

# SREM Limited

06<sup>th</sup> August 2021

FAO: Mrs Lissa Rowan  
Democratic Services  
Moray Council  
Council Offices  
High Street, Elgin,  
IV30 1BX

**10045 – Planning Application 20/00474/APP – Demolish existing service station and garage and erect retail unit, light industrial unit and 2no blocks of residential flats at Hopeman Service Station, Forsyth Street, Hopeman, Elgin**

Dear Lissa

I am writing in response to your email received on 28<sup>th</sup> July 2021, Further Representations by way of response to our Notice of Review. Having carefully read the comments, I have compiled our response which is attached to this letter.

It is unfortunate that we are in this position and we are not able to reach an agreeable solution with Moray Council. Our intention was always to try and reach a negotiable outcome to satisfy all parties. Our client's main intention was to provide local employment opportunities and quality housing, to improve walking and cycle routes and create a sense of place in line with the aspirations set within the Scottish National Planning Framework 3 (NPF 3). The selection of a rundown and dilapidated brownfield site, was chosen as it has significant potential but is now at risk of lying dormant indefinitely as any other type of development will be unviable.

We are hopeful that our response is detailed and provides clear justification for many of the points raised. There is a significant concern that the application was not assessed under the correct procedures and most certainly disagree that any information submitted was done so under false pretence.

If you require any further information please do not hesitate to ask.

Kindest Regards,



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## INTRODUCTION

This document has been prepared to address the comments received from Moray Council on 28<sup>th</sup> July 2021 following submission of a Notice of Review for Application 20/00474/APP Hopeman. The information contained within this response, and all previous communications with Moray Council is true and accurate to the best of our information.

As noted within our appeal. The application for this proposal was submitted on 08<sup>th</sup> April 2020. The refusal notice was issued 30<sup>th</sup> March 2021. This was almost 1 year after the initial submission. Moray Council took the decision the application should be assessed under delegated powers (despite the number of objections), and have subsequently taken the decision a Notice of Review is the most appropriate means of appeal.

As of the 27<sup>th</sup> July 2020 The Moray Local Development Plan was adopted superseding the 2016 LDP, 2 months after the expiry date for responding to our application. It is important to note that the principles on which the submission has been assessed were not current at that time. Our application and the number of parking spaces required were calculated on the 2016 standards, which were current and available at that time. Electric Charge points were implemented based on the information available on the MC website. Planning policies relating to the EV charge points within the 2020 plan were not available via the Moray Council website. The information relating to the new policies and standards were not communicated via email or by other means.

Further, in addition to the transport statement a Road Safety Audit was requested to which we provided a stage 1&2 report. Following receipt of the report, Moray Council raised several issues with the design, concerns over visibility, parking, pedestrian routes, and drainage, each point is expanded upon within this report. Following receipt of the report, and with some confusion over the points raised by MC our consultants tried to make contact with the Roads team and were advised to revert to email. Understandably the pandemic had an impact on all and implications of home working. In a bid to open discussion changes were made to the design, and submitted to MC along with the Road Safety Audit Response on 01<sup>st</sup> February 2021. In reference to Fig 1.1 below no response was received subsequently being advised by telephone the refusal notice was pending. In the event we had received a response, perhaps many of the issues could have been clarified/ justified and appropriately addressed.

RSA DECISION LOG					
RSA Problem		RSA Recommendation	Design Organisation Response	Overseeing Organisation Response	Agreed RSA Action
Number of problem from RSA REPORT	Insert problem from RSA REPORT	Insert recommendation from RSA report	Insert design organisation's response	Insert Overseeing Organisation's response	Insert design and Overseeing Organisation's agreed action
3.1	The absence of dropped kerbs and tactile paving could lead to pedestrians tripping and falling or being struck by vehicles.	It is recommended that dropped kerbs and tactile paving are provided at the crossing facilities.	Dropped kerb/ tactile paving shown on plans		
3.2	Absence of dropped kerbs at disabled parking bays.	It is recommended that dropped kerbs are provided adjacent to the disabled parking bays.	Dropped kerbs shown to disabled bays		
3.3	Absence of footway connections to westbound bus stops.	It is recommended that a direct footway connection is provided. TMC have plans for a footway to the west of the site. Should discuss this with MC and co-ordinate with their proposals.	Pedestrian crossing removed. Dropped kerbs & tactile paving indicated on layout.		

Figure 1.1 RSA Response Document

## RESPONSE TO POINTS RAISED – PAGE 1

### 1. 2 EV spaces are not adequate

The standards require we provide 2 EV spaces. This is what we have provided. In addition to this we have also highlighted 8 potential EV charge point locations. Ref Drawing L-003 Rev J. The development could and would if required provide x10 EV spaces.

### 2. Concern the proposal would reduce employment within the town.

There is no evidence to suggest that this would be the case. We have provided a retail statement with a detailed breakdown of the job opportunities with this retailer. It is hypothetical that creating jobs would drive the other existing stores out of business. On Harbour Street the following businesses occupy retail style premises are:

- Costcutter
- Coffee Shop
- Fish and Chip Shop
- Butchers
- Ice Cream Shop
- Pharmacy
- Premier Store
- Chinese Takeaway
- Flower Shop

The application is for class 1 retail, which can be for a number of unspecified retail uses, arguably the proposed retail element is not of the same nature and not necessarily deemed a competitor. The only 2 shops that may see our client's development as competition are the Costcutter and the Premier Store. Planning is not here to protect specific businesses and competition can only be seen to be a good thing requiring the existing operators to "up their game". Also it is noted that the Premier Store opened relatively recently and after the Cost Cutter.

### 3. Conflict of opinion regarding current employment figures.

Firstly we are not proposing any build relating to 'hospitality' making this point completely irrelevant. Disregarding current figures and statistics the issue is the uncertainty over future employment. There are many studies and articles published but I would suggest the mckinskey report is most appropriate and can be found here:

<https://www.mckinsey.com/industries/public-and-social-sector/our-insights/covid-19-in-the-united-kingdom-assessing-jobs-at-risk-and-the-impact-on-people-and-places#>

In summary, one of the main findings of the report was:

*"Our forward-looking analysis of jobs at risk arrives at similar patterns. The retail and wholesale sector has the largest number of jobs at risk—1.7 million, or 22 percent of the total 7.6 million."*

The UK government anticipate a significant rise in unemployment rates beyond the end of the government furlough scheme. The refusal of any proposal which provides potential employment opportunities should be very carefully considered.

### 4. Conflicting opinion – volume of traffic previous garage use and proposed retail/ residential

If the site were to be developed solely for business use, the number of employees is unknown without knowing the nature of the business, as is the configuration of the site and parking numbers, which makes this argument hypothetical. Creating housing may actually contribute to a reduced volume of vehicular traffic during the working day. If the site were

to be reopened as a filling station site it would undoubtedly feature an element of convenience sales as is the norm. The traffic movement would also likely be higher than our clients proposal.

The responder is incorrect in who the applicant is. This is not an application by Springfield Homes. We, the agent act on behalf of our client(s) and have acted in an appropriate and professional manner throughout. All information has been provided to the best of our knowledge based on the information we have available.

Our client has paid for several independent reports at Moray Council's request from professionals within their field whom are legally bound to provide honest and accurate information.

Details of the wider drainage strategy were provided within the DIA with drawings clearly noted within the appendices. In terms of the Springfield scheme that the responder is referring to, how it has been implemented and maintained is completely irrelevant to this application. Moray Council have the authority to enforce action against any works that have not been carried out in accordance with the Statutory Approval and this application should not be held accountable for works carried out by another party within another site.

Our intention has always been to reduce any impact on the neighbouring properties. We had initially proposed the boundary treatments would remain as they are, however the addition of the 6ft fence along the boundary was a late request from the planning team. Several phone calls a few days prior to the refusal notice being issued, we were asked to make changes including the addition of timber fencing, and the addition of bird boxes. Unfairly, we have absolutely no intention of acting dishonestly and would have welcomed any meeting or discussion remotely or socially distanced to discuss. It was clear from the outset that any form of discussion with the planning team was unwelcome.

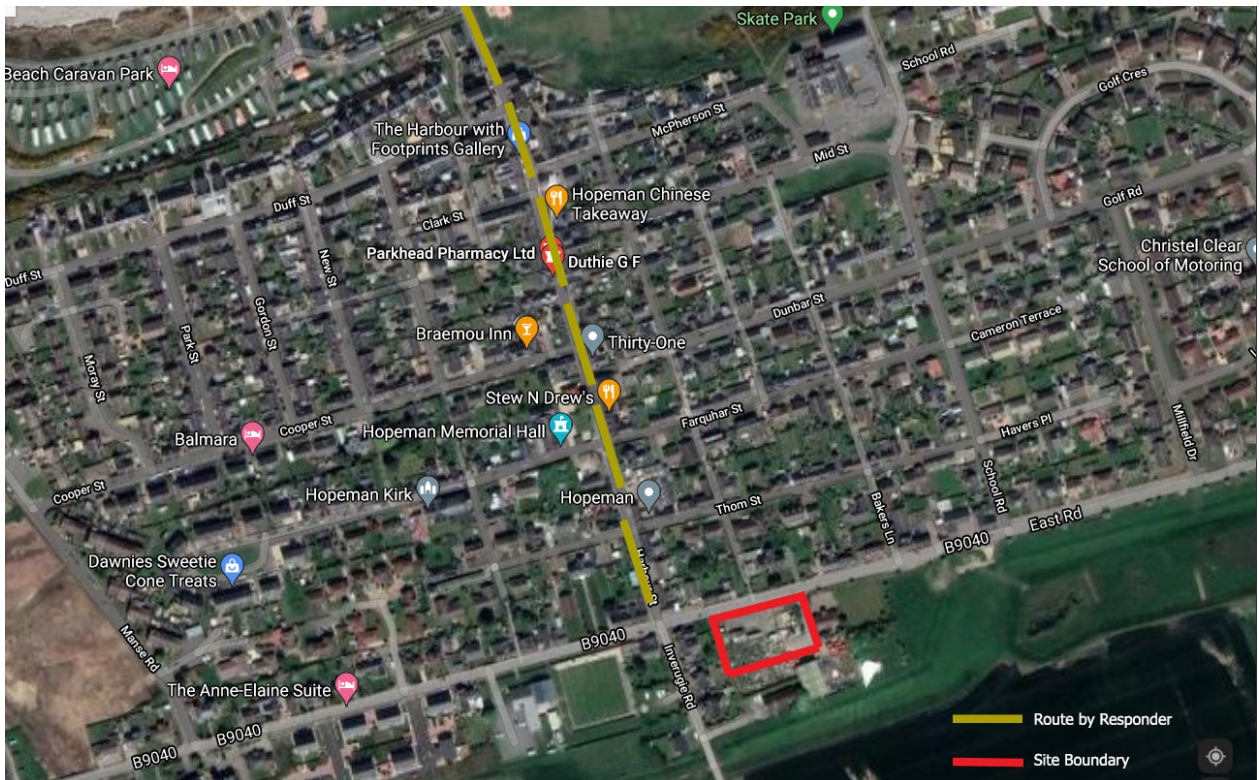
Reference email of 13<sup>th</sup> May 2020 regarding affordable housing in favour of a commuted sum, initially it was proposed 2 of the 8 flats would be affordable however MC responded to advise a commuted sum would be preferable. Our client's intention was always to provide what Moray Council required. There is a significant level of information within our appeal document in support of this application under Section 2.1.1 Scottish Planning Policy.

## **RESPONSE TO POINTS RAISED – PAGE 4-7**

It is completely unreasonable to suggest that a very insignificant typo a very small element of human error should discredit the agent's lack of local knowledge and therefore make everything else discreditable.

It is not necessarily the case that every individual visiting the site would do so via Harbour Street which is what the responder appears to suggest. Only by taking this route would there be the possibility of passing all the amenities stated. Residents from either end of Hopeman would almost certainly take a different route.





There is no evidence to substantiate the responder's claims that employees may live out with the village and travel to work by car making the proposals less sustainable. Arguably, all employees may reside in Hopeman, they may travel to work by bus, and they may cycle to work, or run or walk. This is all hypothetical. Again, if the site had no retail element and was purely for business, there is no way of knowing the nature of the business, the number of the employees or parking numbers required.

The proposed crossing will offer a safe route for crossing in addition to the footpath on the proposed site side being reinstated and upgraded. There are many many valid clear points within the transport statement which suggests the proposals work very well and are in line with Scottish Government guidance for creating places.

*"It is expected that the inclusion of external footway connections with Forsyth Street and introduction of a new crossing facility over the site access junction and Forsyth Street as part of the development will promote journeys on foot from the site and accommodate the expected uplift in pedestrian activity. It is therefore considered that the pedestrian generation calculated within the multimodal assessment will be exceeded, thereby reducing reliance on private car use for local trips."*

### Section 2.3

In reference to the materials and the responder's claims this should be discounted because they are not immediately neighbouring the site is invalid. The material palette on Forsyth street is completely varied with a mixture of stone, render and timber. The precedents used were done so to evidence an exact match. A walk along Forsyth Street would be worthwhile to evidence that the material palettes used are visible on properties immediately adjacent.

The planning application was submitted to Moray Council 08<sup>th</sup> April 2020 a response was received on 05<sup>th</sup> May 2020 and in reference to the elevation of the retail unit we received the following comment:

*"The design of the shop building could also be improved with greater interest on the street facing elevation."*

Amendments were made to the elevations and revised drawings resubmitted. No further comments were received, there was no opportunity for further discussion and nothing further raised prior to that noted within the refusal notice, which inferred that they were acceptable.

#### **Section 2.4**

The retail statement has strongly advised that the store within Hopeman and its location in comparison to other stores within similar locations namely Lhanbryde will most likely see the carpark underutilised. Most of the individuals visiting the store are likely to commute on bicycle or by foot.

The responder claims the 'car park is likely to be congested at peak times' this argument is completely contradictory to the primary argument that individuals will pass all other convenience stores on the way to the proposed site. The Primary School is located 0.3 miles away, There is no evidence to suggest the majority of people commuting during this time do so by car.

A swept path analysis has been prepared and submitted as part of our application. This clearly demonstrates adequate turning for emergency and refuse vehicles.

#### **Section 2.6**

As noted within our appeal. The parking provision provided was in line with the standards current at that time. The figures that we have been asked to meet were firstly not adopted at the time of submission and secondly not within the public realm available on the Moray Council website. Parking bays are shown smaller than MC's desired size in a bid to achieve the number requested. If we are to revert to the standards on which the proposal should have been assessed, the parking bays could be reduced and the desired bay dimensions easily achieved.

#### **Section 2.7**

There are no charge points proposed immediately outside the retail unit. This point is not valid.

### **RESPONSE TO TRANSPORTATION COMMENTS Page 8-25**

As of the 27<sup>th</sup> July 2020 The Moray Local Development Plan was adopted superseding the 2016 LDP, 2 months after the expiry date for responding to our application. It is important to note that the principles on which the submission has been assessed were not current at that time and as a result, it is felt that the application has not been fairly assessed, with expectations exceeding the standards available.

The number of spaces required were calculated on the 2016 standards, which were current and available at that time. Electric Charge points were implemented based on the information available on the MC website. Planning policies relating to the EV charge points within the 2020 plan were not available via the Moray Council website. The information relating to the new policies and standards was not communicated via email or by other means.

Further, in addition to the transport statement a Road Safety Audit was requested to which we provided a stage 1&2 report, this was submitted 09<sup>th</sup> February 2021. On 16<sup>th</sup> March 2021 an email was received from the planning team with transportation response attached. We were advised within this email that these points would be added to the recommendation for refusal allowing no opportunity to resolve the points raised by transportation. It is critical to mention that between 09<sup>th</sup> February and 16<sup>th</sup> March, our consultants tried to make contact

with the Roads team and were advised to revert to email. Understandably the pandemic had an impact on all and implications of home working. In reference to Fig 1.1 below no response was received subsequently being advised by telephone the refusal notice was pending. In the event we had received a response, perhaps many of the issues could have been clarified/ justified and appropriately addressed.

*“The Road Safety Audit process was not completed in consultation with the Overseeing Organisations representatives.”*

Attempts were made to engage with Moray Council to discuss prior to submission of the Road Safety Audit and it was not welcomed. A second attempt was made following submission of the RSA and we were asked to submit everything in writing. A Road Safety Audit response was submitted on the 21<sup>st</sup> February responding to each point raised at that time, no further commentary was received, as would be standard practice. During the process deadlines set were always achieved, however, it is also important to note that the process was undertaken during the Covid-19 pandemic, a challenging time for everyone. We would have welcomed a meeting with Moray Council’s transportation colleagues and an opportunity to discuss the proposals in more detail, certain that some of the issues could have been negated.

### **Access for Vehicles/ Road Safety Audit & Visibility**

Please see comments above. Drummond Black Consulting Ltd advised that the correct procedures were followed. Only if a stage 3 report was requested would representatives from MC be invited to visit the site. The report was submitted and following receipt of comments from transportation on 16<sup>th</sup> March 2021, attempts were made to contact, discuss and clarify as it was strongly felt some of the points raised were unclear and perhaps some information misinterpreted.

Direct access from the B9040 is commonplace within the settlement boundary with numerous driveways taking accesses from the route only a short distance from the site. The parking spaces for the smaller commercial unit are located on a straight section of the B9040 with good visibility from both approaches ensuring that vehicles on the main road can react safely to vehicles manoeuvring from the aforementioned spaces. There is potential to relocate the bays as suggested however clarity was required over conflicting information.

The visibility splay for the primary access does go through the loading bay and the splay would be impeded on the very infrequent occasion that the delivery vehicle is on-site. The Co-Op vehicle would visit the site once a day and only be on-site for a maximum of 30mins. The delivery would be arranged to avoid busier store times, likely in the morning when the store would traditionally be quieter ensuring that the access junction is lightly trafficked.

Nevertheless, ECS drawing 20044\_007 was submitted to the council which demonstrated that the required 2.4m x 43m visibility splay could still be achieved toward the west for oncoming traffic in the offside lane. This plan demonstrates that vehicles exiting the junction will still have a clear line of sight to all traffic streams on the B9040 with appropriate safe stopping distance.

### **Access for Pedestrians**

Dropped kerb crossings have been introduced on the western boundary of the site and directly to the east of the vehicle access to the site. These crossings clearly address the desire lines from all available routes to / from the B9040 and this was outlined in submissions to the council. As such, the council’s criticism with respect to consideration of the pedestrian desire lines is unfounded.



Parking for commercial unit – as MC had far exceeded the time to assess the application, we had hoped that a proper discussion with MC would have transpired prior to the approval/ refusal notice being issued to address our concerns. Unfortunately this was not the case.

### **Access to Public Transport**

Dropped kerb crossing have been introduced on the site frontage which will enable pedestrians to best utilise the available footway infrastructure. A footway has been included on the full extent of the site frontage which ensures that connects can be made to the proposed footway to the east of the site once this is delivered by Moray Council. We would of course be more than happy to work with MC and ensure our proposal is coordinated with MC's proposals to construct a footpath to the West of the development.

### **Servicing Arrangements**

As stated in previous submissions although the gross footprint is 371m<sup>2</sup> there is a proportionately greater Back of House area of 139m<sup>2</sup> leaving a retail floor area of 232m<sup>2</sup>. Applying the council's parking ratio to the sales area would only require a parking provision of 14 spaces we have applied additional spaces at the council's request to meet more onerous standards. If the 14 spaces were to be applied this would resolve the parking bay sizing that the council is unhappy to accept and it would also mean that the 4 bays attached to the industrial unit could be relocated to within the site removing the need for vehicles to reverse on to the B9040.

### **Drainage**

We acknowledge that there is surface water flooding shown on the SEPA flood maps within the vicinity which does not include our development. As standard we have provided surface water treatment and attenuation for the surface water run-off within the development. A channel drain connecting into MH S1 was shown on the lay-by adjacent to Forsyth Street on drawing 10045-C-201 Rev D to provide the best way to capture all the surface water and direct it into the site drainage removing it from Forsyth Street. The Drainage Layout 10045-C-201 was then updated to Rev E to show the channel drain connecting into the porous paving car parking spaces to ensure it is treated prior to entering the surface water network.

Moray Council Local Development Plan 2020 Policy PP3 a(viii) states –

*“Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.”*

*a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:*

*viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.*

The Drainage Layout 10045-C-201 Rev E shows foul and surface water drainage including SUDS for the development. We assume that a Construction Phase SUDS plan is not required prior to receiving Planning, we would expect this to be a condition if required.

Generally we would not include separate drainage for a single lay-by and would have considered allowing it to crossfall onto the public road would have been adequate as per Rev C. However Drawing 10045-C-201 was up-dated to provide drainage for the surface water run-off from the lay-by. 3 options were considered (a) Porous Paving (b) Gullies (c) Channel Drain. Porous paving was ruled out as Moray Council would not adopt this type of surfacing. Gullies were also considered however it was concluded a channel drain provided the best option to capture more of the surface water run-off. If Moray Council would prefer



one of these others options or any other alternatives we are happy to enter a dialogue and up-date our design drawing.

In addition we can see no reason why a correctly installed Aco channel drain could be a potential safety issue to road users given that it is flush with the road.

**Parking Numbers**

We would reiterate again, that the parking no's have been unfairly assessed based on a LDP that had not at the time been adopted, nor was the information on the 2020 standards available to us to allow us to design to these standards. Please also refer to comment above under servicing arrangements.