

**Planning appeal ref application number 11/02022/PPP - Demolition of Heather Lodge Flat (former Heather Hotel function suite), Tytler Street, Forres and PPP application for new dwellings**

**Statement of appeal**

The grounds of appeal are that the reasons for planning refusal are unjustified and that the information provided within the Report of Handling is both inaccurate and contradictory.

The above basis shall be argued in relation to a) consideration of objections received and b) review of the proposals in consideration of planning policy.

a) Consideration of objections received

The following points need to be highlighted in relation to the representations received :

1. Loss of privacy. This is noted by the Planning Officer although there was no clarification invited or a request for further clarification forwarded regarding possible overlook and affect on privacy. Although only an application for planning in principle, consideration had been given to the impact of overlook when siting the proposed buildings. It was anticipated for example that there would be no windows at first floor level to the gables of the building containing dwellings 1/2, see note 9 of drwg no 11/68/02. There would therefore be no significant overlook to the adjacent houses greater than existing levels of overlook from adjacent 3-storey flats.
2. Loss of light. This was again noted but loss of light would not be applicable.
3. Former auction rooms. The concern regarding loss of privacy was noted, but it could have been highlighted that the approval granted for the redevelopment of the former Auction Rooms is a recent precedent within the immediate locality for a development of a size and scale significantly larger than that proposed within the refused site. In relation to impact on the surrounding environment and scale and density for locality as required under policy IMP1, the application approved ref 08/01955/LBC involved the demolition of a listed building and construction of 24 no. flats, compared to the application refused proposing the demolition of a flat roofed former function suite and construction of 4 no. flats.
4. Flooding. Regarding the objection raised by SEPA, the footprint of the new building is less than that existing, being a proposed area of 148 sqm compared to the existing area of 208 sqm. In addition there is a larger existing hardstanding area compared to the proposed development.
5. Over development. The planning refusal of the application ref no 03/02198/FUL was in relation to the proposed additional dwelling, with the footprint of the former function suite being retained. The total area of the two dwellings would therefore have considerably exceeded the proposed footprint of the application refused. Development along Tytler Street surrounding the site is detached dwelling houses only to the immediate west, with the house to the north being attached to the existing development on the site. There is flatted development to the south and east. The settlement pattern for the locality is that of detached housing to the north of Tytler Street with a mix of dwellings and flatted development to the south.
6. Heather Lodge house. The existing flat roofed dwelling on the site is currently attached to Heather Lodge house, and the proposals would allow the dwelling to be

detached, with sufficient space provided between the existing gable and the new boundary to allow maintenance.

7. It must be argued that four properties of the size proposed and layout proposed with adequate car parking and amenity and limited adverse impact on surrounding property is not over development for the size of site.

b) Review of the proposals

The review of proposals is contained within Observations-Assessments of proposal.

1. There are not detached dwellings to the north or east of the site.
2. The previous use of the existing flat within the site is considered to be a material consideration on the basis that policy H4 is not applicable in the instance. In contradiction to the assessment however is the view that the development is considered to be a backlands site thus conflicting with policy H3. It is stated that the creation of four residential units on a relatively small site is considered to be over development, but no account is taken of the existing size and footprint of the former function suite in relation to the size of the proposed new dwellings.
3. No comment was requested during the application in relation to the observations of SEPA. If this opportunity had been provided, it would have been argued that the net impact of the proposed development would have a reduced impact on the potential effect within the locality due to flooding. This argument has been accepted by SEPA in other planning applications.
4. In relation to policy IMP1 the only argument is based upon an area allocated for each dwelling in comparison with policy H4 which has already been stated as not being applicable in this instance.

Based upon the above, it must be strongly argued that the reasons for refusal are unreasonable and that the justification given within the Report of Handling is both contradictory and insubstantial. The appeal should therefore be upheld.