

Transportation | Operations & Environment

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Our reference: AG/LRB316
Your reference: LR/LR316

18 December 2025

Dear Sir/Madam

TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008
REQUEST FOR REVIEW: PLANNING APPLICATION 25/00923/APP RETROSPECTIVE CONSENT TO ERECT A TIMBER FENCE AND GATE AT IVY COTTAGE MID STREET KINGSTON

I refer to your letter dated 15 December 2025.

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

Enclosures:

- TMC01 Transportation Consultation Response dated 20th August 2025
- TMC02 Sketch attached to Transportation Consultation response
- TMC03 Photographs from Site Visit on 15th August 2025
- TMC04 MLRB 316 Transportation Response dated 18 December 2025

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	22nd August 2025
Planning Authority Reference	25/00923/APP
Nature of Proposal (Description)	Restrospective application to erect timber fence and gate at
Site	Ivy Cottage Mid Street Kingston Fochabers Moray IV32 7NR
Site Postcode	N/A
Site Gazetteer UPRN	000133007162
Proposal Location Easting	333844
Proposal Location Northing	865482
Area of application site (M²)	
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=T0922HBCGIS900
Previous Application	03/02310/FUL 10/01462/APP 01/00040/FUL
Date of Consultation	8th August 2025
Is this a re-consultation of an existing application?	No
Applicant Name	Mr David Anderson
Applicant Organisation Name	
Applicant Address	Ivy Cottage Mid Street Kingston Fochabers Moray IV32 7NR
Agent Name	AK Architecture
Agent Organisation Name	
Agent Address	100 Union Street Aberdeen United Kingdom AB10 1QR
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shaaransh Kulshrestha

Case Officer Phone number	
Case Officer Mobile number	
Case Officer email address	
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

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Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 25/00923/APP

**Retrospective application to erect timber fence and gate at Ivy Cottage Mid Street
Kingston Fochabers for Mr David Anderson**

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

Please

- (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 comment(s) to make on the proposal
- (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below
- (d) Further information is required in order to consider the application as set out below

This proposal is for the retrospective consent for a new high timber fence and gate for an existing property served via a shared private lane.

Although Mid Street is private (and not adopted by the Roads Authority) it is a public right of way including publicly maintained street lighting. It is also narrow and subject to high on street parking demand for the adjacent properties. The new boundary fence to the rear of the property (eastern end) although replacing a previous hedge severely restricts visibility for vehicles exiting another property (Willow Cottage).

Whilst it is accepted that vehicle speeds are low, a vehicle exiting blind onto this narrow road would be considered to not only present a risk of collision with a pedestrian or another vehicle, it potentially also results in driver confusion with another vehicle having to reverse when meeting the exiting vehicle part way through their manoeuvre. This would not be acceptable.

Ideally the full length of the high fence up to the property of the house should be reduced to a height of less than 1.0m but as a minimum any boundaries located within a visibility splay of a of 2.4m x 5.0m from the centre of the access onto the road from Willow Cottage would require to be lowered to a height of no greater than 1.0m.

A sketch showing the required visibility splays (and extents of fence to be reduced in height) has been attached to assist - "25-00923-APP visibility splay sketch showing minimum extents of fence to be lowered".

As proposed Transportation considers that the high fence would be likely to give rise to conditions detrimental to the road safety of road users and would not support this (retrospective) proposal.

Reason(s) for objection

Transportation considers that the retrospective proposal would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policy DP1 'Development Principles' section (ii)- 'Transportation', part 'c' (impact on road safety).

Further comment(s) to be passed to applicant

Note - Transportation would be happy to review their position should updated drawings be submitted showing the lowering of the short section of rear boundary wall to reflect Transportations sketch. The provision of the 2.4m x 5.0m visibility for the adjacent driveway would still enable a significant section of the high boundary to be retained for privacy.

Contact: AG

Date 20 August 2025

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

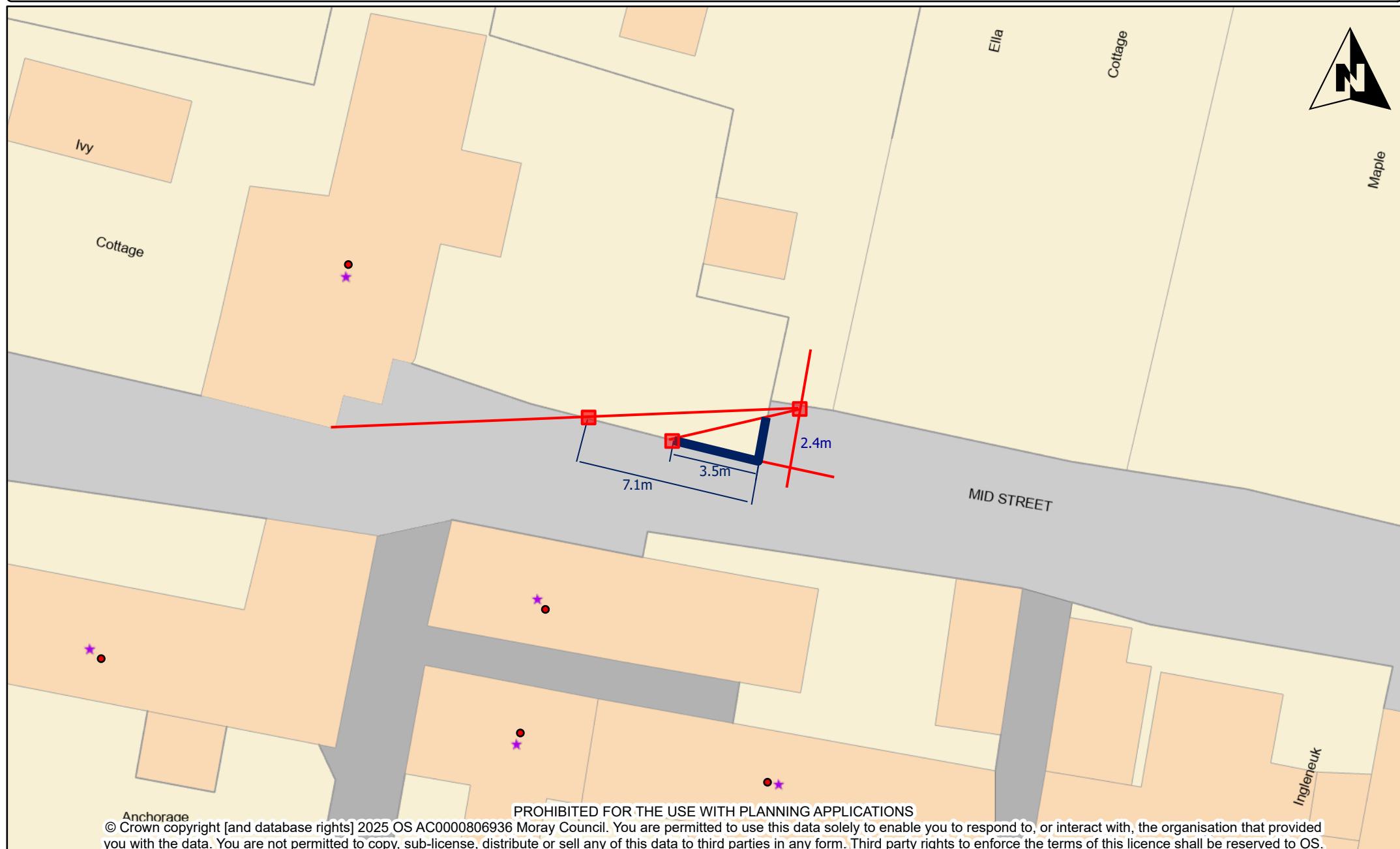
Consultee: TRANSPORTATION

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 <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.

a Moray Council Map



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Map Description: a Description of a Moray Council Map

Scale: 1:200 @ A4



TMC 03

Photographs of new high fence



Local Review**LRB Ref 316****Planning Application Reference 25/00923/APP Retrospective application to erect timber fence and gate at Ivy Cottage Mid Street Kingston****Response from Transportation, Moray Council**

1. This document is in response to the Notice of Review and the Statement of Case submitted on behalf of Mr David Anderson and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 25/00923/APP for the retrospective erection of a high timber fence and gate at the applicant's property.
3. Transportation received the consultation for planning application 25/00923/APP on 28th August 2025. A copy of the consultation response is attached (**TMC01**), which details Transportation's objection on the grounds of Moray Local Development Plan 2020 Policy DP1 'Development Principles' section (ii)- 'Transportation', part 'c' (impact on road safety).
4. The applicants supporting statement queries the validity of Transportation's objection focusing primarily on three main issues; namely that the road serving the property (and subject to the visibility constraint) is a private road; a high hedge has historically already been present; and a lack of evidence that the new fence could cause 'harm'.
5. Transportations considerations and reasons for the objection were outlined briefly within the pre-amble to Transportation's consultation response but for clarity shall be detailed further below
6. The fundamental principle for a planning application is that a proposal is being put forward for assessment against standards and policies for approval. There is a significant difference between a historical arrangement which has occurred over a number of years informally and perhaps not subject to any enforcement for whatever reason to seeking consent to physically erect a new structure. It is accepted that a hedge was previously present; however, an existing hedge can be cut back and maintained fairly easily whilst a high fence if approved via a planning application would formalise for the lifetime of the development the ability for the high fence to be retained long after the property may even have changed ownership. Planning consent relates to the place not the person.
7. It is accepted that the road serving the site is a private road, but the road is a 'through road' connected on both ends to the public road. It is fully surfaced with utilities and street lighting present throughout. Under the Roads (Scotland) Act a Road is defined as "any route (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road verge or footway and any bridge (permanent or temporary) over which, or tunnel through which, the road passes, and any reference to a road includes a part thereof." Any member of the public even those who don't reside within the area would be perfectly likely to walk or cycle or even drive along this road and in reality they would likely have no idea as to whether the road was private or public. Ultimately Transportation has a duty of care to ensure the safety of all road users.

Local Review**LRB Ref 316****Planning Application Reference 25/00923/APP Retrospective application to erect timber fence and gate at Ivy Cottage Mid Street Kingston**

8. The applicant suggests that there is no evidence that the high fence would potentially result in harm. Indeed speeds are low and vehicles are generally familiar with the narrow slightly awkward manoeuvring space; however even if there had been minor accidents here as a result of the former hedge Transportation would not necessarily be aware of them. Transportation assesses the likely associated risks directly resulting from any proposed changes based on the location and a number of other factors including how any proposal compares against current standards and guidance. By the very nature of events Transportation has to assess what has been proposed in terms of how it would be 'anticipated' to impact the future scenario if approved. It should be noted that the proposal was subject to formal objections including those relating to 'new' road safety implications.
9. It should also be noted that Transportation sought a significantly reduced visibility splay requirement than would ordinarily be required (2.4m x 5.0m instead of 2.4m x 25m) by taking cognisance of the existing and historic situation and to enable the applicant to retain their sought privacy via minimum alterations. This visibility requirement essentially focussed more on the ability for an exiting vehicle to see a passing pedestrian rather than to provide stopping sight distance for an approaching vehicle, and would be considered to be the minimum visibility splay requirement. A sketch was provided to the applicant showing the required works associated with the provision of the identified visibility splay for vehicles exiting the nearby property 'Willows Cottage'. The sketch has been attached (**TMC02**)
10. Subsequent to the formal response further discussions took place between Transportation and the Planning officer and other options were suggested as a suitable compromise. Rather than lowering the short section of boundary an alternative option would be to set back of the high fence behind the required visibility splay (this could be via fully removing the corner of the existing boundary or retaining a low section of wall with the new section of high fence behind it). By simply setting back the section of high fence at the corner of the property privacy could be retained at the same time as providing the required visibility for the neighbouring exiting vehicle.
11. It was noted that the Planning Officer had concerns in terms of how such an arrangement may look, particularly given the fact that the property was located within a Conservation area. Nonetheless it was anticipated that the applicant would engage directly with Transportation in regards to seeking a suitable arrangement. Subsequently no further contact was sought by the applicant.
12. It should be highlighted that Transportation primary concern related to the fact that the new fence completely obstructed the visibility for the neighbouring property (Willows Cottage) to be able to exit their driveway. This was considered likely to present two main issues. The first would be the potential for a pedestrian (potentially walking a dog or pushing a buggy) or a cyclist approaching from the west being struck by a vehicle exiting Willows Cottage; but in addition to this a vehicle exiting Willows Cottage would not even be able to nudge out slowly to see if any other vehicles were approaching – they would essentially have to manoeuvre fully out onto Mid Street before it became apparent that another vehicle was approaching. As a result, due to the narrow nature of the road and with parked cars generally present

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one of the cars would likely require to undertake a reversing manoeuvre to enable both to pass each other. This reversing manoeuvre could potentially result in driver and pedestrian confusion again potentially be to the detriment of road user safety.

13. Transportation site photos showing the high fence adjacent to the driveway to "The Willows" are attached (**TMC03**)
14. Transportation was not able to support the proposed (retrospective) high fence for the reasons highlighted above. However, Transportation did take cognisance of the historical and current context and offered a reduced requirement which balanced any physical works against the anticipated road safety risks whilst still offering the applicant the privacy/screening that they sought.
15. Transportations position remains the same in that the high fence should not be retained as currently provided but would be happy to assist in clarifying those options previously tabled if required. It is considered that setting the high section of fence behind the 2.4m x 5.0m visibility splay would require minimal works but offer a significant improvement in terms of visibility. Any proposed alterations would of course be subject to the approval from the Planning Officer in terms of their views on visual appearance and amenity etc
16. As currently constructed (and retrospectively proposed) Transportation respectfully, requests the MLRB to uphold the decision by the appointed officer on the grounds that the proposal would be contrary to Moray Local Development Plan 2020 Policy DP1 'Development Principles' section (ii)- 'Transportation', part 'c' (impact on road safety).

Transportation 18 December 2025