



MORAY LOCAL REVIEW BODY

27 SEPTEMBER 2022

SUMMARY OF INFORMATION FOR CASE No LR280

Planning Application 22/00400/APP – Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at 36 Smith Drive, Elgin, Moray, IV30 4NE

Ward 6 – Elgin City North

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 29 April 2022 on the grounds that:

The proposal is contrary to the requirements of policy DP1 (I) (a & e), because:

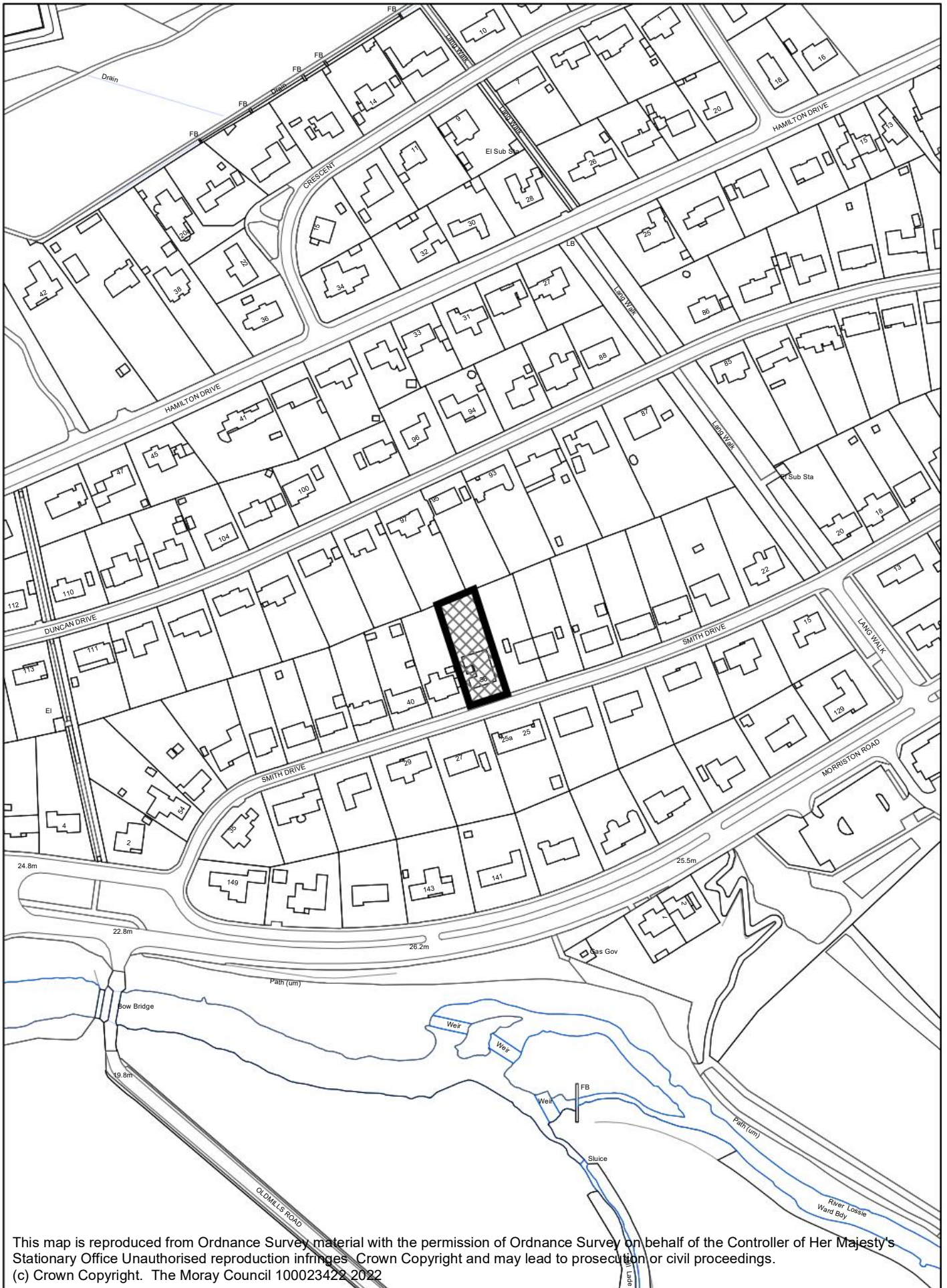
- The site is within a quiet residential area and the scale of the proposal would result in a level of activity in relation to the arrival and departure of children and staff and activity throughout the day that is not in keeping with the character of the area.
- There would be an adverse impact on the privacy of neighbouring properties as a result of the increase in the arrivals and departures of children and staff and increased noise and activity throughout the day.

Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.



Location plan for Planning Application Reference Number : 22/00400/APP



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APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



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 100541673-004

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)

Increase number of children from 9 to 15 at Child Minding

Business

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

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Dawn"/>	Building Number:	<input type="text" value="36"/>
Last Name: *	<input type="text" value="Thirkell"/>	Address 1 (Street): *	<input type="text" value="Smith Drive"/>
Company/Organisation	<input type="text" value="Little Sparkles"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 4NE"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="36 SMITH DRIVE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ELGIN"/>
Post Code:	<input type="text" value="IV30 4NE"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="863418"/>	Easting	<input type="text" value="320521"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

700.00

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)

Family home Childminding setting.

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 ☒ 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.

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? *

☐ Yes ☒ No

Do your proposals make provision for sustainable drainage of surface water?? *
(e.g. SUDS arrangements) *

☐ Yes ☒ No

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
☒ 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 ☒ 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 ☒ No ☐ Don't Know

Trees

Are there any trees on or adjacent to the application site? *

☐ Yes ☒ 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.

All Types of Non Housing Development – Proposed New Floorspace

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

☐ Yes ☒ No

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: Mrs Dawn Thirkell

On behalf of:

Date: 14/03/2022

☒ 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 principle 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. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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: Mrs Dawn Thirkell

Declaration Date: 14/03/2022

Payment Details

Online payment: 313142

Payment date: 14/03/2022 21:02:12

Created: 14/03/2022 21:02

36 Smith Drive Elgin IV30 4NE



0 5 10 15 20 25 30 35 40 45 50

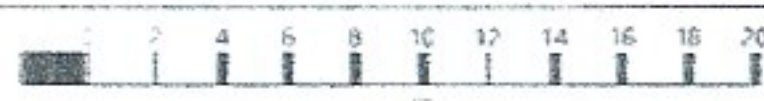
OS MasterMap 1250/2500/10000 scale
Thursday, March 18, 2021, ID: M4P-00947511
www.nicolsondigital.com

1:1250 scale print at A4, Centre: 320521 E, 863418 N

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This is a technical map of a village area, likely a cadastral or planning map. It features a grid with horizontal coordinates 50, 52, and 54, and vertical coordinates 38, 40, 42, 44, and 46. A red rectangle highlights a specific plot of land, which contains a building labeled '36' and several smaller, hatched rectangular areas. Other buildings are scattered throughout the map, some labeled with numbers like 40, 25, and 25a. The map also shows a road or path running diagonally across the lower portion. Elevation markers on the left and right edges indicate 320.48m and 320.56m.



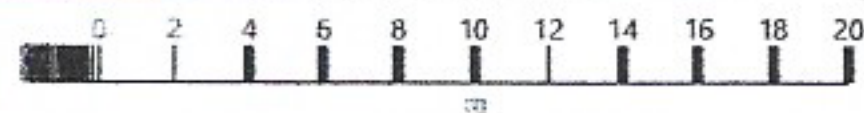
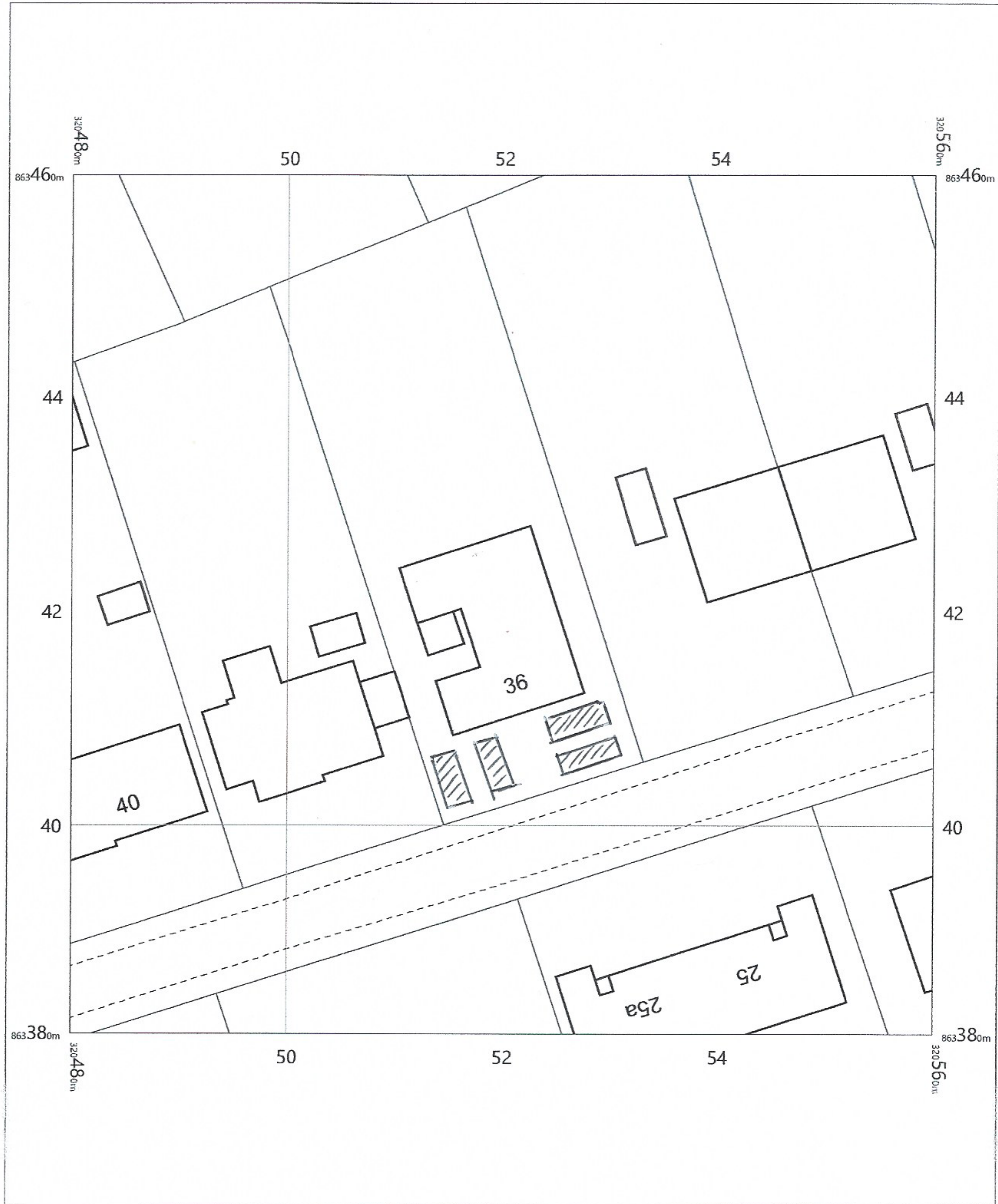
OS MasterMap 1250/2500/10000 scale
Thursday, March 18, 2021, ID: M4P-00947505
www.nicolsondigital.com

1:500 scale print at A4, Centre: 320520 E. 863421 N

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36 Smith Drive Elgin IV30 4NE



OS MasterMap 1250/2500/10000 scale
Thursday, March 18, 2021, ID: M4P-00947505
www.nicolsondigital.com

1:500 scale print at A4, Centre: 320520 E, 863421 N

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Statement for Planning Application

The maximum children I would care for after is 15 (3 of these are my own children and live at the premises). The maximum number of children I will be caring for until 2023/2024 is 12. I'm applying to increase to 15 now so that I don't have to repeat the process again in the future. The recurrent costs of applying for a small business are not cost effective, especially during the Covid Pandemic. I've felt the financial repercussions of being a small business, with no final support after facing closure twice so far. At present I'm not taking on more children, I am simply and efficiently providing more hours to the children I already provide for.

Opening hours will be from 7.30am till 6pm, Monday to Friday. At least 50% of my families walk to and from my home so no increase in traffic and/or parking. I also pick up and drop off children to and from their own homes.

I will be employing 2 staff. 1 lives at the premises. Their working hours will be from 8.30am till 4.30pm. We have adequate space for my staff to park their cars on our drive.

I'm employing staff through the MERI Scheme which supports individuals in getting back to work. Again, something very much needed in our area.

I have a Drop-Off and Pick-Up Policy in place to ensure these are made promptly. My families are aware of this and have not blocked any neighbour's driveways.

Being a provider of the Early Years Funded Hours provided by Moray Council, it is vital that I'm able to provide these hours to the children in my care. There is currently a lack of childcare available in Moray, Elgin being the biggest area. More Childminders are giving up this year which will leave children unable to access the hours they are eligible for.

I have a range of families from the NHS, Teachers and the Military who require childcare and continuity of care for their children.

Comments for Planning Application 22/00400/APP

Application Summary

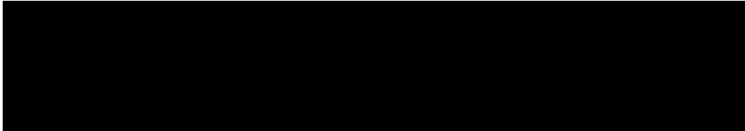
Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children from 9 to 15 at Child Minding Business at

Case Officer: null

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Little Sparkles is an incredible childcare setting and my little boy thrives there. Dawn is amazing at what she does and given the shortage of childcare in the area, increasing Little Sparkles capacity is going to be beneficial to the whole area. I Fully support.

Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children from 9 to 15 at Child Minding Business at

Case Officer: null

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:I think this is a fantastic idea.

Demands for childcare and childminders is a huge needed service in Elgin right now and it will help and support the childminders current families aswell as new.

Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children from 9 to 15 at Child Minding Business at

Case Officer: null

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: I fully support this application. As a parent of a child that attends we could really use the extra wiggle room with childcare with us both being employed. Childcare is so short in Moray and this could help many family's in need to return to work.

Comments for Planning Application 22/00400/APP

Application Summary

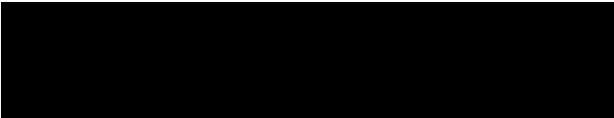
Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children from 9 to 15 at Child Minding Business at

Case Officer: null

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:I support this change

Comments for Planning Application 22/00400/APP

Application Summary

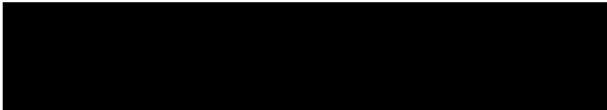
Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children from 9 to 15 at Child Minding Business at

Case Officer: null

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment:I support this strongly as there is a lack of childcare in the area for the many families that live here. Military and civilian. I have met the founder of little sparkles and the service that is provided is exceptional and children (and their families) would benefit greatly with the increase in numbers.

Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at

Case Officer: Lisa Macdonald

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: Dawn runs a highly professional service that is of great benefit to the children (and their families) at Little Sparkles. As a parent of a child attending this setting, I am fully in support.

Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at

Case Officer: Lisa Macdonald

Customer Details



Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: A positive contribution to the local community. No nuisance created for surrounding buildings.

Very happy to support this application.

Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at

Case Officer: Lisa Macdonald

Customer Details

Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments in support of the Planning Application

Comment Reasons:

Comment: We have used Little Sparkles for over a year and a half. During this time the service provided has been excellent and care of the children is always paramount. Not only this but care for the surroundings and the environment in which we live is also taken into account and children are taught to not litter, recycle where possible and be mindful of animals and other people.

From: Gregor Lawson <Gregor.Lawson@moray.gov.uk>
Sent: 26 Apr 2022 02:56:45
To: DMSMyEmail@moray.gov.uk
Cc:
Subject: FW: 22/00400/APP 36 Smith Drive, Elgin
Attachments:

From: Darren Westmacott <Darren.Westmacott@moray.gov.uk>
Sent: 26 April 2022 14:12
To: Planning Consultation <consultation.planning@moray.gov.uk>
Subject: 22/00400/APP 36 Smith Drive, Elgin

Good afternoon,

Whilst the proposal does not include any new buildings, the expansion of a childminding business – including increased capacity and operating hours – is of an inappropriate scale and character to the surrounding area. The increase in activity (e.g. from increased footfall/car trips etc.) in this quiet residential street has the potential to impact adversely on neighbouring residential properties resulting in an overbearing loss of amenity, contrary to Policy DP1 (i) (a) and (e).

Kind regards,

Darren

Darren Westmacott | Planning Officer (Strategic Planning & Development) | Economic Growth & Development
darren.westmacott@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)
01343 563358



Please note that I am currently working from home and can be contacted be email in the first instance.

Consultee Comments for Planning Application 22/00400/APP

Application Summary

Application Number: 22/00400/APP

Address: 36 Smith Drive Elgin Moray IV30 4NE

Proposal: Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at

Case Officer: Lisa Macdonald

Consultee Details

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: Not Available

On Behalf Of: Environmental Health C12

Comments

Approved unconditionally by Ailsa Findlayson (29/3/22)

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	31st March 2022
Planning Authority Reference	22/00400/APP
Nature of Proposal (Description)	Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at
Site	36 Smith Drive Elgin Moray IV30 4NE
Site Postcode	N/A
Site Gazetteer UPRN	000133025343
Proposal Location Easting	320521
Proposal Location Northing	863418
Area of application site (M²)	700
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=R8RY5YBGM1X00
Previous Application	21/00400/APP
Date of Consultation	17th March 2022
Is this a re-consultation of an existing application?	No
Applicant Name	Little Sparkles
Applicant Organisation Name	
Applicant Address	36 Smith Drive Elgin Moray IV30 4NE
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Lisa Macdonald
Case Officer Phone number	01343 563479
Case Officer email address	lisa.macdonald@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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

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

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

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

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

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

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 22/00400/APP

Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at 36 Smith Drive Elgin Moray IV30 4NE for Little Sparkles

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 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 checked="" type="checkbox"/> |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Condition(s)

1. The existing car parking shall be retained, with all existing parking spaces made available for use by staff, residents and customers throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/staff/visitors/others in the interests of an acceptable development and road safety.

Further comment(s) to be passed to applicant

Planning consent does not carry with it the right to carry out works within the public road boundary.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

Contact: AG

Date 07 April 2022

email address: transport.develop@moray.gov.uk

Consultee: TRANSPORTATION

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.

REPORT OF HANDLING

Ref No:	22/00400/APP	Officer:	Lisa Macdonald
Proposal Description/ Address	Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at 36 Smith Drive Elgin Moray IV30 4NE		
Date:	29.04.2022	Typist Initials:	SS

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
Environmental Health Manager	31/03/22	No objection
Transportation Manager	07/04/22	No objection subject to a condition requiring the existing parking to be retained
Strategic Planning And Development	26/04/22	Objection - the expansion of a childminding business is of an inappropriate scale and character to the surrounding area. The increase in activity (e.g. from increased footfall/car trips etc.) in this quiet residential street has the potential to impact adversely on neighbouring residential properties resulting in an overbearing loss of amenity, contrary to Policy DP1 (i) (a) and (e).

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP1 Placemaking	N	
PP2 Sustainable Economic Growth	N	
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	See below

REPRESENTATIONS

Representations Received	YES	
Total number of representations received: 8		

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
<p>Issue: Contributors welcome the service provided and are supportive of the proposed expansion.</p> <p>Comments (PO): The support for the business is noted.</p>
<p>Issue: The development will not create nuisance.</p> <p>Comments (PO): While the development may not give rise to a statutory nuisance in terms of noise or other pollution the level of use proposed would impact on the surrounding area.</p>

OBSERVATIONS – ASSESSMENT OF PROPOSAL

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:

The Proposal

This application seeks to increase the number of children that can be cared for at an existing child minder at a house on Smith Drive in Elgin and increase the opening hours. Planning Permission has been granted (21/00400/APP) which allows for a maximum of 9 children to be cared for at any one time. The current proposal is to increase this number to 15 (of which 3 are the applicants own children). This will require the employment of a third member of staff. The existing permission allows for the child minder to operate between 8 am and 6pm Monday - Friday. The current application seeks to increase the opening hours to 7:30 am - 6pm. No weekend working is proposed.

The Site

The site is an existing house in a residential area of Elgin. There is a parking area at the front and an enclosed garden area to the rear.

Principle of Development (DP1)

While the facts of each case must be assessed separately it is generally accepted that child minders who care for up to 6 children in their own home with no other members of staff employed do not require planning permission as this level of use remains commensurate with the use of the house as a house and does not represent a material change of use. This reflects the Care Commission registration requirements for this type of business. In this case planning permission (21/00400/APP) has been granted for the care of up to 9 children (of which 3 are the children of the applicant) to be cared for by two people who both live on site. The current application seeks to increase the maximum number of children that can be cared for at any one time to 15 and employ an additional member of staff who will not live on site. This represents a significant intensification which would radically alter the character of the use of the premises. The activity of arrival and departure of children and staff and the level of noise and activity throughout the day would be significantly different from that associated with a house or indeed a house with a small ancillary child-minding use. It is noted from the representations that the service provided is highly valued however, the numbers of children and staff proposed is more akin to a small nursery than a strictly child-minding use and as such is not appropriate in a house in residential area. The site is located on a quiet residential street in a built up area. The proposed expansion is not of a scale or character that is appropriate to the surrounding area and the increase in activity in this quiet residential street would adversely impact on

neighbouring houses resulting in an overbearing loss of amenity. The proposal is therefore contrary to Policy DP1 (i) (a) and (e).

The proposed extension to the opening hours from 8am-6pm to 7:30am- 6pm is a minor change and. Environmental Health have no objection. The proposed hours would be acceptable on week days in this location.

Parking (DP1)

There is an existing parking area in front of the house and on-street parking is available. The Transportation Manager has no objection subject to a condition requiring the existing parking to be retained throughout the lifetime of the development. This is in line with the terms of the previous permission (21/400/APP). Subject to the suggested condition the proposal would comply with policy DP1 (ii).

Recommendation

This application relates to an established business that provides a highly valued service to its customers. However, the site is in a quiet residential area and further expansion of the business in this location would not be appropriate to the character of the area and would adversely impact on the amenity of neighbouring houses. The proposal is contrary to Policy DP1 (i) (a) and (e) and as such is recommended for refusal.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision are:-

The proposal is contrary to the requirements of policy DP1 (I)(a & e), because:

- The site is within a quiet residential area and the scale of the proposal would result in a level of activity in relation to the arrival and departure of children and staff and activity throughout the day that is not in keeping with the character of the area.
- There would be an adverse impact on the privacy of neighbouring properties as a result of the increase in the arrivals and departures of children and staff and increased noise and activity throughout the day.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
21/00400/APP	Increase number of children from 6 to 9 at Child Minding Business at 36 Smith Drive Elgin Moray IV30 4NE			
	Decision	Permitted	Date Of Decision	28/04/21

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	14/04/22	
PINS	Departure from development plan	14/04/22	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	

DOCUMENTS, ASSESSMENTS etc. * <i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name: Supporting Statement		
Main Issues: <ul style="list-style-type: none"> • Statement of numbers, employees and opening hours. • Parking and drop off arrangements. • Employment schemes. • Need for childcare in Moray. 		

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 North]
Application for Planning Permission**

TO

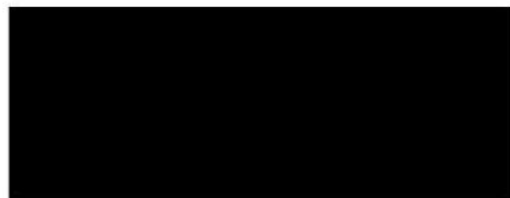


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Increase number of children approved under ref 21/00400/APP from 9 to 15 at
Child Minding Business at 36 Smith Drive Elgin Moray IV30 4NE**

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

Date of Notice: **29 April 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 requirements of policy DP1 (I) (a & e), because:

- The site is within a quiet residential area and the scale of the proposal would result in a level of activity in relation to the arrival and departure of children and staff and activity throughout the day that is not in keeping with the character of the area.
- There would be an adverse impact on the privacy of neighbouring properties as a result of the increase in the arrivals and departures of children and staff and increased noise and activity throughout the day.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
		Location plan
		Site plan
		Parking plan

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.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



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 100589903-001

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.

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

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Dawn"/>	Building Number:	<input type="text" value="36"/>
Last Name: *	<input type="text" value="Thirkell"/>	Address 1 (Street): *	<input type="text" value="Smith Drive"/>
Company/Organisation	<input type="text" value="Little Sparkles"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 4NE"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

36 SMITH DRIVE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 4NE

Please identify/describe the location of the site or sites

Northing

863418

Easting

320521

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Due to very high demand, Moray Councils Funded hours and a known lack of childcare in Moray, I feel the refusal was an unjust decision. My setting provides high quality support and care for children and their families. The Armed Forces are now providing 20 hours free childcare per week locally. Elgin currently does not have School, Nursery, or Childminding spaces to satisfy the current demand. Little Sparkles has the capacity to offer this with the full support of close neighbours.

Type of Application

What type of application did you submit to the planning authority? *

- ☐ Application for planning permission (including householder application but excluding application to work minerals).
- ☒ Application for planning permission in principle.
- ☐ Further application.
- ☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☒ Refusal Notice.
- ☐ Grant of permission with Conditions imposed.
- ☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Due to very high demand, Moray Councils Funded hours and a known lack of childcare in Moray, I feel the refusal was an unjust decision. My setting provides high quality support and care for children and their families. The Armed Forces are now providing 20 hours free childcare per week locally. Elgin currently does not have School, Nursery, or Childminding spaces to satisfy the current demand. Little Sparkles has the capacity to offer this with the full support of close neighbours.

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

The Armed Forces are now offering 20 hours free childcare to Armed Forces Families. Moray does not have the childcare spaces to provide this. I have recently engaged with Richarch Lockhead and Sarah Medcalf and they both fully support and endorse my appeal.

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. You can attach these documents electronically later in the process: * (Max 500 characters)

As per previous comments.

Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

Ref: 22/00400/APP

What date was the application submitted to the planning authority? *

15/03/2022

What date was the decision issued by the planning authority? *

29/04/2022

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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

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

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☐ Yes ☐ No ☒ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

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 (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mrs Dawn Thirkell

Declaration Date: 27/07/2022