



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100489946-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Refurbishment / upgrading of existing Commercial premises ; (former baker) to a Takeway Restaurant

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) * Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Architectural & Planning		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Martin	Building Name:	The Old Church
Last Name: *	Archibald	Building Number:	
Telephone Number: *	01343870408	Address 1 (Street): *	Church Road
Extension Number:		Address 2:	Garmouth
Mobile Number:		Town/City: *	Moray
Fax Number:		Country: *	Scotland
		Postcode: *	IV32 7SR
Email Address: *	martin.archibald@sky.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	c/o The Old Church
First Name: *	Jen	Building Number:	
Last Name: *	Taylor	Address 1 (Street): *	Church Road
Company/Organisation	Sanus Moor Ltd	Address 2:	Garmouth
Telephone Number: *		Town/City: *	Fochabers
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV32 7SR
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Moray Council

Full postal address of the site (including postcode where available):

Address 1:

212 HIGH STREET

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 1BA

Please identify/describe the location of the site or sites

Northing

862765

Easting

321342

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

72.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Commercial former baker

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * ≤ Yes **T** No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site? 0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? * 0

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * ≤ Yes **T** No

Do your proposals make provision for sustainable drainage of surface water?? * ≤ Yes **T** No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

≤ Yes

≤ No, using a private water supply

T No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * ≤ Yes **T** No ≤ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * ≤ Yes **T** No ≤ Don't Know

Trees

Are there any trees on or adjacent to the application site? * ≤ Yes **T** No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * **T** Yes ≤ No

If Yes or No, please provide further details: * (Max 500 characters)

refuse and re-cycling bin store proposed

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace Details

For planning permission in principle applications, if you are unaware of the exact proposed floorspace dimensions please provide an estimate where necessary and provide a fuller explanation in the 'Don't Know' text box below.

Please state the use type and proposed floorspace (or number of rooms if you are proposing a hotel or residential institution): *

Class 3 Restaurant/cafe

Gross (proposed) floorspace (In square meters, sq.m) or number of new (additional) Rooms (If class 7, 8 or 8a): *

38

If Class 1, please give details of internal floorspace:

Net trading spaces:

Non-trading space:

Total:

If Class 'Not in a use class' or 'Don't know' is selected, please give more details: (Max 500 characters)

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? * Yes No

Is any of the land part of an agricultural holding? * Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Martin Archibald

On behalf of: Mrs Jen Taylor

Date: 21/10/2021

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

Site Layout Plan or Block plan.

Elevations.

Floor plans.

Cross sections.

Roof plan.

Master Plan/Framework Plan.

Landscape plan.

Photographs and/or photomontages.

Other.

If Other, please specify: * (Max 500 characters)

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. * Yes N/A

A Design Statement or Design and Access Statement. * Yes N/A

A Flood Risk Assessment. * Yes N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * Yes N/A

Drainage/SUDS layout. * Yes N/A

A Transport Assessment or Travel Plan Yes N/A

Contaminated Land Assessment. * Yes N/A

Habitat Survey. * Yes N/A

A Processing Agreement. * Yes N/A

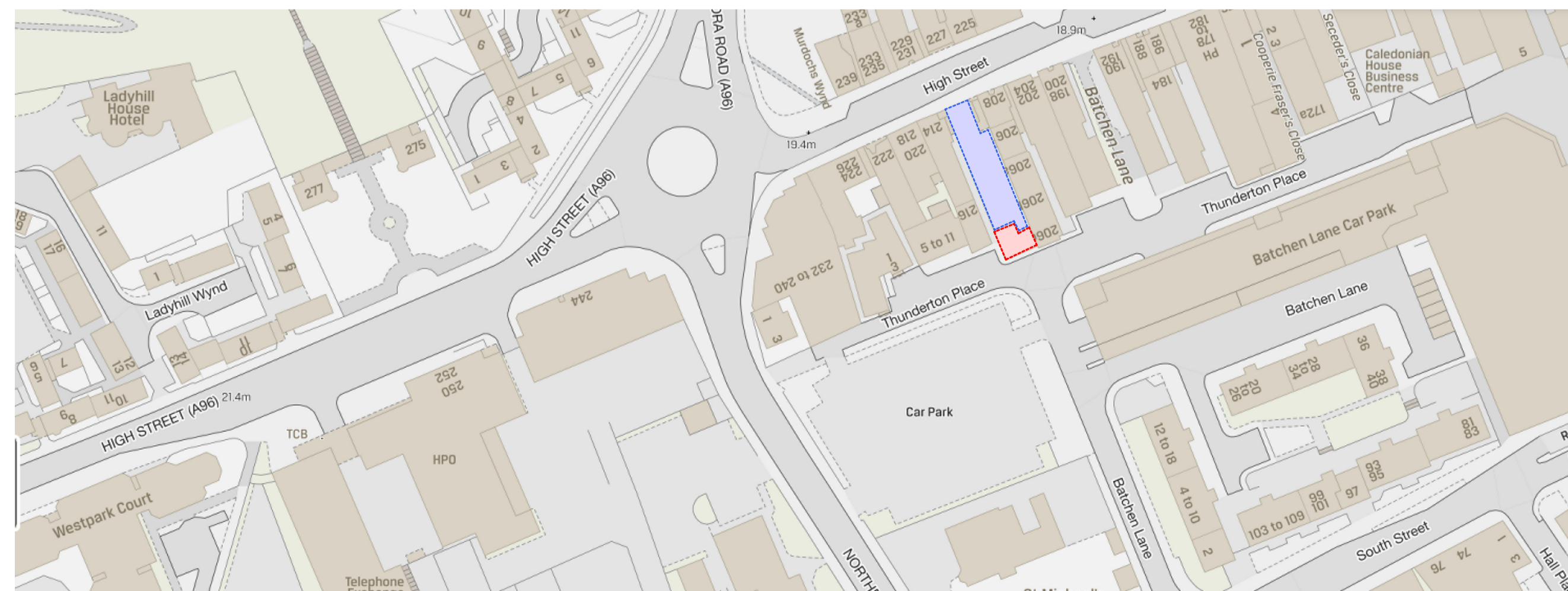
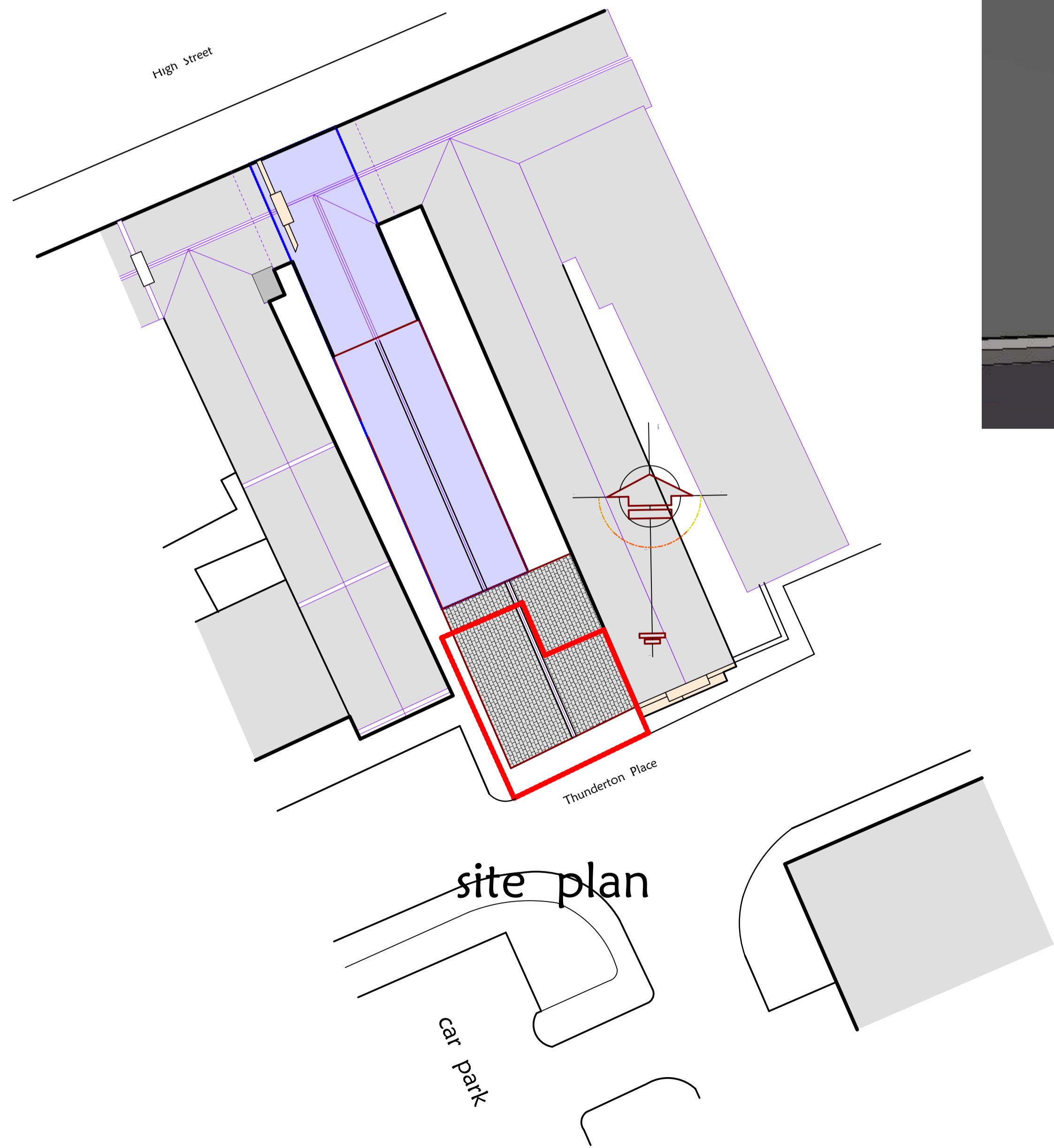
Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Martin Archibald

Declaration Date: 21/10/2021



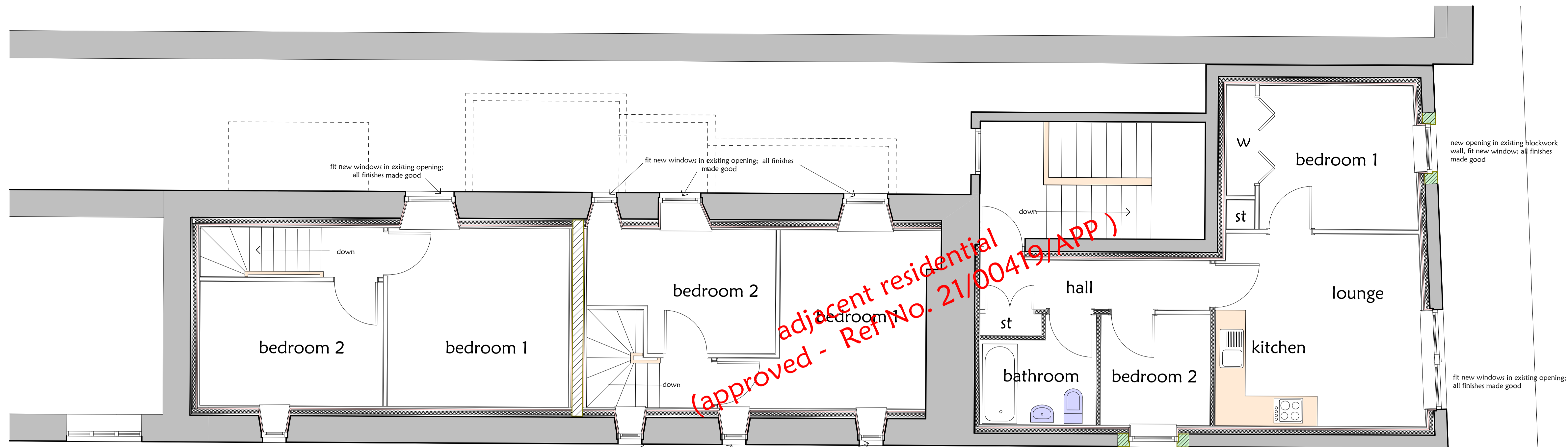
MARTIN ARCHIBALD
ARCHITECTURAL & PLANNING CONSULTANTS
SPECIALISING IN INDIVIDUAL HOUSE DESIGN

THE OLD CHURCH
GARMOUTH
MORAY IV32 7SR
TELEPHONE / FAX 01463 870448
e-mail: martin.archibald@sky.com

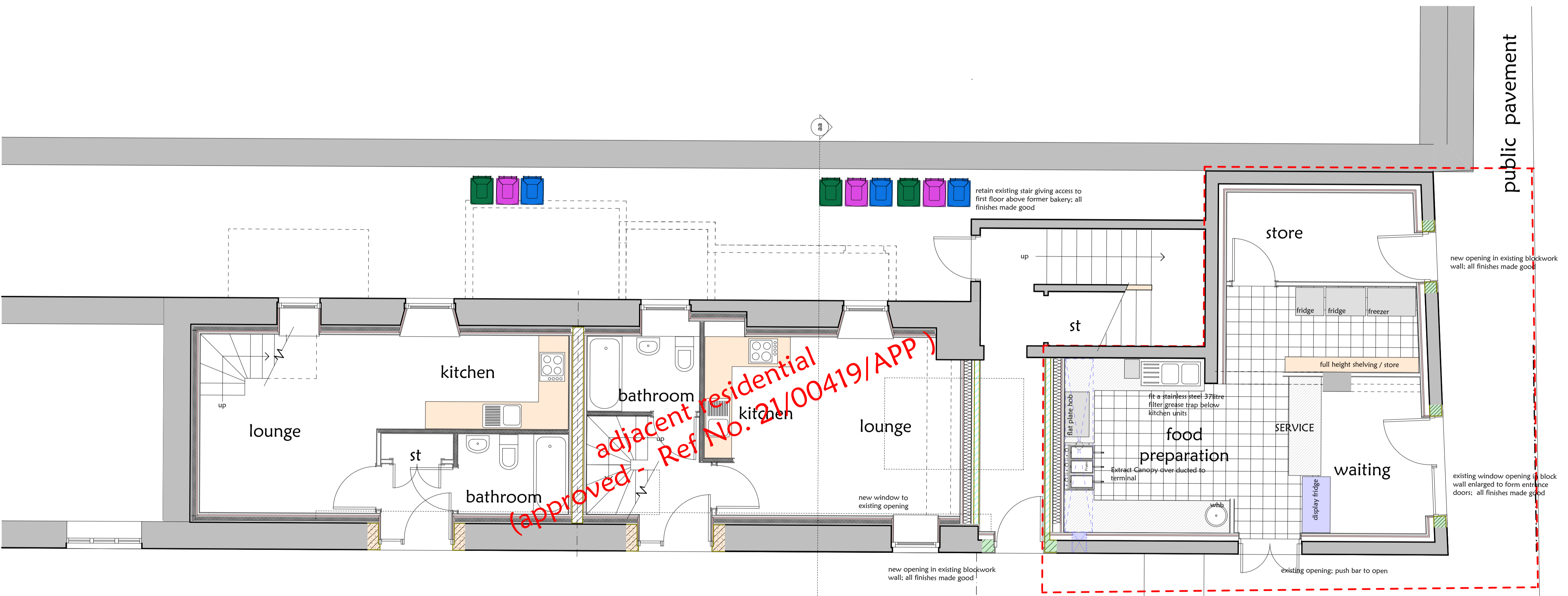
- Fea Plans
- Conversions
- Roads design
- Measured Surveys
- Certification of Building Work
- Innovative designs brought to life with 'virtual reality' models and tours of your home
- A FULL & COMPREHENSIVE ARCHITECTURAL SERVICE

- Extensions
- Renovations
- Housing Schemes
- Bills of Quantities
- Production of Tender Documents & Contract Management

Project	
Refurbishment / upgrading of existing Commercial premises : (former baker) to a Takeaway Restaurant at 212 High Street, Elgin. Moray. IV30 1BA for Sanus Moor Ltd	
Scale	Date
1:200 + 1:1000	February 2021
Drawn by	Signed
Martin Archibald	Martin Archibald
Drawing No	
33 : 2021 : 3	



first floor plan (approved - Ref No. 21/00419/APP)



floor plan

Noise emissions from the ventilation and extract system shall not exceed Noise Rating Curve NR25 as measured inside the nearest noise sensitive dwelling between the hours of 2300 to 0700 hours.

Noise emissions from the ventilation and extract system shall not exceed Noise Rating Curve NR35 as measured inside the nearest noise sensitive dwelling at all other times.

low level extract, there must be adequate odour control by the use of carbon filtration, a scheme to be submitted to the Environmental Health for consideration, and to be as per the 'guidance on the control of odour and noise from commercial kitchen exhaust systems' prepared by NETCEN

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- Feasibility Studies
- Extensions
- Conversions
- Renovations
- Roads design
- Housing Schemes
- Measured Surveys
- Bills of Materials
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Project
Refurbishment / upgrading of existing Commercial premises : (former baker) to a Takeway Restaurant at 212 High Street, Elgin. Moray. IV30 1BA for Sanus Moor Ltd

Scale	1:50	Date	February 2021
Drawn by	Martin Archibald	Signed	Martin Archibald

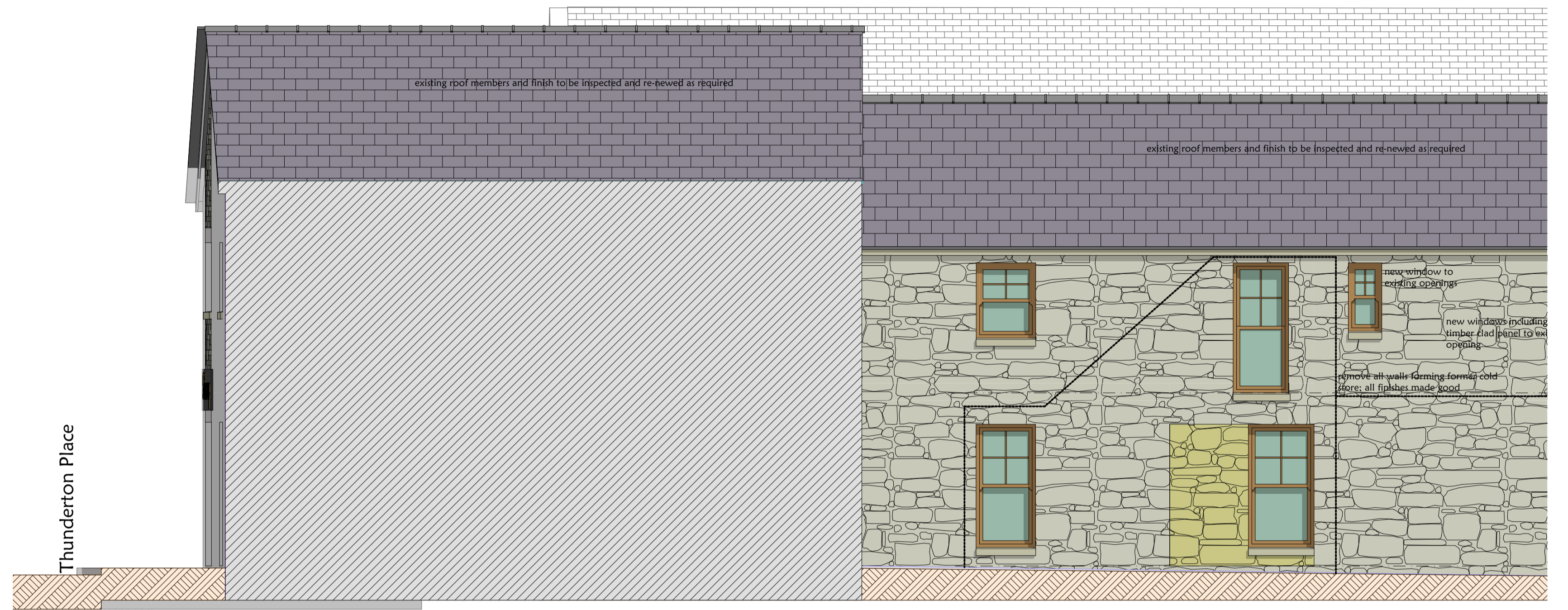
Drawing No
33 : 2021 : 1



flat 3
entance

commercial; takeaway restaurant

west elevation within lane



sectional east elevation



south elevation

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- Feu Plans
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Project
Refurbishment / upgrading of existing Commercial premises : (former baker) to a Takeaway Restaurant at 212 High Street, Elgin. Moray. IV30 1BA for Sanus Moor Ltd

Scale 1:50	Date February 2021
Drawn by Martin Archibald	Signed Martin Archibald

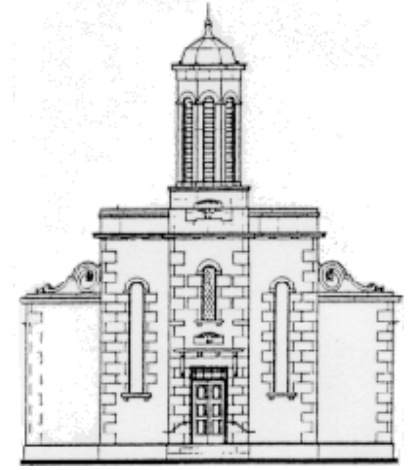
Drawing No
33 : 2021 : 2

MARTIN ARCHIBALD

ARCHITECTURAL & PLANNING CONSULTANTS

Our Ref: MJA/mja/JT
20th October 2021

The Moray Council
Development Services
Planning Department
Elgin
Moray
IV30 9BX



THE OLD CHURCH
G A R M O U T H
M O R A Y
IV32 7SR

Telephone: (01343) 870408

e.mail: martin.archibald@sky.com

Proposed Refurbishment /upgrading of existing Commercial premises; (former baker) to a Takeaway Restaurant at 212 High Street, Elgin. Moray. IV30 1BA for Sanus Moor Ltd

SUPPORTING STATEMENT

I refer to the above planning application and would like to include this statement to support our submission. Included are Drawing numbers

17:2021:1 floor plan showing proposal and adjacent residential units (approved under 21/00419/APP).

17:2021:2 elevations

21:2021:3 site and location plan along with a perspective view.

Background

The applicant purchased the building in 1999, which was 'Smillies the Bakers' It operated as Bakers until it was rented out to Ashers; another Baker in 2007, and they continued to use it until their operations were consolidated elsewhere. It has been empty since and used for storage.

A planning application was submitted (21/00419/APP (E)(C)(D) - Moray) and a planning objection was raised by the Transportation department to the provision of a takeaway as part of the application. The main objections appear to be the possibility of patrons parking on the corner while dropping off and picking up as well as delivery of supplies.

So as not to hold up the residential aspect of the application, the commercial part was removed from the original proposals with the view to re-applying for it separately.

The commercial unit is a crucial part of the development for the applicant. Planning permission been approved for the residential element and we need to reapply for planning permission for the commercial unit at the rear.

The Site referred to

The main part of the existing building was used as a manufacturing bakery from 1927 until around 10 years ago and since then it has been used as a storage unit. The more modern extension to the rear of the property was added to the main building in the 1970's following a compulsory purchase of land and buildings belonging to the owners of the main building, and extending towards South Street. This compulsory purchase permitted the present development of Batchen Lane and former Rose Nursery (now the existing car park).

The new extension formed part of the bakery incorporating an access door towards the rear and opening onto the public footway at the end of the private lane. This access was used as the entry point for raw material deliveries and the exit point for finished goods being loaded into company vans for delivery to the company's chain of retail outlets and wholesale customers. It is therefore the case that the vehicles making both deliveries and distributing finished goods, parked at the rear of the building (not the side as described in the objection) during the unloading/ loading process for short periods over a period of some 40 years.

Our Ref: MJA/mja/JT
20th October 2021

The Proposal

Deliveries

It is therefore the case that the vehicles making both deliveries and distributing finished goods, parked at the rear of the building during the unloading/ loading process for short periods over a period of some 40 years forms a precedent for this activity at the rear of the property. The proposal is to re-furbish part of an existing commercial premises.

Any vehicle parked on Batchen Lane; out with the loading restricted area, does not offer an obstruction to other vehicles accessing the area; due to the width of the road at this point. Vehicles parked in this way offer no more of an obstacle or indeed a safety concern to pedestrians, than similar vehicles seeking to gain delivery access to the various establishments; Chinese takeaway, Davidson the Butcher, Birnie Pet Shop, The Badenoch's pub, Qismat Indian restaurant and other commercial properties with delivery access directly off Batchen Lane.

There seems no logical reason why the area immediately behind the former bakery is marked as a 'no loading at any time' area since other more narrow areas of Batchen Lane bear no such restriction. There is no valid reason to object to deliveries being made from vehicles parked on the High Street via the private lane to the side of the former bakery. Items normally delivered to outlets of this nature are not particularly bulky and are delivered in a timely manner; they can use the High Street as all the other commercial premises do.

Pedestrian access

Customers using the takeaway would, due to the proximity of Northfield Terrace car park, have unprecedented access to parking not available to most other takeaway outlets in the centre of Elgin. This benefit is particularly relevant bearing in mind that a significant proportion of takeaway business is undertaken in the evening when town centre car parks are free of charge and under-utilised.

Many takeaway premises in the centre of Elgin open directly onto the public footway of streets carrying through traffic (High Street, Batchen Street, Commerce Street) the latter two having very narrow pavements, so again the precedent has been set. The public footway behind the former bakery runs to the end of the private lane and terminates at the rear access to the Qismat restaurant. It is therefore of little use to pedestrians wishing to travel further and as such is little used. By comparison footways outside takeaway premises on, for example; Commerce Street have significantly heavier footfall. Due to the very close proximity of the private lane this offers ample potential as a queuing opportunity.

The illegal and irresponsible parking on footways is not a planning consideration and ought not therefore to be considered as a legitimate objection.

Conclusion

We consider this application to represent a small but greatly needed revitalisation of the central Elgin area, bringing back to use an underutilised building. There is ample parking for persons using the takeaway and for the reasons stated above, deliveries does not present itself as a reason for refusal.

Martin Archibald (agent)

Monday, 01 November 2021



Local Planner
Development Services
Moray Council
Elgin
IV30 1BX

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk



Dear Customer,

212 High Street, Elgin, IV30 1BA
Planning Ref: 21/01686/APP
Our Ref: DSCAS-0051880-QHT
Proposal: Change of use of former bakery to a takeaway restaurant at

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in GLENLATTERACH Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Waste Water Capacity Assessment

- ▶ There is currently sufficient capacity for a foul only connection in the MORAY WEST PFI Waste Water Treatment works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal

connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

- ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
-

Next Steps:

▶ All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

▶ Non Domestic/Commercial Property:

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ Trade Effluent Discharge from Non Dom Property:

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Pamela Strachan

Development Services Analyst

Tel: 0800 389 0379

planningconsultations@scottishwater.co.uk

Scottish Water Disclaimer:

"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."

Response On Development Affecting Trunk Roads and Special Roads

The Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure)
(Scotland) Regulations 2013 S.I.2013 No 155 (S.25)

Town and Country Planning (Notification of Applications) (Scotland) Direction 2009

To Moray Council Elgin	Council Reference:-	21/01686/APP
	TS TRBO Reference:-	NE/149/2021

Application made by Sanus Moor Ltd per Martin Archibald, The Old Church Church Road Garmouth Moray IV32 7SR and received by Transport Scotland on 29 October 2021 for planning permission for change of use of former bakery to a takeaway restaurant located at 212 High Street Elgin Moray affecting the A96 Trunk Road.

Director, Roads Advice

1. The Director does not propose to advise against the granting of permission
2. The Director advises that planning permission be refused (see overleaf for reasons).
3. The Director advises that the conditions shown overleaf be attached to any permission the council may give (see overleaf for reasons).

To obtain permission to work within the trunk road boundary, contact the Area Manager through the general contact number below. The Operating Company has responsibility for co-ordination and supervision of works and after permission has been granted it is the developer's contractor's responsibility to liaise with the Operating Company during the construction period to ensure all necessary permissions are obtained.

TS Contact:-	Area Manager (A96) 0141 272 7100 Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF
Operating Company:-	NORTH EAST
Address:-	Bear House, Inveralmond Road, Inveralmond Industrial Estate, PERTH, PH1 3TW
Telephone Number:-	01738 448600
e-mail address:-	NEplanningapplications@bearsotland.co.uk

Transport Scotland Response Date:- 08-Nov-2021

Transport Scotland Contact:- Iain Clement

Transport Scotland Contact Details:-

Roads - Development Management

Buchanan House, 58 Port Dundas Road, Glasgow, G4 0HF

Telephone Number:

e-mail: development_management@transport.gov.scot

NB - Planning etc. (Scotland) Act 2006

Planning Authorities are requested to provide Transport Scotland, Roads Directorate, Network Operations - Development Management with a copy of the decision notice, and notify Transport Scotland, Trunk Roads Network Management Directorate if the recommended advice is not accepted.

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: Aberdeenshire Council Archaeology Service

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 | x
<input type="checkbox"/> |
| (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal | x |
| (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"/> |

Reason(s) for objection

None

Condition(s)

None

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Claire Herbert
email address:
archaeology@aberdeenshire.gov.uk
Consultee: Archaeology service

Date...11/11/21.....
Phone No ...01467 537717

Return response to

consultation.planning@moray.gov.uk

Please note that information about the application including consultation responses and

representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/> (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

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.

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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

a Moray Council Map



PROHIBITED FOR THE USE WITH PLANNING APPLICATIONS

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From: Tracey Dickieson <Tracey.Dickieson@moray.gov.uk>
Sent: 12 Apr 2022 08:51:10
To: DMSMyEmail@moray.gov.uk
Cc:
Subject: FW: 21/01686/APP 212 High Street Elgin Moray
Attachments:

From: Douglas Caldwell <Douglas.Caldwell@moray.gov.uk>
Sent: 08 April 2022 16:27
To: Planning Consultation <consultation.planning@moray.gov.uk>
Cc: Shona Strachan <Shona.Strachan@moray.gov.uk>
Subject: 21/01686/APP 212 High Street Elgin Moray

Please find below this Section's objection to the above application –

The application has been considered in respect of Local Plan Policy EP 14. This policy confirms the need for detailed assessments where significant noise and odour emissions are likely. The ventilation extraction proposed is in very close proximity to dwellings and therefore necessitates a detailed Noise Impact Assessment and Odour Impact Assessment to be provided. For further clarification, the Noise Impact Assessment (NIA) by a noise consultant should seek to assess the level of significance of all noise sources having regard to PAN1/2011 and the associated Technical Assessment of Noise (TAN), in particular the NIA should:-

1. Measure pre-existing ambient noise levels and describe and predict noise levels arising from the development.
2. Establish criteria for assessing the impact of the noise on its surroundings;
3. Outline measures available to reduce noise impact to acceptable levels.

An Odour Impact Assessment is required to be carried out by a ventilation engineer or other competent person in terms of the EMAQ document "*The Control of Odour and Noise from Commercial Kitchen Exhaust Systems, dated 5th September 2018*". Assessments have not been submitted by the agent to address these significant aspects of odour and noise and accordingly does not meet with Local Plan Policy EP 14 and forms the basis of this Sections objection.

This Section also has concerns that noise and odour emissions arising from the development may give rise to a Statutory Nuisance in terms of the Environmental Protection Act 1990 and is a further basis for our objection.



Douglas A Caldwell MIOA | Environmental Health Officer | Economic Growth and Development.

Working pattern – compressed hours Monday, Tuesday, Thursday, Friday

douglas.caldwell@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [News page](#)

01343 563355 |

MORAY
council

Comments for Planning Application 21/01686/APP

Application Summary

Application Number: 21/01686/APP

Address: 212 High Street Elgin Moray IV30 1BA

Proposal: Change of use of former bakery to a takeaway restaurant at

Case Officer: Shona Strachan

Customer Details

Name: [REDACTED]

Address [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Litter
- Parking
- Precedent
- Road access
- Road safety
- Smell
- Traffic

Comment: The location of this on Thunderton place and Batchen Lane and could place a burden on local residents parking. There are no allowances in the planning request for an area of parking or waiting for members of the public to collect their orders. Because of this current residents could be impacted by patrons blocking access and impeding traffic as they collect their order. This was previously included in a planning application and was withdrawn as problems of traffic and parking were highlighted. There does not appear to be any additions to this plan to address this. If approved this could also increase the amount of litter in the area and an increase in smell from food waste and cooking.

Comments for Planning Application 21/01686/APP

Application Summary

Application Number: 21/01686/APP

Address: 212 High Street Elgin Moray IV30 1BA

Proposal: Change of use of former bakery to a takeaway restaurant at

Case Officer: Shona Strachan

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Noise
- Parking
- Poor design
- Road safety
- Smell
- Traffic

Comment: Busy area already. Will be very smelly and noisy and there is not enough parking spaces as it is.

REPORT OF HANDLING

Ref No:	21/01686/APP	Officer:	Shona Strachan
Proposal Description/ Address	Change of use of former bakery to a takeaway restaurant at 212 High Street Elgin Moray IV30 1BA		
Date:	23.06.2022	Typist Initials:	LMC

RECOMMENDATION		
Approve, without or with condition(s) listed below		N
Refuse, subject to reason(s) listed below		Y
Legal Agreement required e.g. S,75		N
Notification to Scottish Ministers/Historic Scotland		N
Hearing requirements	Departure	N
	Pre-determination	N

CONSULTATIONS		
Consultee	Date Returned	Summary of Response
Scottish Water	01/11/21	No objection subject to Scottish Water Pre-Development Enquiry Process.
Transport Scotland	08/11/21	No objection in relation to proximity of Trunk Road Network.
Aberdeenshire Council Archaeology Service	11/11/21	No objection.
Environmental Health Manager	08/04/22	Objection: insufficient information in relation to the proposed extraction/ventilation and their noise and odour impacts which is required under Policy EP14.
Transportation Manager	30/11/21	Objection: the increase in pedestrian and vehicular activity at a sensitive location, which cannot be safely accommodated or mitigated against, would 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).

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
DP1 Development Principles	Y	See observations
EP14 Pollution Contamination Hazards	Y	
DP7 Retail/Town Centres	Y	

EP9 Conservation Areas	Y	
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REPRESENTATIONS		
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Representations Received	YES	
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Total number of representations received: TWO

Names/Addresses of parties submitting representations

Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.

Summary and Assessment of main issues raised by representations

Issue: Parking, Road Access, Road Safety, Traffic.

The location of this on Thunderton Place and Batchen Lane could place a burden on local residents parking. There are no allowances in the planning request for an area of parking or waiting for members of the public to collect their orders. Because of this current residents could be impacted by patrons blocking access and impeding traffic as they collect their order. This was previously included in a planning application and was withdrawn as problems of traffic and parking were highlighted. There does not appear to be any additions to this plan to address this.

Comments (PO): The Transportation Consult response recognises that the site sits within Elgin Town Centre and is therefore subject to 'The Moray Council Town Centre Zero parking provision' and there is a public car park in close proximity of the site.

However, Transportation's analysis confirms there is inadequate provision for queuing or waiting within the adjacent footway to accommodate the proposal which includes two new door openings directly onto the U171E Batchen Lane and that deliveries associated with the proposed development cannot at this time be safely facilitated without providing improved access arrangements to accommodate the additional commercial footfall and deliveries associated with this intensified use.

Transportation has objected to the proposal because the proposal 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).

Issue: Smell and food waste: If approved the takeaway would increase the smell from food waste and cooking.

Comments (PO): Environmental Health has raised lack of sufficient and appropriate extraction/ventilation and an assessment of the related noise and odour impacts as objection matters on this application as such this will form one of the reasons for refusal of the application.

OBSERVATIONS – ASSESSMENT OF PROPOSAL
--

Legislative Requirements

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

Proposal

Planning permission is sought for the change of use of former bakery to a takeaway restaurant at 212 High Street. The application applies to the ground floor of the rear modern addition to 212 High Street which fronts onto Batchen Lane. The existing use of this part of the building is as a store.

The middle span of the building as well as the first floor of the rear modern extension of 212 High Street was recently granted planning permission for conversion to 3 apartments under application reference 21/00419/APP (consent dated 30 August 2021). This means that one of the approved apartments would be directly above the proposed takeaway and another apartment would adjoin to the north.

No information has been provided on the type of food that would be prepared or the hours of operation of the premises. The application proposes an "extract canopy ducted to new grille in wall" for extraction purposes for the takeaway to be located on the western elevation in very close proximity to the existing residential property and also immediately below, and, adjacent to the recently consented residential uses at 212 High Street but no information in relation to noise and odour has been submitted as part of the application.

A supporting statement has been submitted as part of the application submission which seeks to address Transportations concerns in relation to deliveries and pedestrian access to the site.

Site

As noted previously, the application site relates to the modern rear store of the existing building at 212 High Street. This part of the building fronts onto Batchen Lane. The site is adjacent to residential properties. The properties adjacent to the east have dormer windows which sit in very close proximity of the roof of the site and the residential properties to the west are separated from the site by a narrow lane. As noted, the consent recently issued under 21/00419/APP (consent dated 30 August 2021) means that one of the approved apartments would be directly above the proposed takeaway and another apartment would adjoin to the north. This means that there are residential uses (existing and consented) either adjoining the site or in extremely close proximity. Other land uses in the vicinity of the site include public car parking and commercial uses.

The site is located in the defined Town Centre of Elgin (but outwith the Core Retail Area) and the Elgin Town Centre Conservation Area.

Background

Application 21/00419/APP which was for conversion to 3 apartments at 212 High Street initially included the proposed takeaway element. However, it was subsequently removed from the proposal because of the objections from Environmental Health and Transportation which set out detailed reasons for objection and the matters that needed to be addressed to overcome the objections. In such cases (withdraw and resubmit) the norm is for any future application to fully resolve previously identified objections.

Policy Assessment

Site and Design Impact of the Development - Policies (DP7, DP1, EP14 and EP9)

Policy DP7 Part (a) is focused on town centres and advises that proposals must be appropriate to the scale, character and role of the town centre.

Policy DP1 which applies to all proposals advises that applicants will be required to provide impact assessments on a range of matters including noise and air quality in order to determine the impact of the proposal and provide mitigation to address these impacts. This policy also requires proposals to be of a scale, density and character which is appropriate to the surrounding area.

Policy EP14 advises that development proposals which would cause significant air and noise pollution must be accompanied by a detailed assessment report on the levels, character and

transmission of potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

Policy EP9 requires all development within a conservation area to preserve and enhance the established traditional character of the area.

This application proposes a takeaway premises at a location in which there are residential uses (existing and consented) either adjoining the site or in extremely close proximity; this means that the potential for detrimental residential amenity impact is significant. The application proposes an "extract canopy ducted to new grille in wall" for extraction purposes to be positioned on the western elevation in very close proximity to the existing residential property and also immediately below and adjacent to the recently consented residential uses at 212 High Street. Given the extremely close proximity of existing and consented residential properties, there is a need to assess and mitigate any noise and odour impacts arising from the takeaway as the risk of detrimental residential amenity impact is significant.

The consultation process with Environmental Health sought to clarify a number of matters in relation to the use proposed, including confirmation on the proposed hours of operation and the type of food to be prepared. The need for detailed assessment on the noise and odour impacts arising from the proposed extraction upon the existing and consented residential uses was also identified.

No such information has been provided and whilst the applicant/agent did moot a potential change in location and type of extraction to a flue to be located on the east elevation, Environmental Health confirmed that the potential for amenity impacts remained very high given the adjacent residential properties and the very close proximity of the neighbouring dormer windows, Environmental Health also confirmed that the need for detailed assessment would remain. It was also confirmed by the planning officer that any change in location/type of extraction would be a material change to the proposal and would require a fresh application this was not pursued.

The finalised consultation response from Environmental Health confirmed the need for detailed assessments given that significant noise and odour emissions are likely to arise. The ventilation extraction proposed is in extremely close proximity to dwellings (existing and proposed) and therefore necessitates detailed Noise Impact Assessment and Odour Impact Assessment to be provided. Noting that the assessments had not been provided the response concluded as an objection from the Environmental Health Section.

Given the extremely close proximity of the takeaway to existing and consented residential properties which are adjacent to or adjoin the site; the risk of detrimental residential amenity impacts from the noise and odour arising from the takeaway is significant. Unfortunately, the lack of information in relation to the noise and odour from the takeaway means it is not possible to assess or appropriately mitigate the impact of the proposal on these residential properties. The application therefore fails to demonstrate that it can be serviced or controlled in a way that is appropriate to the character of the site and its immediate residential surrounds. The proposal is therefore contrary to Policies DP7, DP1, EP14 and EP9.

Access Requirements - Policy DP1 and EP9

Transport Scotland has raised no objection to the proposal in relation to proximity of Trunk Road Network.

The Council's Transportation Section has objected to the proposal on access grounds and their consultation response provides the following detailed analysis:

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 within 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. It is further noted that public representation has been made on this application detailing the existing access constraints.

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 takeaway use as proposed.

In order to address these concerns and to provide assistance to the applicant Transportation identified possible access upgrades which would entail widening the footway to accommodate additional commercial footfall and waiting associated with the take-away, along with measures put in place to facilitate the safe delivery of goods (as shown on sketch '21-01686-APP Sketch) showing footway improvements' which forms part of the Transportation Consultation Response. Transportation did identify in their response that this suggestion would likely to require the removal of existing trees due to the changes to level differences possibly resulting in exposure of the tree roots. With this in mind the Planning Officer confirmed that trees that trees in the Conservation Area are protected and may be subject to Tree Preservation Order if necessary which means that while the option suggested by Transportation might meet Transportation requirements it may contravene other equally applicable planning policy and legislative requirements. It was confirmed by the Planning

Officer should this suggestion be pursued a tree survey carried out in accordance with BS 5837: 2012, by a suitably qualified arborist would need to be carried out on any trees impacted by the access proposal so that the impact of the proposal on the existing trees could be fully assessed. This proposal was not pursued and no other access upgrades have been put forward by the applicant/agent.

Given the existing access constraints and in the absence of any proposed mitigation/upgrade proposals; 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).

Conclusion and Recommendation

Following consideration of the material considerations in the case inclusive of the detailed consultations responses from the Council's Environmental Health and Transportation Sections, it is concluded that: there is a lack of information to assess or control the noise and odour impacts of the takeaway on the existing and consented residential properties which are adjacent to or adjoin the site. Further, the increased pedestrian and vehicular activity at this sensitive location would give rise to conditions detrimental to the road safety of road users. The proposal therefore fails to comply with local plan requirements and the application is therefore refused.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description		
21/00419/APP	Conversion of former baker to 3 residential units at 212 High Street Elgin Moray IV30 1BA		
	Decision	Permitted	Date Of Decision 30/08/21
01/00698/FUL	Erect a shop window canopy at 212 High Street Elgin Moray IV30 1BA		
	Decision	Permitted	Date Of Decision 03/08/01

ADVERT

Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	Planning application affecting LB/CA Development specified in Schedule 3	25/11/21
PINS	Planning application affecting LB/CA Development specified in Schedule 3	25/11/21

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *

* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?

YES

Summary of main issues raised in each statement/assessment/report

Document Name: Supporting Statement

Main Issues:

Provides comments in support of the application and seeks to address Transportations concerns in relation to deliveries and pedestrian access, noting:

“Deliveries: It is therefore the case that the vehicles making both deliveries and distributing finished goods, parked at the rear of the building during the unloading/ loading process for short periods over a period of some 40 years forms a precedent for this activity at the rear of the property. The proposal is to re-furbish part of an existing commercial premises. Any vehicle parked on Batchen Lane; out with the loading restricted area, does not offer an obstruction to other vehicles accessing the area; due to the width of the road at this point. Vehicles parked in this way offer no more of an obstacle or indeed a safety concern to pedestrians, than similar vehicles seeking to gain delivery access to the various establishments; Chinese takeaway, Davidson the Butcher, Birnie Pet Shop, The Badenoch's pub, Qismat Indian restaurant and other commercial properties with delivery access directly off Batchen Lane.

There seems no logical reason why the area immediately behind the former bakery is marked as a 'no loading at any time' area since other more narrow areas of Batchen Lane bear no such restriction. There is no valid reason to object to deliveries being made from vehicles parked on the High Street via the private lane to the side of the former bakery. Items normally delivered to outlets of this nature are not particularly bulky and are delivered in a timely manner; they can use the High Street as all the other commercial premises do”.

“Pedestrian Access: Customers using the takeaway would, due to the proximity of Northfield Terrace car park, have unprecedented access to parking not available to most other takeaway outlets in the centre of Elgin. This benefit is particularly relevant bearing in mind that a significant proportion of takeaway business is undertaken in the evening when town centre car parks are free of charge and under-utilised. Many takeaway premises in the centre of Elgin open directly onto the public footway of streets carrying through traffic (High Street, Batchen Street, Commerce Street) the latter two having very narrow pavements, so again the precedent has been set. The public footway behind the former bakery runs to the end of the private lane and terminates at the rear access to the Qismat restaurant. It is therefore of little use to pedestrians wishing to travel further and as such is little used. By comparison footways outside takeaway premises on, for example; Commerce Street have significantly heavier footfall. Due to the very close proximity of the private lane this offers ample potential as a queuing opportunity. The illegal and irresponsible parking on footways is not a planning consideration and ought not therefore to be considered as a legitimate objection.”

S.75 AGREEMENT		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			



**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Elgin City South]
Application for Planning Permission**

TO

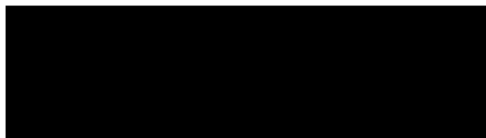


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of use of former bakery to a takeaway restaurant at 212 High Street
Elgin Moray IV30 1BA**

and for the reason(s) set out in the attached schedule.

Date of Notice: **29 June 2022**



HEAD OF ECONOMIC GROWTH AND DEVELOPMENT

Economy, Environment and Finance

Moray Council

Council Office

High Street

ELGIN

Moray

IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

By this Notice, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

The proposal is contrary to the Moray Local Development Plan 2020 because:

- (i) The lack of information in relation to the noise and odour impacts from the takeaway means it is not possible to assess or appropriately mitigate the impact of the proposed takeaway on the residential amenity on the existing and consented residential properties which are adjacent to or adjoin the site. The application therefore fails to demonstrate that it can be serviced or controlled in a way that is appropriate to the character of the site and its immediate residential surrounds. The proposal is therefore contrary to Policies DP7, DP1, EP14 and EP9.
- (ii) The proposal 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).

The proposal therefore fails to comply with the requirements of the Moray Local Development Plan 2020 and the application is therefore refused.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

The following plans and drawings form part of the decision:-

Reference	Version	Title
33:2021:3		Site and location plan
33:2021:1		Floor plan
33:2021:2		Elevations

NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is

also available and can be submitted online or downloaded from
www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

