking at all the Hot Food Takeaway facilities around Elgin and Moray there are very few if any that stand out because they have dedicated parking spaces. We are not including restaurant facilities which we believe would attract members of the public to arrive by car and remain on the premises for 2-3 hours at a time. This is a simple stop and pick up manoeuvre and away again or as stated above, clients arriving on foot.

This is an opportunity to return this small commercial building, back into use. There has never been dedicated parking for any of the three commercial units here for the last 60 years. It may have been 8 years since the barber was last open but the truth is that this is still a commercial property as no change of use has ever been applied for or implemented since.

The road is ample wide to support parked cars for the few minutes they need to pick up meals and this certainly will not impact on the bus route and main vehicle thoroughfare which lies to the North of the roundabout.

The question has to be why is this building being singled out for dedicated parking provision when there is obvious space to accommodate vehicles on the street? It appears the remainder of the planning application complies with policies which has cost the applicant considerable outlays to prove sound and odours will not affect surrounding proprietors.

We respectfully ask that you compare this proposal in comparison with all the other Hot Food Takeaway outlets around and accept that visiting customers will only be parked for minutes at a time. Even if dedicated parking HAD been available, the nature of the beast would be that customers would still stop on the street. This is an opportunity to bring a quaint old building back into use and keep this corner of New Elgin in a commercial use. It is not big enough to be a house and would not have dedicated parking so do we just let it go to ruin and fall down? The applicant is prepared to outlay money to provide a service which does not exist in New Elgin at present.

We ask that you overturn the planning decision to refuse this application and grant the applicant planning permission to open his Hot Food Takeaway to provide local people with a facility which at present they have to get into their cars and drive into Elgin itself.



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

REFUSAL OF PLANNING PERMISSION

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

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

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

Change of use of former barber shop to hot food take-away at 1 Springfield Road Elgin Moray IV30 6BY

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

Date of Notice: **10 November 2017**



HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The 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, the Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the provisions of the Moray Local Development Plan 2015 (Policies T5, R3 and IMP1) for the following reasons:

1. The proposal does not include on-site vehicular parking and as such does not comply with Moray Council's Parking Standards contrary to policy T5
2. The proposal does not include on-site vehicular parking and would give rise to an undesirable increase in on-street parking and in failing to provide adequate parking is contrary to policy R3
3. The proposal does not include on-site vehicular parking and would lead to an undesirable increase in on-street parking to the detriment of road safety which would not be appropriate to the amenity of the surrounding area contrary to policy IMP1

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
16-68-D-1	A	Elevations floor plan site and location plan
16-68-D-1	B	Elevations floor plan site and location plan

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

Details of ventilation/extraction system and chimney added

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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

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



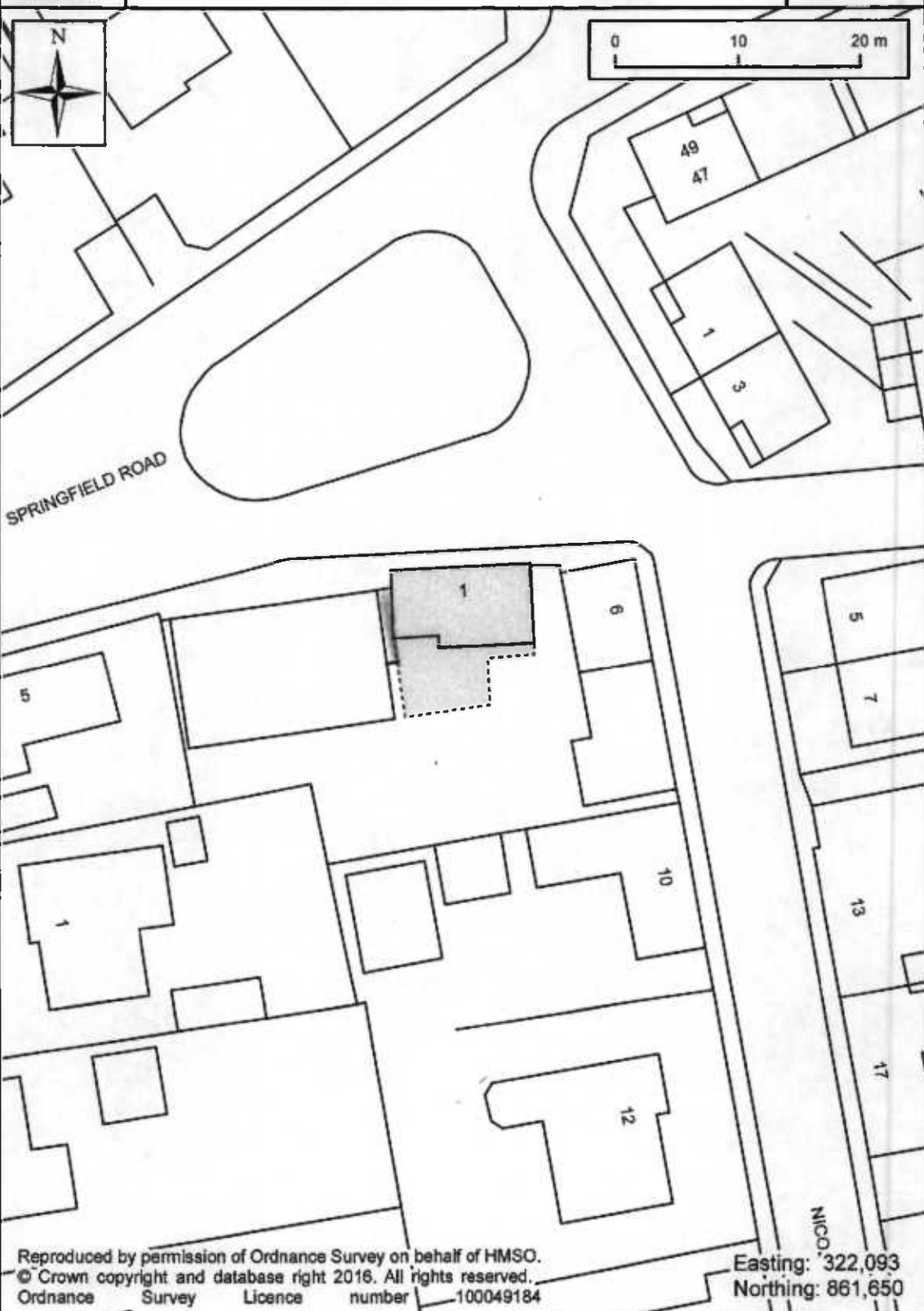


Millar
Bryce

1 Springfield, Elgin IV30 6BU

PZ144298/RC
March 2016

1:500
@A4



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Easting: 322,093
Northing: 861,650