



ENVIRONMENTAL SERVICES

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Our reference: DA/LRB222

Your reference: LR222

Chief Legal Officer
Per Ms L Rowan
Committee Services
The Moray Council
High Street
ELGIN
IV30 1BX

09 April 2019

Dear Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**REQUEST FOR REVIEW: PLANNING APPLICATION 18/01576/APP CONVERT PART OF BAR AREA
INTO 3NO FLATS AT THE GOLDEN PHEASANT NORTH STREET BISHOPMILL ELGIN**

I refer to your letter dated 27 March 2019.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully



Diane Anderson
Senior Engineer

Local Review

LRB Ref 222

Planning Application Reference 18/01576/APP Convert part of bar area into 3no flats at The Golden Pheasant, North Street, Bishopmill, Elgin

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted by Mr Walter Meldrum and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 18/01576/APP to convert part of the existing bar area into 3no flats at The Golden Pheasant, North Street, Elgin.
3. Transportation received the consultation for planning application 18/01576/APP on 4th January 2019. A copy of the final consultation response dated 29th January 2019 is attached (TMC01).
4. The existing public house fronts directly onto North Street, which forms part of the Primary Road Network in Elgin. North Street experiences high volumes of passing traffic as well as pedestrian activity; it is both a walking route from local housing to Elgin Town Centre and provides access to a number of local facilities (convenience store, chemist, take-away restaurants etc.). The footway at this location is narrow, approximately 1.4 metres in width, and a bus stop is located on the frontage of the site. Photographs taken during Transportation's site visit are attached (TMC02).
5. To the rear of the public house there is a surfaced parking area, accessed via a gated access approximately 10 metres from the centreline of the North Street/Blantyre Place junction. A photograph taken during Transportation's site visit showing the access is attached (TMC02). It should be noted that is sufficient space to accommodate the required number of parking/cycle spaces, and provision of bin storage, to meet the development parking standards for this proposal.
6. Whilst the vehicle to vehicle inter-visibility from this access is restricted by the existing building (vehicular visibility splay), Transportation's primary concern at this location is the restricted visibility for vehicles exiting the proposed development onto the footway, i.e. the restricted sightlines between drivers of exiting vehicles and pedestrians (pedestrian visibility splay). Pedestrian visibility splays are required to allow drivers to see pedestrians as they emerge from their access road or driveways and to allow pedestrians to see the vehicle.
7. To the south of the access the footway is slightly wider than to the north, and whilst the visibility between drivers and passing pedestrians is restricted by a boundary wall, the Appellant has previously confirmed that the height of the wall could be lowered to improve the visibility splay to the south. However to the north of the access, the existing building severely restricts the visibility between exiting drivers and pedestrians walking along the narrow footway.
8. The width of the footway and proximity to a road with high volumes of passing traffic would also mean that pedestrians would be likely to walk closer to the building, and away from the edge of the road. This further reduces the available sightlines between exiting vehicles and passing pedestrians. A photograph taken during Transportation's site visit showing the view to the north at a distance of 2.4 metres back from the edge of the public carriageway is attached (TMC02).

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9. The Appellant's statement makes a comparison to a nearby Planning Permission to demolish a former bakers shop, and erect a new dwelling in its place. Each application is assessed on its own merits. The proposal in question (Planning permission 16/01268/APP refers) differs in a number of ways to this proposal;
- The redevelopment of the former bakers is for the replacement of a shop with parking and servicing area with a single dwelling, whilst this proposal is for a change of use to 3 flatted units (plus some of the Pub to remain in use).
 - The position of the access onto North Street is not immediately adjacent to any Public Road junctions, or a Bus Stop, as would the case for the access serving the proposed flats.
 - If necessary, at the access to the former bakers, there is space available for pedestrians to step onto the carriageway out of the path of an exiting vehicle, due to the parked vehicles either side of the access offering protection; whereas pedestrians in the same situation at the access to the rear of the proposed flats would have to step out onto the carriageway directly into passing traffic.
 - It should be highlighted that the redevelopment of the former bakers would require the widening of the former access; thereby improving the visibility at the access when compared to the previous use for the bakers shop, which had a high wall at the back of the footway.
10. At the Golden Pheasant the width of the access leading to the rear parking area is narrow, with insufficient width for two vehicles to pass each other, over a distance of approximately 18 metres. The potential conflict between a vehicle entering the access at the same time as a vehicle exiting, may result in the entering vehicle reversing back onto the public road to enable the other vehicle to exit.
11. The Appellant has previously stated that *'the gates to the rear car parking area have been closed for some years'* and more recently the appellants latest submission in support of the Local Review states *'Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar'* which highlights that the access has not been in recent use as part of the operation of the public house and that any change in use requiring parking provision (such as the proposed change of use to flats) would result in an increase of vehicles using this access.
12. The existence of the access at this location is a matter of fact. However the proposed change of use would result in the intensification of the use of this access, which in turn would be to the detriment of road safety.
13. It is not considered possible to restrict /limit car ownership for occupants of the flats by the use of Planning Conditions. National Planning Policy Framework ('Decision-making' paragraph 55) states that *"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."* A condition to restrict /limit car ownership for the occupants of the flats would not be enforceable and therefore would fail to meet National Planning Policy Framework paragraph 55.

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14. This proposal is essentially the re-submission of a previous application which was 'refused' and taken to Local Review. At the previous Local Review Councillors queried whether the lowering of the adjacent boundary wall to the south, and/or restricting existing vehicle movements to left turn only would resolve Transportation's concerns, but ultimately upheld the officer's recommendation.
15. For the benefit of clarity Transportation would not support a left turn only exit as this could not be enforced, and whilst lowering the existing boundary wall to the south would indeed improve visibility to the south for exiting vehicles, the severely restricted pedestrian and vehicular visibility splay to the north would still remain the same. The visibility splay to the north is restricted by the existing building and therefore without removing part of the building the required visibility splay would not be achievable.
16. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Moray Local Plan Policy T2 Provision of Access and IMP1 Developer Requirements are not satisfied.

Transportation
09 April 2019

Documents

TMC01	Transportation Consultation Response dated 29 January 2019
TMC02	Site Photographs

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	18th January 2019
Planning Authority Reference	18/01576/APP
Nature of Proposal (Description)	Convert part of bar area into 3no flats at
Site	The Golden Pheasant North Street Bishopmill Elgin Moray IV30 4EF
Site Postcode	N/A
Site Gazetteer UPRN	000133039109
Proposal Location Easting	321469
Proposal Location Northing	863610
Area of application site (Ha)	m ²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=PJO78DBG0FU00
Previous Application	17/01775/APP
Date of Consultation	4th January 2019
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Walter Meldrum
Applicant Organisation Name	
Applicant Address	The Golden Pheasant North Street Bishopmill Elgin Moray IV30 4EF
Agent Name	Plans Plus
Agent Organisation Name	Plans Plus
Agent Address	Main Street URQUHART By Elgin Moray IV30 8LG
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Andrew Miller
Case Officer Phone number	01343 563274
Case Officer email address	andrew.miller@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.

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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: Transportation Manager

Planning Application Ref. No: 18/01576/APP

Convert part of bar area into 3no flats at The Golden Pheasant North Street Bishopmill Elgin for Mr Walter Meldrum

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 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"/> |

This proposal is to convert part of an existing large bar area into 3no flats, with the retention of a smaller bar area.

Access to the proposed development's off street parking is via a gated access onto the A941 North Street, approximately 10 metres from the centreline of the North Street/Blantyre Place junction, at a location which has high volumes of passing traffic as well as pedestrian activity. A bus stop/bay sits immediately outside the site and local shops (including a convenience store, chemist, Public Hall, Chinese take-away and chip shop) are located in close proximity.

The footway along the frontage of the site (over which vehicles access the parking to rear) is narrow and both the pedestrian and vehicular visibility splays for vehicles exiting the site onto the Public Road are severely restricted to the north.

Additionally the restricted width of the access road to the rear parking also means that when a vehicle entering the site meets a vehicle exiting the site one of the vehicles has to undertake a reversing manoeuvre to allow the other vehicles to pass.

A pedestrian visibility splay is required to allow drivers to see pedestrians as they emerge from their access road or driveways and to allow pedestrians to see the vehicle.

Additional information

The applicants supporting statement for this proposal includes various comments, statements and comparisons with other sites/locations. Transportations key considerations/ concerns with this proposal have been expanded upon below:

- *Transportation's key concern with any 'intensification of use' of this access is the lack of visibility splay to the north, and most importantly the inability for exiting drivers to see pedestrians travelling southbound along the adjacent (narrow) footway. The obstruction to the visibility splay to the north is the building itself. Whilst removal of a section of the existing boundary wall to the south may provide additional access width (which in turn would allow vehicles to exit slightly further away from the building and slightly improve the existing pedestrian visibility splay to the north) there is no scope to provide a pedestrian visibility splay (2.4m x 5.0m taken from the back of the footway). Similarly the width of the access would result in conflict between entering and exiting vehicles, where one of the vehicles would need to reverse (most likely to be the entering vehicle). Again whilst removal of a section of the existing boundary wall to the south may provide additional access width there would be insufficient scope to widen the access to provide enough space for two vehicles to pass each other.*
- *The vehicular visibility splay is also restricted (2.4m x 43m taken from the edge of the carriageway).*
- *The applicant states "**Over the years the car park area at the rear has been locked up as the majority of customers walk to the bar**". This confirms that any trips associated with the proposed flats would be 'new' trips and that this proposal would as a consequence intensify the use of this access.*
- *This particular site location has a significant number of passing vehicles and pedestrians. The footway is narrow, and there are two road junctions immediately adjacent. A signalised pedestrian crossing and bus stop are also present on either side of the access. Because of the number of individual movements/ interacting elements in this vicinity there is significant potential for conflict, particularly with exiting drivers concentrating on finding gaps in the traffic rather than considering the potential for a pedestrian to step in front of them.*
- *In the instance of a pedestrian having to instinctively step out of the path of an exiting vehicle they would be stepping out directly onto the carriageway and potentially into the path of an oncoming northbound vehicle.*
- *A condition could not be applied which would limit the non-car ownership of the residents (non-enforceable).*
- *A condition to restrict exiting vehicles to left turn only would not mitigate against the lack of pedestrian visibility splay. It would also be non-enforceable.*
- *Finally there is sufficient space to accommodate the required number of parking/cycle spaces, and provision of bin storage, to meet the development parking standards.*

Reason(s) for objection

The proposed development, if permitted, would involve the intensification of use of an existing vehicular access onto the A941 North Street, where visibility is severely restricted by the adjacent building, and in addition the access is of insufficient width to allow two vehicles to pass clear of the public road. Transportation considers that the proposal, if permitted, would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

Contact: DA/AG
email address: Transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 29 January 2019

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.

LRB Ref 222
TMC02 Site Photographs



'Golden Pheasant', North Street – including parking out with parking bays



Access to parking area at rear of 'Golden Pheasant'

LRB Ref 222
TMC02 Site Photographs



Available visibility to north of access at 2.4 metres, from the edge of the carriageway.

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