

<b>Outcome of Scottish Ministers referral</b>
<b>Reference</b> NA-110-003
<b>Planning Reference</b> APP/2021/0917
<b>Planning Proposal</b> Change of use and conversion of mill to form dwellinghouse, alterations and the formation of external stairs, and the erection of a gate and fencing.
SEPA and Infrastructure Services (Flood Risk and Coast Protection) objected, and the Planning Service recommended the application for refusal. Marr Area Committee moved to support the proposal on 23 <sup>rd</sup> November 2021 triggering notification to Scottish Ministers, who then called-in the application on 16 <sup>th</sup> March 2022.
<b>Policy Issues</b>
The weight given to securing a new use (even a more vulnerable one in flooding terms) for the Listed Building outweighed the flooding aspects which were viewed as relatively minor and could be mitigated.
<b>Additional Points</b>
Ministers have attached a number of conditions for key items that would typically be addressed prior to the grant of consent.
<b>Actions</b> None
<b>Note Decision</b>

Local Government and Communities Directorate  
Planning, Architecture and Regeneration Division  
Planning Decisions



Telephone: 0131 244 7538  
E-mail: Planning.Decisions@gov.scot

Mr P Sutherland-Thomson  
Gerry Robb Architectural Design Services  
By email

Our ref: NA-110-003  
Planning Authority ref:APP/2021/0917

2 December 2022

Dear Ms Sutherland-Thomson

## DECISION NOTICE

### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 CHANGE OF USE AND CONVERSION OF MILL TO FORM A DWELLINGHOUSE, ALTERNATIONS AND THE FORMATION OF EXTERNAL STAIRS AND THE ERECTION OF A GATE AND FENCING AT THE FORMER STRATHDON FISH FARM, MILL OF NEWE, ABERDEENSHIRE ('the proposed development')**

1. This letter contains Scottish Ministers' decision on the above planning application submitted by Gerry Robb Architectural Design Services, on behalf of Mr D Knight. The application was called in for Scottish Ministers' determination on 16 March 2022.

2. The application was considered by means of written submissions and an unaccompanied site inspection which took place on 13 June 2022, by Mike Shiel, a reporter appointed for that purpose. A copy of the reporter's report is enclosed.

#### **Consideration by the Reporter**

3. The reporter's conclusions and recommendations are on pages 6 – 10 of the reporter's report. The reporter recommended that planning permission be granted subject to conditions.

4. Scottish Ministers have carefully considered the reporter's report. Ministers agree with the reporter's overall conclusions and recommendation that planning permission should be granted subject to conditions and adopt his reasoning for the purpose of their own decision, which is summarised below.

5. Ministers agree with the reporter that whilst the proposed development would comply with most of the relevant policies of the development plan, its conflict with

flooding policy means that overall, the proposed development does not comply with the development plan.

6. However, Ministers agree with the reporter that it is important to consider whether there are any other material considerations that would justify granting permission in the particular circumstances of this case.

7. The reporter has taken into account that the proposed development is a listed building and therefore, by definition, is of historic or architectural interest. Ministers agree with the reporter that as a matter of national policy the planning system should enable positive change in the historic environment, which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use.

8. Ministers note the reporter's observations that the exterior of the building has been extensively repaired and now appears to be in good condition and at present, there appears to be little danger of the building becoming derelict again in the short term. However, Ministers agree with the reporter that in order to secure its long-term future; a new use must be found for it and that in most respects, a conversion to residential use appears to be the most appropriate option. Ministers also agree with the reporter that there can be no guarantee that an alternative, non-domestic use would be forthcoming given the potential conflict with adjacent residential uses, as well as likely requiring external alternations that might damage the historic external fabric of the building.

9. Ministers have taken into account Revised Draft NPF4 which was laid in Parliament on 8 November. NPF4 reinforces the position set out in Scottish Planning Policy (2014) that whilst a precautionary approach should be taken in relation to development at flood risk, it is important to balance this against other material considerations such as the benefits of bringing neglected historic buildings back into sustainable and productive uses. NPF3 and Scottish Planning Policy (2014) remain in force until such time as Revised Draft NPF4 is adopted and published.

10. Ministers agree with the reporter that given the building's original purpose as a water mill, the mitigation measures proposed by the applicant cannot entirely eliminate the flood risk. However, Ministers agree with the reporter that the mitigation measures proposed mean that the risk to life created by the conversion of this building to residential use would not be severe.

11. Ministers are satisfied that the reporter has carefully considered the objection and concerns raised by SEPA and agree with the reporter that on balance when weighing the flood risk, which is not considered to be severe, against the benefits of redeveloping a prominent listed building, planning permission should be granted, despite the proposed development's conflict with the development plan.

12. The reporter notes in paragraph 44 that a developer contribution towards the provision of affordable housing within the catchment area of Aboyne Academy has been agreed, but no payment has yet been received. Ministers have included a

planning condition to specify the index linked payment required in line with the council's supplementary guidance on Developer Contributions.

13. Accordingly, for the reasons set out in the reporter's report and as summarised above, Scottish Ministers hereby grant planning permission for the change of use and conversion of mill to form a dwellinghouse, alterations and the formation of external stairs and the erection of a gate and fencing at the former Strathdon Fish Farm, Mill of Newe, Aberdeenshire, subject to the conditions set out in Appendix 1 of this letter. Attention should also be drawn to the advisory notes in Appendix 2.

14. The decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

15. A copy of this letter and the reporter's report has been sent to Aberdeenshire Council and SEPA.

Yours sincerely,

*Paul Lawson*

**Paul Lawson**  
Planning Decisions

**Appendix 1: Conditions to be attached to Planning Permission: NA-110-003  
(Aberdeenshire Council Reference: APP/2021/0917)**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of grant of this permission.

*Reason: Section 58 of the Town and Country Planning (Scotland) Act 1997 requires a condition to be attached to permission limiting its duration. Three years is the default period set by law and there is no material reason indicating that a different period should be set.*

2. Within three months from the date of this permission, the developer must pay Aberdeenshire Council £1,250 for contributions towards affordable housing within the catchment area of Aboyne Academy. The payment should be confirmed in writing and submitted to the planning authority for approval. Payment will be index linked from the date of this permission to the date of payment in accordance with Aberdeenshire Council's supplementary guidance on developer obligations and with reference to the General Building Cost Index as published by the BCIS or such other index as the council and developer may agree.

*Reason: To ensure the appropriate provision of affordable housing.*

3. Within three months from the date of this permission, details of flood protection and resilience measures for the new house shall be submitted for the approval of the planning authority. These measures shall include:

- a. the restoration of the existing channel running parallel to the main channel of the Burn of Deochry, including the removal of the existing paving slabs and dividing wall, and the aligning of the minor channel bed with that of the main channel;
- b. the raising of the floor level of the ground floor of the building; and
- c. the provision of any other appropriate measures that are deemed necessary to protect the property in the event of flooding occurring, and facilitate the evacuation of the occupants of the new house.

*Reason: To minimise any impact of flooding on the occupants of the house.*

4. The flood protection and resilience measures approved under the terms of condition 3 shall be implemented within three months of their approval by the planning authority, and shall thereafter be retained for as long as the property is used as a dwellinghouse.

*Reason: To minimise any impact of flooding on the occupants of the house.*

5. Within three months from the date of this permission, an investigation of the site shall be undertaken in accordance with BS10175:2011 + A2:2017 – “Investigation of Potentially Contaminated Sites – Code of Practice”, and a report of that investigation submitted to the planning authority. Where it is determined that remediation of the site is required, no other works shall be carried out on the site until a remedial scheme has been submitted to and approved in writing by the planning authority, and thereafter carried out in its entirety as approved, and a

verification report has been submitted to and approved in writing by the planning authority.

Any areas of hardstanding, clean cover or other such barriers within the application site boundary that are included within the approved remediation scheme and are required to break one or more pollution linkages shall be permanently retained as such, and shall not be disturbed without the prior written approval of the planning authority.

*Reason: to ensure that any potential contamination of the site is dealt with appropriately in the interests of public and environmental safety.*

6. The dwellinghouse shall be connected to the public water supply as indicated in the submitted application, and shall not be connected to a private water supply without the prior approval in writing of the planning authority.

*Reason: to ensure the safety and welfare of the occupants of the new house.*

## Appendix 2 – Advisory Notes

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).