

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	Mrs	Ref No.	
Forename	Susan	Forename	
Surname	Kemp	Surname	
Company Name		Company Name	
Building No./Name	Gorse Bank	Building No./Name	
Address Line 1	Damhead	Address Line 1	
Address Line 2	Rafford	Address Line 2	
Town/City	Forres	Town/City	
Postcode	IV36 2SJ	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Application Details			
Planning authority	Moray Council		
Planning authority's application reference number	20/00947/PPP		
Site address	Heatheryfold Caravan, Damhead, Rafford, Forres, MORAY. Smallholding Business Reference Number 275876		
Description of proposed development	Single dwelling house.		

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.

Please see separate document.

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.

a) This new material is being raised to provide additional information to the Local Review Body.

b) Previously I was not aware of the legislation concerning the height of a fence that fronts a road.

c) I believe that if the fence is lowered as per legislation then the safety and visibility at the junction will be further improved and the proposal will comply with the requirements of policies PP3 and DP1.

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

Statement of reasons for requesting a review.
Response document. 2 pages.
2 photographs of Mr Harrison's site.
Photograph showing visibility at the junction in a North East direction.
Photograph of 2 cars passing at the junction.

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

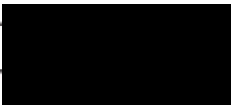
All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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:

Susan Kemp

Date:

29-10-20

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.

Statement of reasons for requesting a review

- a) I believe that there will be no intensification of use of either the U107 or the junction onto the B9010. Traffic to and from the dwelling house will be simply offset by a reduction in traffic to and from the previous owners business.

- b) The recently erected wooden fence along the site boundary of 'Kantara' which fronts onto the B9010 replaced a wide hedge which was removed this summer. This resulted in a vast improvement in visibility and safety of road users on the B9010 in a North West direction.

- c) I have recently been made aware of the legislation concerning the allowable height of a fence that fronts onto a road and believe that if this fence was lowered to comply with this legislation then visibility and hence road safety at the junction would be improved still further and that the proposal would comply with policies PP3 and DP1.
I understand that Moray Council is aware of this issue.

- d) I believe that the above reasons should have an impact on the decision process.

Response to the intensification of use of road junction U107/B9010.

The previous owner of the site Mr Harrison received permission for and constructed several agricultural buildings on the site for his agricultural machinery, equipment and plants. (AFPN08/02170/AGR and AFPN09/00690/AGR)

He also positioned a Caravan in the field which he used as a site office for his Heather and Herb business. (Please see attached photographs showing the Caravan and agricultural buildings) He travelled to and from the site on a daily basis and there were several vehicles making deliveries of horticultural goods. Thus I consider that full implementation did take place.

Any vehicular traffic from a new dwelling house would be offset by a reduction of traffic that serviced Mr Harrison's business, thus there would be no intensification of use.

Response to the standard of the junction and description of road.

The visibility splay at the U107/B9010 junction was considerably improved in 2015 by Moray Council. This improvement included the removal of a hedge and the construction of a stone wall stepped back from the main road.

As can be seen in the photographs attached there is excellent visibility at the junction when joining the normal flow of traffic from the North East direction. As is also shown the junction is wide enough to allow for two cars to pass each other safely.

Following this improvement and acceptance of the photograph showing the two cars passing each other at the junction, consent was given for a dwelling house to the West of the site. (14/02088/APP – allowed by Local Review Body) The construction of this dwelling has not yet commenced.

The recently erected timber fence along the site boundary of 'Kantara' and the B9010 is a vast improvement on the previous wide hedge and allows for improved visibility and safety of road users on the B9010 in a North West direction. This visibility could be further improved if the fence was lowered to meet current legislation as reference below.

The Scottish Government householder permitted development rights: Guidance Legislation Class 3E:

Class 3E.— (1) The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse. (2) Development is not permitted by this class if— (a) any part of the resulting gate, fence, wall or other means of enclosure would exceed 2 metres in height; (b) **any part of the resulting gate, fence, wall or other means of enclosure would exceed one metre in height where it— (i) fronts a road; or (ii) extends beyond the line of the wall of the principal elevation or side elevation that is nearest a road; (c) it replaces or alters an existing gate, fence, wall or other means of enclosure and exceeds whichever is the greater of the original height or the heights**

described in sub-paragraphs (a) and (b); (d) it would be within a conservation area; or (e) it would be within, or bound, the curtilage of a listed building.

The entry to the new dwelling would be set back from the road with a wide visibility splay to facilitate a generous passing place; most properties on the U107E Fernielea road already have this facility. The site itself is relatively screened from surrounding housing, with mature trees on two boundaries offering enclosure to the site as well as a backdrop to mitigate the visual impact of the house. Coupled with trees recently planted along the road boundary, the siting of a house will be well contained without detriment to the rural character of the wider area.







Notice of Review

