

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and County 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.	
Forename	Alexander	Forename	Ian
Surname	Laing	Surname	Sutherland McCook
Company Name		Company Name	1 Architects Ltd
Building No./Name		Building No./Name	Seapark Estate
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City		Town/City	Kinloss
Postcode		Postcode	IV36 3TT
Telephone		Telephone	01462 216121
Mobile		Mobile	07713 912473
Fax		Fax	
Email		Email	ian@1architects.com
3. Application Details			
Planning authority	Moray Council		
Planning authority's application reference number	19/01659/APP		
Site address	Land at Patrol Road, Portknockie		
Description of proposed development	Erection of visitor cafe on Land Adjacent To The Moray Coastal Path		

Date of application

Date of decision (if any)

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:

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 attached "Supporting Statement"

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.

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

Supporting Statement

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

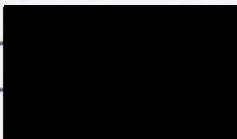
All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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:



Name:

Ian Sutherland McCook

Date:

03 August 2020

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.

Appeal Statement

Visitor Cafe at Patrol Road, Portknockie

August 2020

Our objections to the Refusal

1 The first reason for refusal is:- *"The proposal would introduce an incompatible use into an established business area and would create conflict with other existing uses."*

The only active users on site are a boatbuilder and a joinery manufacturer. Any other units are disused. It cannot be seriously claimed that a small visitor restaurant would create a conflict, or in some way detract from the amenity of those users.

2 The second reason for refusal is:- *"The proposal would fail to provide a development that would enhance the visual appearance of the site or the quality of the built environment."*

A visit to the area will confirm that the entire site is run-down and semi-derelict, and in dire need of a revamp. Being immediately adjacent to the Moray Coastal Path, and on the only route to Bow Fiddle Rock, this site is an eyesore. To suggest that the proposal would not be an improvement, is not credible.

3 The Opportunity Site Policy (OPP1) states "Only proposals that enhance the overall quality of the built environment and visitor facilities will be supported".

4 OPP1 is for "Small-scale Business or Residential". While it is true that a visitor cafe would come under "Food and Drink use class.....it can also be argued that this is a small-scale business. The Scottish Town & Country Planning Act describes Business Class as *"being a use which can be carried on in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."* Moray Council Environmental Health Dept have raised no objection to this proposal, despite it being adjacent to an established residential area.....so it fits within that definition given in the Town & Country Planning Act.

5 Development policies are surely meant to assist with the creation of sustainable developments in Moray, particularly when jobs are being created and the visitor experience is being enhanced. It seems folly to use these policies to hinder development, when there are no departments objecting to this proposal.

Conclusion

We have been able to demonstrate compliance with the policy, apart from the requirement to develop the whole site at once. The policy is no doubt well-intentioned and may be appropriate to many other locations. But here we believe that this one aspect of the policy is not appropriate for this situation and that it should be interpreted flexibly.

Our view is that once our client has shown what can be achieved on the site, others will want to follow with other tourist-related developments, but to expect these all to happen at once is unrealistic, and serves only to stifle, even prevent, development. This is surely not the aim of Moray Council.

We believe that the proposal is in the best interests of the community, and is worthy of support.

1 Architects Ltd
August 2020