

ENVIRONMENTAL SERVICES

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Our reference: LR/LRB282

Your reference: LR282

Chief Legal Officer
Per Ms L Rowan
Committee Services
The Moray Council
High Street
ELGIN
IV30 1BX

07 December 2022

Dear Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

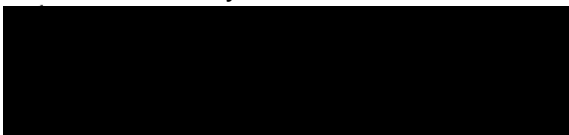
**REQUEST FOR REVIEW: PLANNING APPLICATION 21/01686/APP CHANGE OF USE OF FORMER
BAKERY TO A TAKEAWAY RESTAURANT AT 212 HIGH STREET ELGIN**

I refer to your email dated 28th November 2022.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully



Diane Anderson
Senior Engineer

Local Review

LRB Ref 282

Planning Application Reference 21/01686/APP Change of use of former bakery to a takeaway restaurant at 212 High Street Elgin

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted by Sanus Moor Ltd and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 21/01686/APP Change of use of part of a former bakery to a takeaway restaurant at 212 High Street Elgin.
3. Transportation received the consultation for planning application 21/01686/APP on 29th October 2021. A copy of Transportations consultation response dated 30th November 2021 is attached (TMC01).
4. This proposal was originally submitted as part of a larger overall redevelopment which incorporated a change of use of part of the former bakers to 3no residential apartments plus the formation of a new take-away to rear. Following on objection by Transportation the applicant submitted revised proposals under a re-consultation for the same planning reference which removed the takeaway element from the application (21/00419/APP). The subsequently submitted revised proposal for the change of use to 3no residential apartments was not objected to by Transportation and subsequently consented on 30th August 2021
5. It should also be highlighted that another part of the former bakery building (the original shop fronting onto the High Street) has already been converted and presently operates as a nail studio.
6. The proposed takeaway restaurant is to be accessed via a new pedestrian door opening onto the U171E Batchen Lane (along with the formation of a new door adjacent to the 'store' area). The original customer access to the bakers was via the High Street.
7. There are waiting restrictions present within Batchen Lane, including specific loading restrictions, meaning that deliveries to the takeaway could not be facilitated from the adjacent roadside..
8. Similarly there are also waiting restrictions present within the High Street (which is subject to a one way traffic system).
9. No off street parking is presently available for proposed for the development (including for the consented apartments). However a public Pay and Display car park (Northfield Terrace car park) is located in close proximity to the proposed takeaway, and with others nearby.
10. Whilst there is a public car park adjacent, the Car Park Order does not permit any parking associated with commercial development, meaning that whilst staff could park within it, the car park could not be utilised as a loading bay for the takeaway.

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11. The proposal, including the formation of a new pedestrian entrance to the rear via Batchen Lane is considered to be likely to result in an increase in pedestrian activity when compared to the existing situation. The existing footway adjacent is narrow and already subject to high numbers of passing pedestrians, primarily due to the close proximity to the public car park.
12. As a result of the increased activity associated with the takeaway (customers entering and exiting the building, or queuing outside), it would be considered likely to increase the likelihood of pedestrians having to step onto the carriageway to pass each other, potentially into the path of a passing vehicle.
13. Due to the presence of waiting/ loading restrictions outside, any unauthorised parking or loading to the side of the building would not only be likely to obstruct vehicular access to the residential units, or refuse collection vehicles adjacent to the west but also likely require the vehicle to undertake an unsuitable reversing manoeuvre (at a location where a high number of pedestrians may be present). Any risk would be further exacerbated by the narrow footway width and subsequent intensification of use by pedestrians as a result of the proposed development itself.
14. The Waiting/ Loading Restrictions within Batchen lane were approved by the Economic Development and Infrastructure Services Committee dated 29th October 2010.
15. Access from the site onto the C39E High Street is via a very narrow private lane which would be likely to prevent all but the smallest of goods being delivered via a vehicle parked on the High Street. The lane is also subject to a very uneven surface with drainage channels present which would make manoeuvring trolleys difficult.
16. High Street itself is also narrow, with waiting restrictions present, and with limited on street parking available nearby. Any vehicle stopped on the carriageway loading or unloading goods would obstruct other vehicles trying to pass. Delivery vehicles would not be permitted to park over the public footway. The nearest loading bay within the High Street is located approximately 140m away.
17. Similarly there is a communal Loading bay available within Batchen Lane. However, again it is located approximately 110m away and with no direct, and continuous footway provision to the site.
18. At the time of the application it was not clear as to where the bins associated with the takeaway would be stored, and potentially therefore creating an obstruction to pedestrians, particularly as a result of the existing narrow footway provision, and loss of storage areas due to the development of the residential apartments. It should be highlighted that the drawing submitted to support the Local Review differs slightly to the previously submitted details (reference "33:2021:1") in that it

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now shows waste bins located within and outside the 'store' area whereas the bins were not previously shown.

19. At this location there is already a history of obstruction related complaints from adjacent residents/ businesses relating to inappropriate parking or driver behaviour. This proposal without the interventions sought by Transportation would be considered likely to exacerbate any existing issues.
20. In order to try and address the pedestrian accessibility constraints, as well as the appropriate servicing of the site for deliveries Transportation provided the applicant with suggested improvement works (TMC 03). This included alterations to the existing junction immediately opposite to widen the footway, and improve pedestrian crossing arrangements (visibility, new drop kerbs etc), as well as a separate suggested loading area, provided by a new section of footway (to ensure that the cages etc could be transferred safely between the site and the new loading area)
21. To date the applicant has not submitted any proposals which aim to resolve either of the two key issues/concerns; namely improvements to existing pedestrian access arrangements, and measures to ensure that the site may be safely and lawfully serviced.
22. Transportation respectfully, requests that the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Transportation considers that the proposal, if permitted, would result in an increase in pedestrian and vehicular activity at a sensitive location which would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies DP1 'Development Principles' section (ii)- 'Transportation', part 'a' (safe entry and exit)

Transportation xx December 2022

Documents

TMC01	Transportation Consultation Response dated 30 November 2021
TMC02	Site photos
TMC03	Transportation sketch showing suggested infrastructure improvements

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	12th November 2021
Planning Authority Reference	21/01686/APP
Nature of Proposal (Description)	Change of use of former bakery to a takeaway restaurant at
Site	212 High Street Elgin Moray IV30 1BA
Site Postcode	N/A
Site Gazetteer UPRN	000133000629
Proposal Location Easting	321342
Proposal Location Northing	862765
Area of application site (M²)	72
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=R1D833BGIZS00
Previous Application	21/00419/APP 01/00698/FUL
Date of Consultation	29th October 2021
Is this a re-consultation of an existing application?	No
Applicant Name	Sanus Moor Ltd
Applicant Organisation Name	
Applicant Address	Per Agent
Agent Name	Martin Archibald
Agent Organisation Name	
Agent Address	The Old Church Church Road Garmouth Moray IV32 7SR
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Shona Strachan
Case Officer Phone number	01343 563303
Case Officer email address	shona.strachan@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the

two month determination period to be exceeded.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

For full terms please visit http://www.moray.gov.uk/moray_standard/page_121513.html

For full Data Protection policy, information and rights please see http://www.moray.gov.uk/moray_standard/page_119859.html

You can contact our Data Protection Officer at info@moray.gov.uk or 01343 562633 for more information.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 21/01686/APP

Change of use of former bakery to a takeaway restaurant at 212 High Street Elgin Moray IV30 1BA for Sanus Moor Ltd

I have the following comments to make on the application:-

- | | Please |
|---|-------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | <input checked="" type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | <input type="checkbox"/> |
| (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below | <input type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

This proposal is for the conversion of former baker to a takeaway. No parking presently exists or is proposed. However the site sits within Elgin Town Centre and is therefore subject to 'The Moray Council Town Centre Zero parking provision'. A public Car Park is located immediately adjacent to the south, and with others available nearby.

The proposal includes the formation of two new door openings directly onto the U171E Batchen Lane.

The existing footway located adjacent to the site within Batchen Lane is narrow and already subject to a high number of pedestrian movements due to the close proximity to a public car park, and residential parking adjacent. Customers entering and exiting the takeaway via the new entrance doorway (or queuing outside) would increase the likelihood of pedestrians having to step onto the carriageway to pass each other. This would not be acceptable. There also does not appear to be scope to contain waste bins within the site (with presentation on collection day only), with waste bins also impacting upon the available footway with.

There are waiting restrictions present within Batchen Lane, including loading restrictions. Any unauthorised loading to the side of the building would not only obstruct access to the residential units adjacent to the west and also likely require the vehicle to undertake a reversing manoeuvre at a location where a high number of pedestrians may be present, and further exacerbated by the narrow footway width and subsequent intensification of use as a result of the proposed development itself. Again this would not be acceptable. The access from the lane onto High Street is very narrow and would be likely to prevent all but the smallest of goods being delivered via a vehicle parked on the High Street. The lane is also subject to a very uneven surface with drainage channels present which would make manoeuvring trolleys difficult. However even if improvements could be provided to the lane (eg widen the frontage onto the High Street/ improve surfacing) the High Street itself is narrow, with waiting restrictions present, and with limited on street parking

available nearby. Any vehicle stopped on the carriageway loading or unloading goods would obstruct other vehicles trying to pass. Delivery vehicles would not be permitted to park over the public footway. Therefore servicing the site from the High Street would not appear to be a viable option for deliveries associated with this proposal. Similarly there is a 'communal' Loading bay available within Batchen Lane. However as it is located over 110m away from the site, it would also not be considered as a viable location for deliveries associated with this proposal. Although customer and staff parking could be undertaken with thin the Moray Council Car Park immediately adjacent, under the regulations for the Car Parking Order deliveries could not be undertaken from the car park.

This section of Batchen Lane is already subject to a number of complaints from adjacent residents and businesses due to access to their properties and vehicle parking being obstructed by illegally/ or inappropriately parked vehicles, including vehicles parking over the footway (including within the High Street adjacent). Although these are primarily police enforcement matters Transportation would not support any proposal which would be likely to exacerbate any existing problems at this sensitive location.

On the basis that there is inadequate provision for queuing or waiting within the adjacent footway, and that deliveries associated with the proposed development at this time cannot be safely facilitated, Transportation would not support the proposed new take-away.

Reason(s) for objection

Transportation considers that the proposal, if permitted, would result in an increase in pedestrian and vehicular activity at a sensitive location, which cannot be safely accommodated or mitigated against, and would therefore be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policies DP1 'Development Principles' section (ii)- 'Transportation', part 'a)' (safe entry and exit)

Further comment(s) to be passed to applicant

In order for Transportation to Support the proposed takeaway, the existing footway would require to be widened to accommodate the additional commercial footfall and waiting associated with the take-away, along with measures put in place to facilitate the safe delivery of goods.

The attached sketch '21-01686-APP Sketch showing footway improvements' has been prepared to highlight one suggested option, with deliveries undertaken from the closest, safe, available location to the site (approximately 50m to the south within Batchen Lane. The option would require the provision of a new 2.0m footway from a delivery area, and with widening and alterations to the existing footway at the building entrance, with drop kerbs at each crossing point. It should be highlighted that these works would be subject to Roads Construction Consent, and all costs associated with the works would be borne by the applicant. It should also be highlighted that the formation of the new footway down from the loading area would be likely to require the removal of existing trees due to the changes to level differences possibly resulting in exposure of the tree roots.

Contact: AG
email address: transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 30 November 2021

Return response to

consultation.planning@moray.gov.uk



View (to east) of existing footway at proposed new takeaway entrance Batchen Lane



View (to west) of existing footway at proposed new takeaway entrance Batchen Lane



View from residential parking adjacent. Note the narrow access road and access requirements for refuse collection vehicles



View from South Street down towards site.



View of existing narrow private lane linking onto the High Street



View from High Street of existing narrow private lane



Waiting restrictions within High Street



Waiting/ Loading restrictions within Batchen Lane



Streetview image of inappropriate driver parking and loading behaviour adjacent within High Street



Streetview image showing example of inappropriate driver parking behaviour outside proposed entrance

a Moray Council Map



Map Description: a Description of a Moray Council Map

Scale: 1:250 @ A3

