

# 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	<i>MR</i>	Ref No.	
Forename	<i>CYRIL</i>	Forename	
Surname	<i>SMYTH</i>	Surname	
Company Name		Company Name	
Building No./Name		Building No./Name	
Address Line 1	<i>COUNAGEDALE</i>	Address Line 1	
Address Line 2	<i>UPPER GARMOUTH</i>	Address Line 2	
Town/City	<i>FOCHABERS</i>	Town/City	
Postcode	<i>IV32 7AB</i>	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
<b>3. Application Details</b>			
Planning authority	<i>MORAY COUNCIL</i>		
Planning authority's application reference number	<i>20/00636/PPP</i>		
Site address	<i>BARNYARD STUDIOS, UPPER GARMOUTH, FOCHABERS. IV32 7AB</i>		
Description of proposed development	<i>NEW HOUSE AND GARAGE ON A SITE TO THE NORTH OF BARNYARD STUDIOS, UPPER GARMOUTH, FOCHABERS</i>		

Date of application

22/05/20

Date of decision (if any)

10/09/20

**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.

[Empty box for explanation]

**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.

The entirety of why we believe in our Planning in Principle Application was summarised in the attached copy of our letter of the 23rd July, 2020, submitted by email, to Gary Templeton of the Council's Local Plans Dept. In the support of our Application in the context of the then statutorily approved and singularly adopted 2015 Moray Local Plan.

Our reason for requesting a Review by the Local Review Body is that our Application was submitted, and should have been determined by reference to the Policies of the then ruling 2015 Moray Local Plan which DID NOT explicitly state that no development can take part within an ENV8 designated area BUT DID allow development provided that it complied with the four conditions stated in the then relevant and ruling Policy E5 (Safeguarding Open Spaces) - which we contend that we did demonstrate compliance in our PP Application.

Our Planning in Principle Application was lodged and validated on the 22nd May, 2020. As with all Applications of this nature, ours had two months of validity for consideration and determination by Moray Council ending on 22nd July, 2020. The 2015 Moray Local Plan was the relevant Statutory Legislation in force during this period with the 2020 Moray Local Plan not being formally proposed and approved by full Council until the 27th July, 2020 - five days after the determination period of our Application having expired.

Applications submitted and validated for a specific period of consideration under the currency of one Council Local Plan can't be shuffled over into an entirely different policy regime because of delays created by the Council. All points raised by the Council in relation to our Application, including agreements with Scottish Water, were resolved and confirmed by the 10th July, 2020 - more than two weeks before the 2020 Moray Local Plan was approved for adoption.

Our Planning in Principle Application was not considered and determined by the relevant and legitimate legislation. If it had been, then we contend that it should have been approved.

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

- ① - SUPPORTING STATEMENT OF 23/5/2020 + SITE PLAN
- ② - TITLE PLAN (1,1000 SCALE) OF OTHER ENV 6 LAND OWNED (1,1000 SCALE) BY APPLICANTS CURRENTLY BEING TRANSFERRED (GIFTED) TO THE GARMOUTH AND KINGSTON COMMUNITY.
- ③ - EMAILED LETTER + PHOTO TO GARY TEMPLETON, M.C.
- ④ - EMAILED LETTERS + ATTACHMENTS OF 7/6/2020, 28/6/2020 & 10/7/2020 TO JAIN DRUMMOND, M.C.

**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: CYRIL SMITH

Date: 22/10/20

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.