

LRB-2023-48

**23/00924/FLL – Part change of use of dwellinghouse to
nursery business, Dalshian House, Croftinloan, Pitlochry,
PH16 5TD**

**PAPERS SUBMITTED
BY THE
APPLICANT**

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be
through this representative: ☐

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority

Planning authority's application reference number

Site address

Description of proposed
development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- | | |
|--|-------------------------------------|
| 1. Application for planning permission (including householder application) | <input checked="" type="checkbox"/> |
| 2. Application for planning permission in principle | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for seeking review

- | | |
|---|-------------------------------------|
| 1. Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- | | |
|---|-------------------------------------|
| 1. Further written submissions | <input checked="" type="checkbox"/> |
| 2. One or more hearing sessions | <input checked="" type="checkbox"/> |
| 3. Site inspection | <input type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | <input type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

The planning permission has been denied because of risk of flooding. However we believe the risk is small and would not affect my ability to safely operate a childminding business from the premises. We therefore wish to provide statements from previous owners of the house and images of recent severe weather and it's effect on the property

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEPA did not support our application on the grounds of risk of flood and previous flooding. I do not contest that there is occasional ground water on the property after periods of heavy rainfall, however this is contained to the bottom of the properties grounds. As the house sits in a 1.3 acre plot this is a significant distance from both the house and the driveway to it. Neither the house or its access have ever been affected by serious flooding. Attached to this appeal are statements from two previous owners, back to the 1970's, that comment on incidents SEPA has referenced. We have been informed that one of the floods SEPA reports was caused by building work on the hill behind the house which involved the re-routing of a watercourse into another, therefore a one off incident. We have also been told that another flood quoted happened in the same postcode but further down the Old Perth Road and did not affect Dalshian House. Since living in the property (for the last three years) we have kept the small waterway which is on the edge of the boundary in good condition ensuring it is free from any obstruction which would cause issues. We have also slightly raised the banks, again ensuring any risk of flood is minimised. I have also attached images from storm Babet, which show the effect of rain throughout Pitlochry in comparison to our house. I believe these images show that the effect of heavy rainfall are not more extreme at our property when compared to the rest of Pitlochry. The need for childcare in Pitlochry is just as urgent as it is for much of rural Scotland. We appreciate renewed governmental drives to help with childcare options, especially for those in rural areas, and believe our childminding business could be part of that solution without putting children at any risk.

To add as a final note; the house previously functioned as a B&B, next door a thriving lodge rental company is still active. We would argue that if the property was at risk of flooding these businesses would not be able to achieve the success that both have.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☒ No ☐

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

The application was refused outright so documents such as the letters were not required. We also did not have the images as the severe weather warning had not happened at the point of refusal.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Document 1 : Previous occupent's letter
Document 2 : Previous occupent's letter
Document 3 : Images showing result of the recent sever storm Babet

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Lois Brown

Date

14/11/2023

Dear Mrs Brown

I offer this email in support of your appeal to the Planning Department.

Our parents purchased Dalshian House in the early 1960's and sold out in 1995, when they retired and moved next door to Middle Cottage, where Mum continues to live. During these 60 years or therabouts, our family have never known Dalshian House to become flooded.

I am aware that some surface water can collect in the north-west garden corner during periods of exceptional rainfall. This tends to originate from the minor local water courses referred to in the recent press article.

August 2002 was one of these events. However, Dalshian is protected by the continuous wall along it's boundary with General Wades Road, which deflects excessive flows from the Donavourd hillside catchment to flow to the north and south of the property. In addition to this, more recent improvements to the under-road culverts, burn dredging and heightened embankments have appreciably reduced this surface water risk.

Worth mentioning is River Tummel flood waters, which seems to be SEPA's main concern and which we have never known to reach Dalshian at any level.

I hope that this background helps your case.

Kind regards

David Telford

To whom it may concern

My family and I owned and resided at the property Dalshian House from September 2007 until September 2021.

During this time (and previously) the property was operated as a Guest House business and we resided in the attached cottage known as The Annex Dalshian.

I can confirm, during this period, that The Annex Dalshian did not flood.

Yours sincerely

Martin Walls

Below images from around the town of Pitlochry after recent storm Babet:



Below are pictures from our property on the same day. You can see after heavy rain the watercourse was high and there were large puddles formed in the front garden. However you can also see that the road to our property remained unaffected and the back of the house where the childminding would take place did not even have ground water close to it.



The front of our house, where children's parents would park to bring them to the property.



The same driveway.



The front of the house and puddle, this was due to the drain you can see in bottom left which had become blocked, it has since been cleared and such puddling has not happened again.



The side garden which would be used for childminding. No ground water or puddling in this area.



The burn at the edge of the property. As you can see it was very high, and this is the highest we have ever seen it during our tenure. Within 24 hours of the storm ending it was much lower and it did not get higher than this during the storm. The road in and out of the property was not effected despite the high water levels which remained contained.