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Grounds of Appeal

23/00340/APP - 1 Bayview Road, Cullen, Moray

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1.0 Introduction

These grounds for review of a decision to refuse retrospective planning permission for the installation of a dinosaur head to the roof of 1 Bayview Road, Cullen are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three-month period from the refusal of permission dated the 5th of July 2023.

In this context, the appeal statement responds to the reason for the refusal and addresses the proposal in relation to Development Plan Policies and relevant material planning considerations as required by Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2.0 The Proposal

The proposal seeks retrospective planning permission for a dinosaur head on the roof of 1 Bayview Road, Cullen. The premises currently operates as an antique business with a wide variety of interesting artefacts from all over the world. The dinosaur head reflects this unique offering, itself being for sale.



View of dinosaur head on roof of 1 Bayview Road, Cullen from the southeast

3.0 Reasons for Refusal

The application under reference 23/00340/APP was refused under the Council's Scheme of Delegation by the case officer on the 5th of July 2023. The reason for refusal states that: -

The proposal is contrary to National Planning Framework 4 policy 7 and 14, Moray Local Development Plan 2020 policies DP1 and EP9 where it would detract rather than enhance the conservation area. The dinosaur head would be incongruous to the traditional appearance, materials and character of the conservation area.

It is the appellants view that the reasons for refusal presented in the decision notice are unsubstantiated and are clearly outweighed by weighty public benefits. Further, the appellant is confident that the refusal of planning permission will not withstand the scrutiny of Members.

4.0 Grounds of Appeal

The appellant understands the proposals will be considered afresh by Members following the assessment and recommendations of the appointed officer. At the outset however, the appellant wishes Members to note that during the course of the planning application the professional technical assessment of Moray Council's Roads Authority is that the dinosaur head does not pose a risk to road safety.

In addition, the structure has been inspected by the Building Standards Service who have confirmed that it does not pose a risk to public safety. As such, the appointed Officer did not include the matter of road/ public safety in the reason for refusal. In this context, it is understood that the physical land use principle of development in this case rests with the impact of the structure on the character and appearance of the Cullen Conservation Area.

In a planning policy context, policy 7 of NPF4 contains the criteria necessary to assess the proposals. It seeks to *'protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places'*. The specific test in this policy for the proposals at hand is contained in part (d) which states that *'development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and setting is preserved or enhanced'*. The policy then goes on to set out 3 key considerations which will form the basis for these grounds of appeal.

Architectural and historic character of the area

The Cullen Conservation Area is divided into two-character areas, Seatown, the character of which is very much determined by the early development of Cullen as a small fishing village and the historic buildings and informal street pattern reflect this. The second area is known as the Planned Town- developed later on in the 19th century, it gets its name due to the planned nature of the grid iron street pattern and uniform plot sizes. This area is characterised by a mixture of building types which all front the pavement, providing a strong building line.

The premises at 1 Bayview Road is at the confluence of these two areas, exhibiting characteristics more akin to the character and appearance of the Planned Town, rather than Seatown, given it has direct frontage on to the pavement, although Members will note that the building itself is not of any particular architectural merit in its context and consequently does not make a positive contribution to the special character and appearance of the conservation area as a whole. However, the building is well separated from any of the many listed buildings in Cullen and does not impact on the setting of these buildings in any significant way.

In this context, the host building is read as compositionally separate to the distinct urban form of both character areas of the Cullen conservation area and key buildings/ structures ensuring that the setting of the conservation area is preserved.

Existing density, built form and layout

The dinosaur head is an addition to an existing building so the proposal will not have any effect on existing density, built form or layout. This specific policy test is not thought to be relevant to the proposals.

Context and siting, quality of design and suitable materials

The Outlet is a well-established, colourful business which often provides interesting pieces at the roadside. This approach is generally well received by the community of Cullen and visitors as it creates interest and draws attention to the village, positively.

In this context, the dinosaur head is entirely appropriate in this location. The dinosaur head has been purposefully designed to have a complimentary, familial relationship with the existing business, reimagining and enhancing its role as part of the wider area. The appellant submits that it succeeds in doing so and that is demonstrated by increased footfall to the premises since it was erected.

Further, the appellant, a renowned art expert, respectfully submits that the dinosaur head represents high quality design and is constructed from a suitable material. The purpose of art is to move us emotionally, so essentially, if you are looking at a good work of art you will feel an emotion. You can feel aesthetic pleasure, be inspired or disgusted, curious or angry. Whatever emotions a person experiences, if the artwork moved you, it is a good thing. This is demonstrated by the level of interest in the planning application- 115 representations were made by members of the public in relation to the proposal, 62 objections and 53 representations in support of the project.

The appellant's view is straightforward, the proposed development, by virtue of its height, form, design and appearance constitutes the very highest quality of design and is entirely appropriate when its context as part of the existing business is fully considered. The high quality of design exhibited ensures it is not detrimental to the character and composition of any key heritage asset.

5.0 Conclusion

Members will note that it is extremely rare for 53 letters of support to be received in response to any application- the general nature of the planning process is that most people's interaction with the system is to object to development proposals. It is rare to receive positive comment on proposals because the positive case is usually made by the applicants in their submissions and if the general public agree, the normal reaction is not to object rather than spend time writing a letter of support. In this context, 53 letters of support is a significant material consideration which requires Members to give serious thought to the consideration of this proposal.

The appellant considers that the reason for refusal overstates the effect of the dinosaur head on the setting of the conservation area. It may not be to everyone's taste but that is not relevant to the consideration of the physical land use principle of development. The appellant considers the proposal to be in full accordance with policy 7 and of NPF4 thereby policy 14 of NPF4 and Moray Local Development Plan policies PP1, DP1 and EP9.

In conclusion, the material weight contained within these grounds of appeal demonstrates that the proposed development is justified in its own right in heritage, townscape, design, amenity and planning terms and in this context, the appellants respectfully submits that planning permission should be granted.