



## **Moray Local Review Body**

**Tuesday, 27 September 2022**

**NOTICE IS HEREBY GIVEN** that a Special Meeting of the **Moray Local Review Body** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Tuesday, 27 September 2022** at **14:00**.

### **BUSINESS**

- 1 **Sederunt**
- 2 **Declaration of Group Decisions and Members Interests \***
- 3 **Minute of meeting dated 18 August 2022** **5 - 10**
- 4 **LR278 - Ward 4 - Fochabers and Lhanbryde** **11 - 90**  
Planning Application 22/00542/PPP – Proposed dwelling-house and detached garage at site adjacent to 1-5 South Darkland, Lhanbryde, Elgin
- 5 **LR280 - Ward 6 - Elgin City North** **91 - 146**  
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

### **Summary of Local Review Body functions:**

To conduct reviews in respect of refusal of planning permission or unacceptable conditions as determined by the delegated officer, in terms of the Scheme of Delegation to Officers under Section 43(A)(i) of the Town & Country Planning (Scotland) Act 1997 and the Town & Country Planning (Scheme of Delegation and Local Review Procedure)(Scotland) Regulations 2013, or where the Delegated Officer has not determined the application within 3 months of registration.

**Any person wishing to attend the meeting should contact customer services on 01343 563217 prior to the meeting as the number of attendees is restricted due to the recent Covid pandemic**

**You can however watch the webcast of the meeting by going to :  
[http://www.moray.gov.uk/moray\\_standard/page\\_43661.html](http://www.moray.gov.uk/moray_standard/page_43661.html)**

- \* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

# **THE MORAY COUNCIL**

## **Moray Local Review Body**

### **SEDERUNT**

Councillor Marc Macrae (Chair)  
Councillor Amber Dunbar (Depute Chair)

Councillor Neil Cameron (Member)  
Councillor Juli Harris (Member)  
Councillor Sandy Keith (Member)  
Councillor Paul McBain (Member)  
Councillor Derek Ross (Member)  
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	07765 741754
Clerk Email:	committee.services@moray.gov.uk



**Minute of Meeting of the Moray Local Review Body**

**Thursday, 18 August 2022**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

**PRESENT**

Councillor Neil Cameron, Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Derek Ross, Councillor Sonya Warren

**IN ATTENDANCE**

Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mr Henderson, Planning Officer and Mrs Gordon, Planning Officer as Planning Advisers, Mr Hoath, Senior Solicitor as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

**1 Chair**

Councillor Macrae, being Chair of the Moray Local Review Body, chaired the meeting.

**2 Declaration of Group Decisions and Members Interests**

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decision taken on how Members will vote on any item on the agenda.

Councillor Dunbar declared an interest in Item 6 - Case LR273 and stated that she would leave the meeting and not take any part in the consideration of this item. There were no other declarations of Members interests in respect of the items on the agenda.

**3 Minute of meeting dated 16 June 2022**

The Minute of the meeting dated 16 June 2022 was submitted and approved.

**4 LR274 - Ward 5 - Heldon and Laich**

**Planning Application 21/01277/APP – Demolish existing house and erect new dwellinghouse at 3 Town Hall Lane, Lossiemouth, Moray, IV31 6DF**

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission on the grounds that:

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

1. The large split level contemporary design proposed on this elevated prominent cliff top location would have an excessive over dominant impact on the site and its surrounds. The overall design, form, appearance and finish of the dwelling would be at odds with the more traditional existing established character at this locality resulting in a design which is out of character and incongruous to the site and its surrounds. The proposal therefore fails to reflect the traditional settlement character as required by Policy EP3 (i) b) and DP1 (i).
2. The design moves the footprint of the dwelling closer to the existing houses to the north therefore taking account of the extensive glazing and large outdoor terrace/balcony areas the design is also considered to result in unacceptable overlooking and privacy impacts for these existing neighbouring residential properties to the north of the site. The proposal therefore also fails to comply with the amenity considerations set out in policy DP1 (i) part (e).

A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, the Legal Adviser advised that he had nothing to raise at this time.

The Planning Adviser highlighted an inaccuracy in the Applicant's Statement of Case where reference was made to planning policy DP1 being introduced in June 2021 when all policies within the Moray Local Development Plan 2020 were adopted in May 2020. This was noted.

The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

During discussion surrounding the reasons why the planning application had been refused, Councillor McBain noted that one of the reasons was due to the contemporary design of the proposal which was not considered to be in keeping with the other traditional buildings in the area. Councillor McBain noted that a contemporary dwelling had already been build next to the proposed development and was of the view that the proposal would have no impact or disadvantage on surrounding properties and moved that the appeal be upheld and planning permission granted in respect of Planning Application 21/01277/APP as the proposal is an acceptable departure from policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Dunbar.

Councillor Cameron acknowledged that the planning application was for a stunning development however agreed with the Appointed Officer in that it did not fit with the surrounding area and moved that the MLRB refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 21/01277/APP as it is contrary to policies EP3 (Special

Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i). This was seconded by Councillor Keith.

On a division there voted:

For the Motion (3):	Councillors McBain, Dunbar and Macrae
For the Amendment (5):	Councillors Cameron, Keith, Harris, Ross and Warren
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the MLRB and it was agreed to refuse the appeal and uphold the original decision of the Appointed Officer to refuse planning application 21/01277/APP as it is contrary to policies EP3 (Special Landscape Areas and Landscape Character) (i) b) and DP1 (Development Principles) (i).

## **5 LR275 - Ward 3 - Buckie**

### **Planning Application 22/00140/APP – Replace modern windows that have failed for other modern windows at 6 Burnside Street, Findochty**

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission on the grounds that:

The proposed development is contrary to Policy DP1: Development Principles, Policy EP10: Listed Buildings and Policy EP9: Conservation Areas of the adopted Moray Local Development Plan 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance for the following reasons:

1. The use of non-traditional materials such as UPVC is not acceptable for use on listed buildings and the proposed UPVC windows do not preserve the character and special historic interest of the listed building.
2. The use of UPVC windows would not be in compliance with Historic Environment Scotland advice on alterations to listed buildings (Managing Change in the Historic Environment - Windows) nor with the Moray Council's Replacement Windows and Doors Guidance which is clear that the use of non-traditional materials such as UPVC will not be acceptable in listed buildings.
3. The proposed development would not preserve and enhance the character and appearance of Findochty Outstanding Conservation Area.

A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

During discussion, Councillor Ross stated that it was clear that the windows in the property needed replaced. He noted that there was already a lot of houses in the conservation area that had UPVC windows. He also noted the climate emergency and the cost of living crisis. In all the circumstances he moved that the MLRB uphold the appeal and grant planning permission in respect of Planning Application 22/00140/APP as an acceptable departure to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray Local Development Plan (MLDP) 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance, stating that, in his view, it was unfair to impose this financial burden on the Applicant. This was seconded by Councillor Warren.

Councillor McBain agreed with Councillor Ross in that it was clear that the windows needed to be replaced and noted that the existing windows were aluminium and not wood and was of the view that UPVC windows would be more in keeping with the character of the area than aluminium.

Councillor Keith stated that the subject of replacing windows in conservation areas and on listed buildings with UPVC is regularly debated however the Council has adopted the policies within the MLDP 2020 therefore should uphold them. He therefore moved, as an amendment, that the MLRB uphold the original decision of the Appointed Officer and refuse planning permission in respect of Planning Application 22/00140/APP as the application is contrary to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray MLDP 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance. This was seconded by Councillor Cameron.

On a division there voted:

For the Motion (5):	Councillors Ross, Warren, Dunbar, Macrae and McBain
For the Amendment (2):	Councillors Keith and Cameron
Abstention (1):	Councillor Harris

Accordingly, the Motion became the finding of the MLRB and it was agreed to uphold the appeal and grant planning permission in respect of Planning Application 22/00140/APP as an acceptable departure to policies DP1 (Development Principles), Policy EP10 (Listed Buildings) and Policy EP9 (Conservation Areas) of the adopted Moray Local Development Plan (MLDP) 2020 and, as a material consideration, associated Replacement Windows and Doors Guidance.

## **6 LR276 - Ward 7 - Elgin City South**

Councillor Dunbar, having declared an interest in this item, left the meeting at this juncture.

**Planning Application 22/00130/APP - Erect outbuilding for use as hair salon/beauty parlour at 14 Turnberry Crescent, Elgin**

A request was submitted by the Applicant seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission on the grounds that:

The proposal is contrary to policy DP1 - Development Principles of the Moray Local Development Plan (MLDP) 2020 because the introduction of a business use to which there would be visiting members of the public is considered to result in an adverse impact on the amenity of neighbouring properties in the surrounding residential area.

A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

The Chair then asked the Moray Local Review Body (MLRB) if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Following consideration, the MLRB agreed to uphold the original decision of the Appointed Officer to refuse planning permission in respect of Planning Application 22/00130/APP as the proposal is contrary to policy DP1 (Development Principles) of the MLDP 2020.





## MORAY LOCAL REVIEW BODY

27 SEPTEMBER 2022

### SUMMARY OF INFORMATION FOR CASE No LR278

**Planning Application 22/00542/PPP – Proposed dwelling-house and detached garage at site adjacent to 1-5 South Darkland, Lhanbryde, Elgin**

#### **Ward 4 – Fochabers and Lhanbryde**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 27 May 2022 on the grounds that:

The proposal is contrary to policies DP4 Part d) ii), DP1(i) and EP4 for the following reasons:

- (i) The proposal site falls within the Pressurised and Sensitive Area identified by Policy DP4 Part d) ii), in which no new house sites will be permitted due to the detrimental landscape and visual impacts associated with high levels of rural housing build up in these areas. The proposed house in this location is contrary to Policy DP4 and DP1(i). The proposed new dwellinghouse will have an adverse impact on the character and appearance of the surrounding area given that the site lacks the required immediate (on the boundary of the site) backdrop of existing landform, trees and buildings to provide acceptable enclosure.
- (ii) The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area.
- (iii) The site falls within the Countryside Around Towns Area identified by Policy EP4, in which no new rural housing will be permitted unless the proposal involves the rehabilitation, conversion, limited extension, replacement; or change of use of existing buildings or for the purpose of agriculture, forestry or low intensity recreational or tourism; or is designated as long term housing allocation released for development. The proposals do not fall within any of the above criteria and will result in development sprawl into the countryside affecting the special character of this area.

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**.

Further Representations received in response to the Notice of Review are attached as **Appendix 3**.

No representation was received from the Applicant in response to the Further Representations.











## **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](mailto: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 100551237-001

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)

Proposed dwelling-house and detached garage

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:	S Reid Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stewart	Building Name:	The Sma Glen
Last Name: *	Reid	Building Number:	
Telephone Number: *	+447598299753	Address 1 (Street): *	Roths
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Aberlour
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB38 7AG
Email Address: *	info@sreiddesign.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Strathlene House
First Name: *	Steve	Building Number:	
Last Name: *	Cox	Address 1 (Street): *	Calcots
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Elgin
Extension Number:		Country: *	Scotland, UK
Mobile Number:		Postcode: *	IV30 8NB
Fax Number:			
Email Address: *	info@sreiddesign.co.uk		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin, Moray IV30 8NT

Northing

861876

Easting

326115

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☐ Yes ☒ No

## Site Area

Please state the site area:

3796.00

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)

Unused land adjacent to 5 houses

## 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.

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>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.</p>
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input type="checkbox"/> Yes – connecting to public drainage network</p> <p><input checked="" type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>As you have indicated that you are proposing to make private drainage arrangements, please provide further details.</p> <p>What private arrangements are you proposing? *</p> <p><input checked="" type="checkbox"/> New/Altered septic tank.</p> <p><input type="checkbox"/> Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).</p> <p><input type="checkbox"/> Other private drainage arrangement (such as chemical toilets or composting toilets).</p>
<p>What private arrangements are you proposing for the New/Altered septic tank? *</p> <p><input checked="" type="checkbox"/> Discharge to land via soakaway.</p> <p><input type="checkbox"/> Discharge to watercourse(s) (including partial soakaway).</p> <p><input type="checkbox"/> Discharge to coastal waters.</p>
<p>Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>This application is for Planning in Principle. If the application is consented a detailed planning application will be submitted accompanied by a full drainage report (by specialists) including percolation tests and soakaway sizing. The foul water will be taken to a septic tank or treatment plant and then into an appropriately sized foul water soakaway. The surface water will be taken into an appropriately sized surface water soakaway.</p> </div>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>



## 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

Are you able to identify and give appropriate notice to ALL the other owners? \*

☒ Yes ☐ No

## Certificate Required

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

Certificate B

## Land Ownership Certificate

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

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] 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;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mr Jim Sylvestrie

Address:

North Darklands Farm, Lhanbryde, Elgin, Scotland, UK, IV30 8NB

Date of Service of Notice: \*

02/04/2022

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

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed: Stewart Reid

On behalf of: Mr Steve Cox

Date: 02/04/2022

☒ 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. \*

☐ 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)

Drainage Statement included.

## 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.

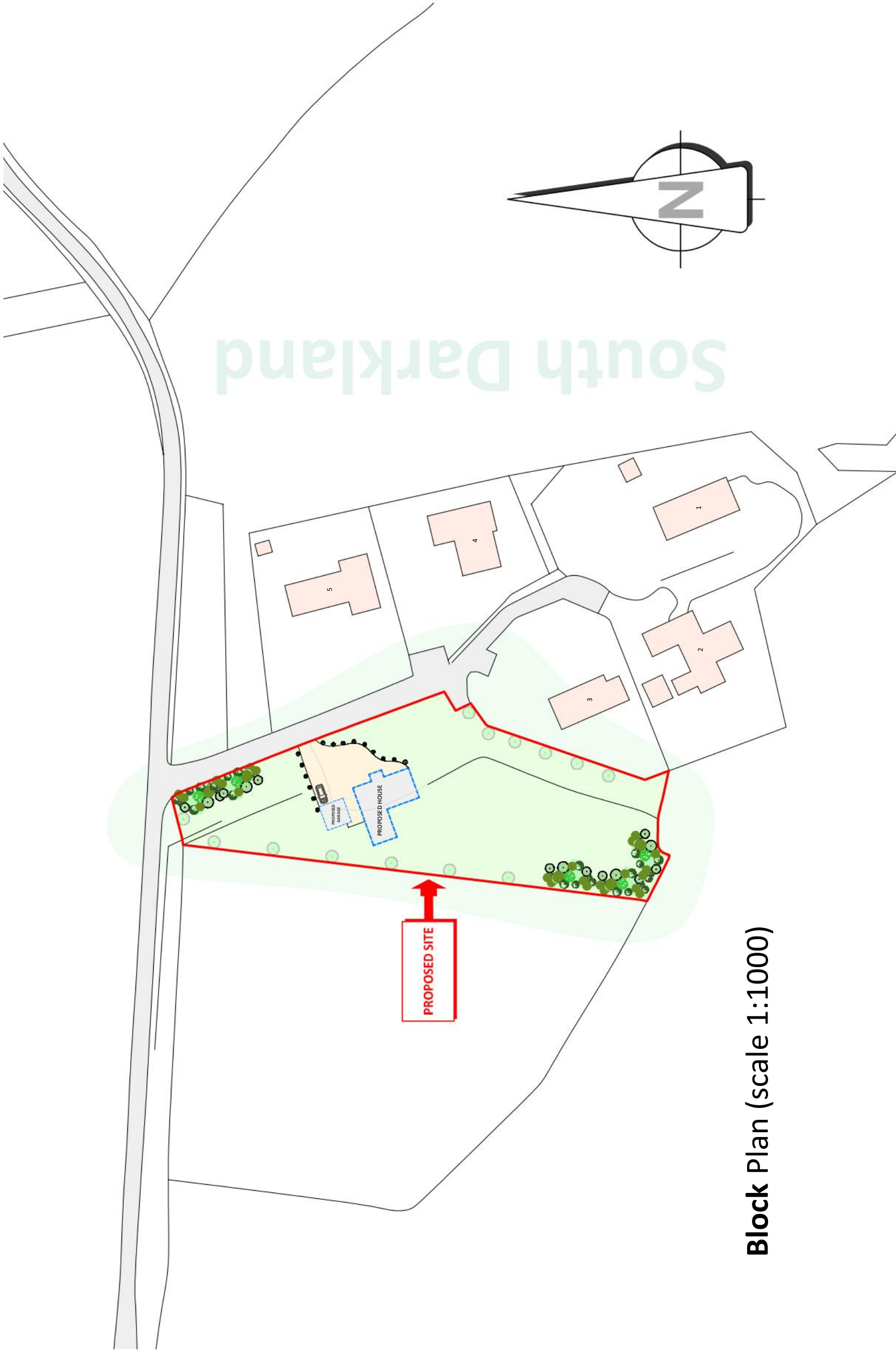
Declaration Name: Mr Stewart Reid

Declaration Date: 02/04/2022

## Payment Details

Cheque: Applicant will pay by BACS, 00000000

Created: 02/04/2022 12:44



Block Plan (scale 1:1000)

DATE	SCALE	DRG. NO.
MAR 2022	1:1000 (A3)	S.DARK / PL / 02

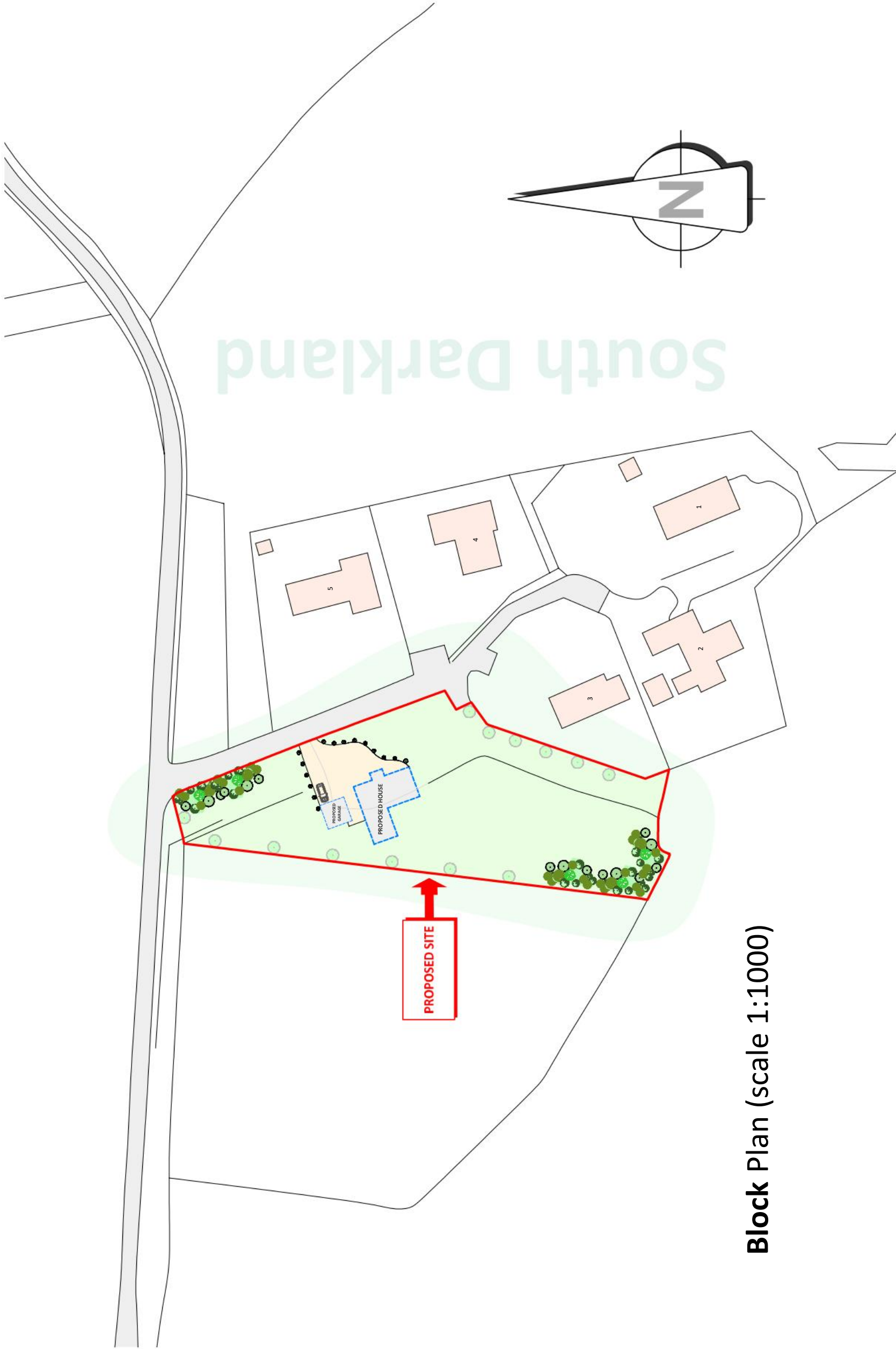
Proposed dwelling-house and detached garage at  
Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
Moray IV30 8NT For Mr S.Cox

S Reid Design

CHARTERED ARCHITECTURAL DESIGN SERVICE



S.REID MCIAT  
CHARTERED ARCHITECTURAL TECHNOLOGIST  
THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
M - (07598) 299753  
M - (07926) 151101  
E - info@sreiddesign.co.uk  
W - www.sreiddesign.co.uk



Block Plan (scale 1:1000)

DATE	SCALE	DRG. NO.
MAR 2022	1:1000 (A3)	S.DARK / PL / 02

Proposed dwelling-house and detached garage at  
Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
Moray IV30 8NT For Mr S.Cox

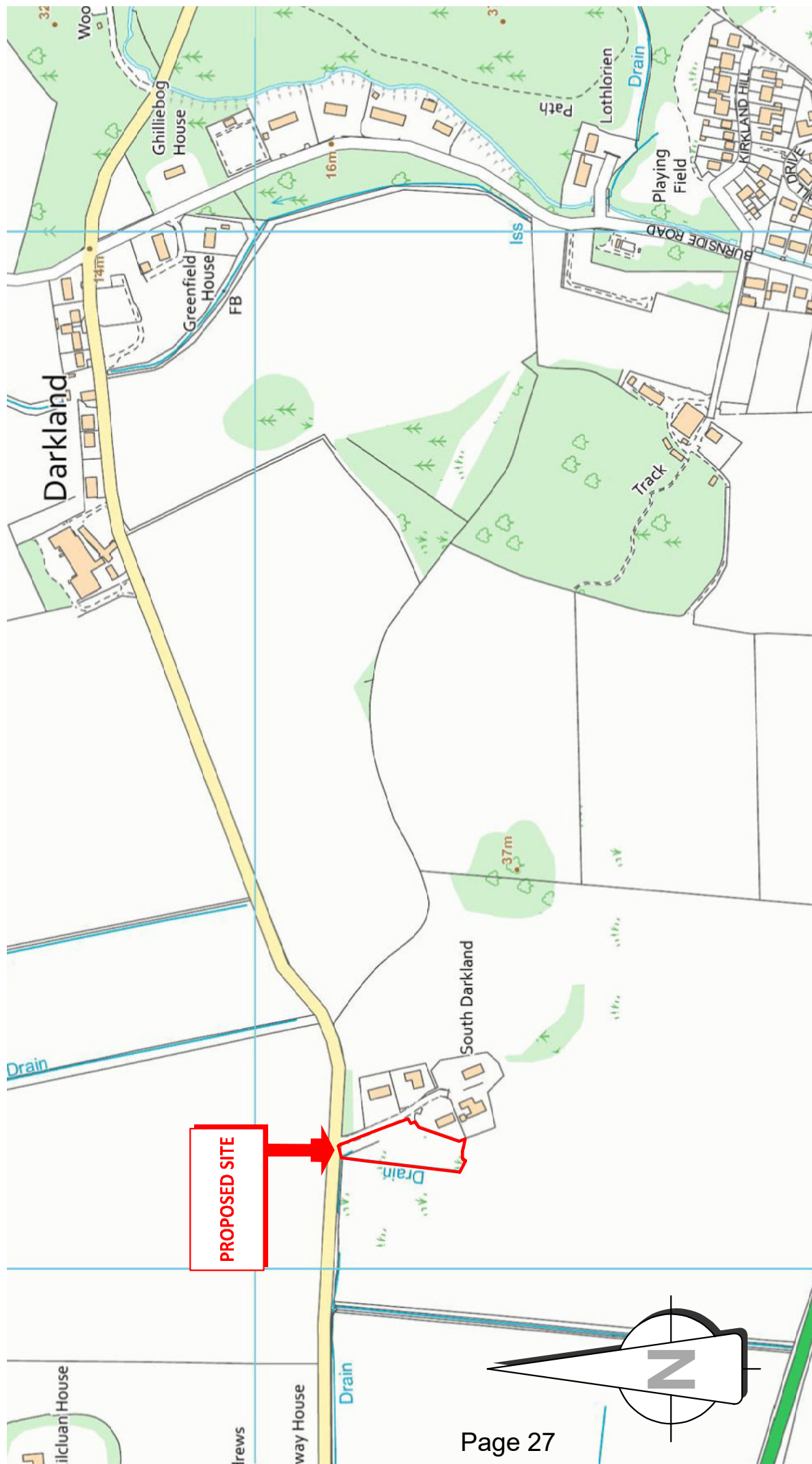
S Reid Design

CHARTERED ARCHITECTURAL DESIGN SERVICE



S.REID MCIAT  
CHARTERED ARCHITECTURAL TECHNOLOGIST  
THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
M - (07598) 299753  
M - (07926) 151101  
E - info@sreiddesign.co.uk  
W - www.sreiddesign.co.uk





Proposed dwelling-house and detached garage at  
 Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
 Moray IV30 8NT For Mr S.Cox

**S.REID MCIAT**  
 CHARTERED ARCHITECTURAL TECHNOLOGIST  
 THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
 M - (07598) 299753  
 M - (07926) 151101  
 E - info@sreiddesign.co.uk  
 W - www.sreiddesign.co.uk

# DRAINAGE STATEMENT

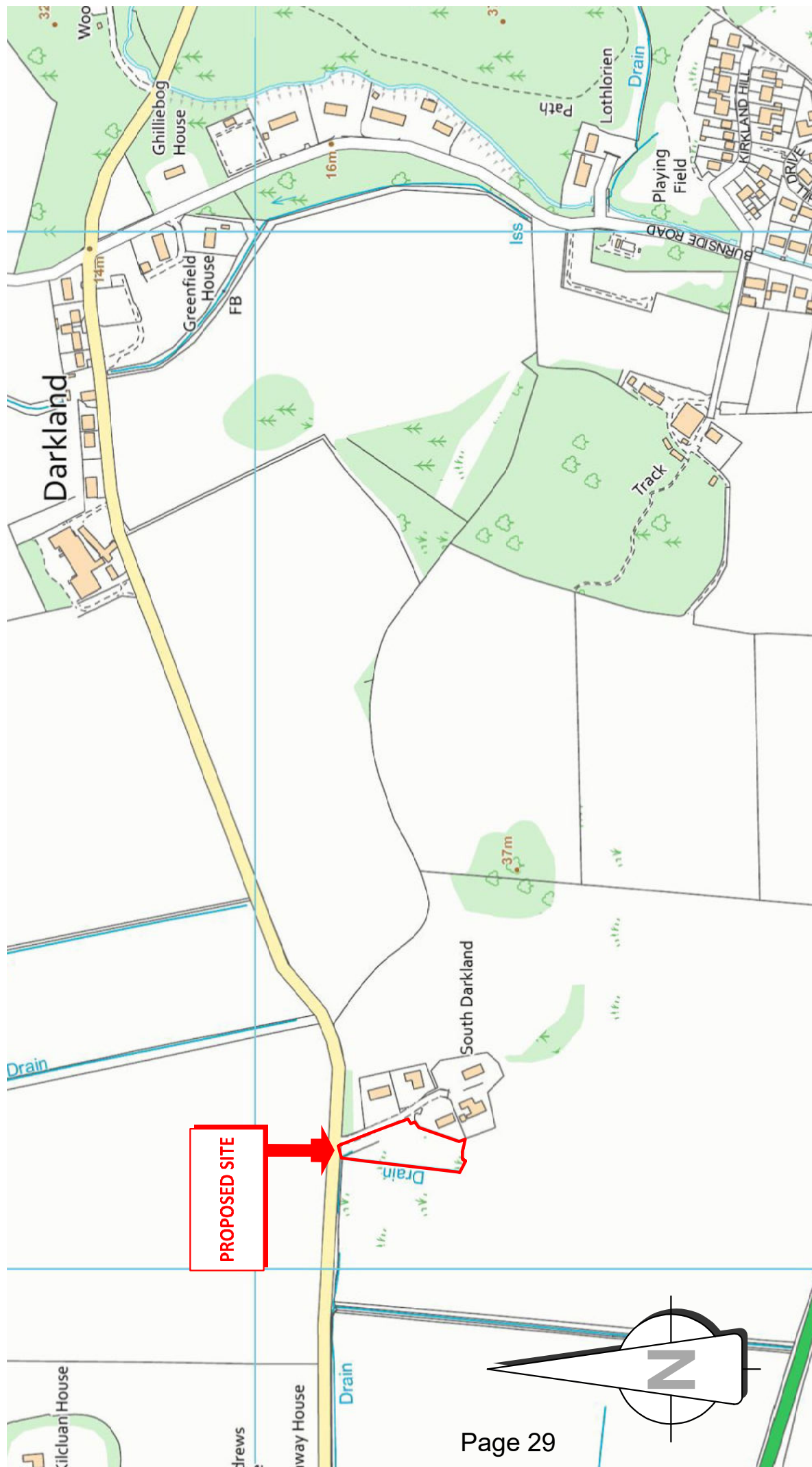
## PROPOSED SURFACE WATER AND FOUL WATER

This application is for Planning in Principle. If the application is consented a detailed planning application will be submitted accompanied by a full drainage report (by specialists) including percolation tests and soakaway sizing.

The foul water will be taken to a septic tank or treatment plant and then into an appropriately sized foul water soakaway.

The surface water will be taken into an appropriately sized surface water soakaway.





Proposed dwelling-house and detached garage at  
 Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
 Moray IV30 8NT For Mr S.Cox

S.REID MCIAT  
 CHARTERED ARCHITECTURAL TECHNOLOGIST  
 THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
 M - (07598) 299753  
 M - (07926) 151101  
 E - info@sreiddesign.co.uk  
 W - www.sreiddesign.co.uk

**From:** Teresa Ruggeri <Teresa.Ruggeri@moray.gov.uk>  
**Sent:** 14 Apr 2022 02:12:57  
**To:** DMSMyEmail@moray.gov.uk  
**Cc:**  
**Subject:** FW: 22/00542/PPP Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands, Lhanbryde, Elgin  
**Attachments:** 22-00542-PPP Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands, Lhanbryde, Elgin.pdf

---

Hi

Please find attached the developer obligations assessment that has been undertaken for the above planning application. A copy of the report has been sent to the applicant.

Thanks,  
Rebecca

**Rebecca Morrison** | Infrastructure Growth/Obligations Officer (Strategic Planning and Development) | Economic Growth and Development  
[rebecca.morrison@moray.gov.uk](mailto:rebecca.morrison@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)



# Developer Obligations & Affordable Housing: ASSESSMENT REPORT



**moray**  
council

## Summary of Obligations

Date: 14/04/2022

Reference: 22/00542/PPP

Description: Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands, Lhanbryde, Elgin

Applicant: Mr Steve Cox

Agent: S Reid Design

This assessment has been carried out by Moray Council. For developer obligations, the assessment is carried out in relation to policy PP3 Infrastructure and Services of the adopted Moray Local Development Plan 2020 (MLDP2020) and Supplementary Guidance (SG) on Developer Obligations which was adopted on 30 September 2020. And, for affordable housing, the assessment is carried out in relation to policy DP2 Housing of the MLDP2020. Affordable housing is a policy requirement not a developer obligation however for ease of reference the Affordable Housing contribution is included within this assessment.

The MLDP2020 can be found at [www.moray.gov.uk/MLDP2020](http://www.moray.gov.uk/MLDP2020) and the Developer Obligations SG can be found at <http://www.moray.gov.uk/downloads/file134184.pdf>

Primary Education	Nil
Secondary Education	Nil
Transport	Nil
Healthcare (Contribution towards 5 Additional Dental Chairs and Pharmacy)	
Sports and Recreation	Nil
Total Developer Obligations	
Affordable Housing	
TOTAL	

## Breakdown of Calculation

Proposals for developer obligations are assessed on the basis of Standard Residential Unit Equivalents (SRUE) which is a 3-bedroomed residential unit. This application is considered to comprise of the following:

3 bed = 1 SRUE

This assessment is therefore based on 1 SRUE.



## INFRASTRUCTURE

### Education

#### Primary Education

The pupils generated by this development are zoned to Lhanbryde Primary School. The school is currently operating at 52% physical capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary in this instance.

Contribution towards Primary Education = Nil

#### Secondary Education

The pupils generated by this development are zoned to Speyside High School. The school is currently operating at 75% capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary in this instance.

Contribution towards Secondary Education = Nil

### Transport

The Moray Council Transportation Services has confirmed that no developer obligations will be sought for this proposal.

Contributions towards Transport = Nil

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities. The

recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development (based on the average household size of 2.17 persons - Census 2011).

Linkwood Medical is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Linkwood Medical is currently operating at capacity. An additional Health Centre, 5 Additional Dental Chairs and an Additional Pharmacy will be required to accommodate the increase in population that is a direct result of development in Elgin and surrounding area. In the interim, Linkwood Medical has been reconfigured to form additional consulting space and the additional patients arising from this development can be accommodated on this basis.

Contributions will be sought towards the additional dental chairs and pharmacy.

Contributions are calculated based on a proportional contribution of [REDACTED] per SRUE for the dental chairs and [REDACTED] per SRUE for the pharmacy.

[REDACTED]

[REDACTED]

Contribution towards Healthcare = [REDACTED]

### Sports and Recreational Facilities

Sports and Recreation Facilities



Existing sports provision within Elgin is considered to be adequate to serve the needs of the residents anticipated to be generated by this development. Therefore, in this instance, no contribution will be required.

Contribution for Sports and Recreation Facilities = Nil

---

## AFFORDABLE HOUSING

The average market value of a serviced plot for 1 Affordable Unit within the Elgin local Housing Market Area is [REDACTED].

Contributions are based on 25% of the total number of units proposed in the application:

[REDACTED] per proposed unit

Therefore, the total contribution towards affordable housing is:

1 proposed unit = [REDACTED]

Affordable housing is a policy requirement not a developer obligation and will not be subject to negotiation.



## TERMS OF ASSESSMENT

This assessment report is valid for a period of 6 months from the date of issue.

Please note that any subsequent planning applications for this site may require a re-assessment to be undertaken on the basis of the policies and rates pertaining at that time.

## PAYMENT OF CONTRIBUTIONS

Remittance of financial obligations can be undertaken either through the provision of an upfront payment or by entering into a Section 75 agreement. The provision of an upfront payment will allow a planning consent to be issued promptly. However, where the amount of developer contributions are such that an upfront payment may be considered prohibitive a Section 75 will likely be required. The payment of contributions may be tied into the completion of houses through a Section 75 Agreement or equivalent, to facilitate the delivery of development. Please note that Applicants are liable for both the legal costs of their own Legal Agent fees and Council's legal fees and outlays in the preparation of the document. These costs should be taken into account when considering the options.

## INDEXATION

Developer obligations towards Moray Council infrastructure are index linked to the General Building Cost Price Index (BCPI) as published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) from Q3, 2017 and obligations towards NHS Grampian infrastructure are index linked to All in Tender

Price Index (TPI) as published by the Royal Institute of Chartered Surveyors (RICS) from Q2, 2017.



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	20th April 2022
<b>Planning Authority Reference</b>	22/00542/PPP
<b>Nature of Proposal (Description)</b>	Proposed dwellinghouse and detached garage on
<b>Site</b>	Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133074990
<b>Proposal Location Easting</b>	326099
<b>Proposal Location Northing</b>	861859
<b>Area of application site (M<sup>2</sup>)</b>	3796
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400</a>
<b>Previous Application</b>	
<b>Date of Consultation</b>	6th April 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Cox
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Strathlene House Calcots Elgin Moray IV30 8NB
<b>Agent Name</b>	S Reid Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	The Sma Glen Rothes Aberlour Moray AB38 7AG
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Sheila Bernard
<b>Case Officer Phone number</b>	
<b>Case Officer email address</b>	sheila.bernard@moraya.gov.uk
<b>PA Response To</b>	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](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](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto:info@moray.gov.uk) or 01343 562633 for more information.

Please respond using the attached form:-



**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Environmental Health Manager

**Planning Application Ref. No: 22/00542/PPP**

**Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands  
Lhanbryde Elgin Moray for Mr Steve Cox**

I have the following comments to make on the application:-

- |   | <b>Please</b>                        |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below   | <b>x</b><br><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 checked="" 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"/>             |

**Reason(s) for objection**

**Condition(s)**

**Further comment(s) to be passed to applicant**

**Further information required to consider the application**

**Contact: Tim Betts**  
**email address: tim.betts@moray.gov.uk**  
**Consultee: Environmental Health**

**Date: 12 April 2022**  
**Phone No .....**

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</b>
---------------------------	---

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.



# **Consultee Comments for Planning Application 22/00542/PPP**

## **Application Summary**

Application Number: 22/00542/PPP

Address: Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray

Proposal: Proposed dwellinghouse and detached garage on

Case Officer: Sheila Bernard

## **Consultee Details**

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally - Adrian Muscutt, CLO

## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	20th April 2022
<b>Planning Authority Reference</b>	22/00542/PPP
<b>Nature of Proposal (Description)</b>	Proposed dwellinghouse and detached garage on
<b>Site</b>	Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133074990
<b>Proposal Location Easting</b>	326099
<b>Proposal Location Northing</b>	861859
<b>Area of application site (M<sup>2</sup>)</b>	3796
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400</a>
<b>Previous Application</b>	
<b>Date of Consultation</b>	6th April 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Cox
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Strathlene House Calcots Elgin Moray IV30 8NB
<b>Agent Name</b>	S Reid Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	The Sma Glen Rothes Aberlour Moray AB38 7AG
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Sheila Bernard
<b>Case Officer Phone number</b>	
<b>Case Officer email address</b>	sheila.bernard@moraya.gov.uk
<b>PA Response To</b>	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](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](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto: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: 22/00542/PPP**

**Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray for Mr Steve Cox**

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. No development shall commence until:

- i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the visibility splay 3.0 metres by 100 metres to the east, and 3.0 metres by 120 metres to the west, and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and
- ii) thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
- iii) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users, through the provision of details currently lacking.

2. No development works shall commence on the dwelling house until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority confirming the provision of, or location where a future Electric Vehicle (EV) charging unit is to be connected to an appropriate electricity supply, including details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit; and thereafter the EV charging infrastructure shall be provided in

accordance with the approved drawing and details prior to the first occupation of the dwelling house.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking.

3. No development shall commence until details have been submitted for the approval in writing of the Planning Authority, in consultation with the Roads Authority, showing the extension of the existing bin store to safely contain recycling bins. The bin store should be located in close proximity to the site access onto the public road but out with the required visibility splays; and thereafter the bin store shall be extended in accordance with the approved details prior to the first occupation of the dwelling house.

To ensure acceptable development that does not create any hazard to road users in the interests of road safety through the provision of details currently lacking

4. Parking provision shall be as follows:

- 2 spaces for a dwelling with two or three bedrooms; or
- 3 spaces for a dwelling with four bedrooms or more.

The car parking spaces shall be provided within the site prior to the occupation or completion of the dwelling house, whichever is the sooner. The parking spaces shall thereafter be retained 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/visitors/others in the interests of an acceptable development and road safety.

5. Prior to the first occupation of the dwelling house, the first 10m of the existing access track, measured from the edge of the public carriageway, shall be constructed to the Moray Council specification and surfaced with bituminous macadam across its full existing width.

Reason: To ensure acceptable infrastructure at the development access.

6. No water shall be permitted to drain or loose material be carried onto the public carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access

7. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

8. New boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 2.0m and to a position behind the required visibility splays.



Reason: To ensure acceptable development in the interests of road safety.

**Further comment(s) to be passed to applicant**

The formation of the required visibility splays will require the cutting back of tree branches and vegetation.

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

The provision of Electric Vehicle (EV) chargers and/or associated infrastructure shall be provided in accordance with Moray Council guidelines. Cabling between charging units and parking spaces must not cross or obstruct the public road including footways. Infrastructure provided to enable EV charging must be retained for this purpose for the lifetime of the development unless otherwise agreed in writing by the Planning Authority. Guidance on Electric Vehicle (EV) Charging requirements can be found at: <http://www.moray.gov.uk/downloads/file134860.pdf>

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk) Note - the access surfacing should be graded such that all surface water discharges into the existing roadside drainage ditch(es). The existing provisions for the roadside ditch at the access to accept water from the public road (existing offlets) should also be retained.

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

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

The applicant shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

**Contact: AG**

**Date 22 April 2022**

**email address: [Transport.develop@moray.gov.uk](mailto:Transport.develop@moray.gov.uk)**

**Consultee: TRANSPORTATION**

<b>Return response to</b>	<b><a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a></b>
---------------------------	---

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://public.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

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	20th April 2022
<b>Planning Authority Reference</b>	22/00542/PPP
<b>Nature of Proposal (Description)</b>	Proposed dwellinghouse and detached garage on
<b>Site</b>	Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133074990
<b>Proposal Location Easting</b>	326099
<b>Proposal Location Northing</b>	861859
<b>Area of application site (M<sup>2</sup>)</b>	3796
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R9SWVMBGMM400</a>
<b>Previous Application</b>	
<b>Date of Consultation</b>	6th April 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Cox
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Strathlene House Calcots Elgin Moray IV30 8NB
<b>Agent Name</b>	S Reid Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	The Sma Glen Rothes Aberlour Moray AB38 7AG
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Sheila Bernard
<b>Case Officer Phone number</b>	
<b>Case Officer email address</b>	sheila.bernard@moray.gov.uk
<b>PA Response To</b>	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](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](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto: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: 22/00542/PPP**

**Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands  
Lhanbryde Elgin Moray for Mr Steve Cox**

I have the following comments to make on the application:-

- |   | <b>Please</b>                        |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below   | <b>x</b><br><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            | <b>x</b>                             |
| (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](mailto:archaeology@aberdeenshire.gov.uk)  
**Consultee:** Archaeology service

**Date...**20/04/22.....  
**Phone No** ...01467 537717

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</b>
---------------------------	---

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.



**From:** Susie Simpson <Susie.Simpson@moray.gov.uk>  
**Sent:** 20 May 2022 10:37:05  
**To:** DMSMyEmail@moray.gov.uk  
**Cc:**  
**Subject:** FW: 22/00542/PPP - Site Adj 1-5 South Darklands  
**Attachments:**

---

**Susie Simpson** | Clerical Assistant/WPO | Economic Growth and Development  
[susie.simpson@moray.gov.uk](mailto:susie.simpson@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)  
01343 563092 | 07929784965



---

**From:** Richard Knight <Richard.Knight@moray.gov.uk>  
**Sent:** 19 May 2022 14:12  
**To:** Sheila Bernard <Sheila.Bernard@moray.gov.uk>  
**Cc:** Planning Consultation <consultation.planning@moray.gov.uk>  
**Subject:** RE: 22/00542/PPP - Site Adj 1-5 South Darklands

Hi Sheila

I have gone through this one again and even with taking into account the neighbours concerns I do not have any issues with this one at this stage.

Clearly when going for full planning they will need to supply more information but for now there are no show stoppers

Kind regards  
Richard

**Richard Knight**

**MCIWEM C.WEM IEng** | Engineer | Consultancy  
Moray Council, PO Box 6760, Elgin, Moray, IV30 9BX  
**Tel: 01343 563757**

**Email:**[Richard.knight@moray.gov.uk](mailto:Richard.knight@moray.gov.uk)



---

**From:** Sheila Bernard  
**Sent:** 17 May 2022 16:13  
**To:** Richard Knight  
**Subject:** 22/00542/PPP - Site Adj 1-5 South Darklands

Good Afternoon Richard

Could you please have a look at the representation above on the application for a site adj to 1-5 South Darklands. Just for clarity do you have any comments on this?

Many Thanks

Sheila Bernard

**Sheila Bernard** | Planning Officer | Economic Growth and Development  
[sheila.bernard@moray.gov.uk](mailto:sheila.bernard@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)





# Comments for Planning Application 22/00542/PPP

## Application Summary

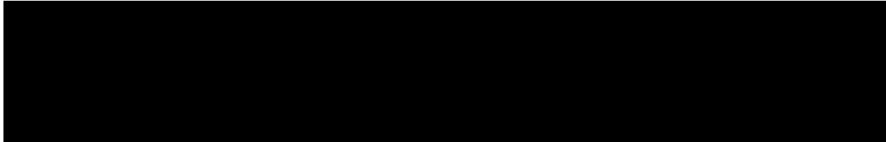
Application Number: 22/00542/PPP

Address: Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray

Proposal: Proposed dwellinghouse and detached garage on

Case Officer: Sheila Bernard

## Customer Details



## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Contrary to Local Plan
- Reduction of natural light
- View affected

Comment: While I do not object to a new house being built in South Darklands the site proposed in the plans would leave my property (number 3) completely surrounded. The line of trees at the front boundary would cut out natural light and the roots would likely cause damage to existing fences and plants in my garden.

The plan also goes against the current Moray Local Development Plan DP4 section d part dii prohibiting new housing in open countryside in pressurised and sensitive areas.

22 APR 2022

*April 2022*

DEVELOPMENT MANAGER  
BUILDING STANDARDS MANAGER  
Moray Council  
Planning Dept  
PO Box 6760  
Elgin  
IV30 1BX

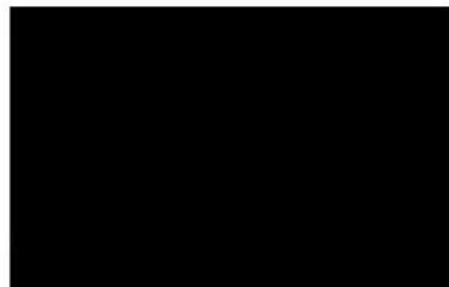
Dear sirs

PLANNING APPLICATION NUMBER 22/00542/PPP

Regarding the outline application for a dwelling house opposite my property having studied this in detail and discussed it with neighbours, we have the following observations:

1. This is contrary to development plans as the area is within the Pressurised and Sensitive area. The Local Development Plan states under DP4 section d part ii that “due to the landscape and visual impacts associated with build-up and landscape and environmentally sensitive areas, no new housing will be permitted within the pressurised and sensitive areas see mapping on page 51” On these grounds the application cannot in our view be considered. Objection
2. Traffic, parking and access problems. The upkeep of the track serving all housing in the South Darklands area is the responsibility of the householders and is not hard-surface. It could not, without considerable outlay, accept construction traffic associated with a new build

Yours faithfully



From: [REDACTED]  
Sent: Thu, 21 Apr 2022 08:02:59 +0000  
To: Planning-Objections  
Subject: 22/00542/PPP

Hi

Please accept this email as my objection to the proposed planning permission at South Darklands.

The site is within the Moray Local Development plan 2020 which states no new housing will be permitted.

[REDACTED]

# Comments for Planning Application 22/00542/PPP

## Application Summary

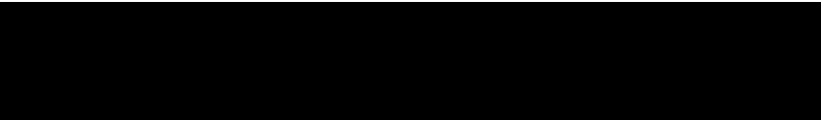
Application Number: 22/00542/PPP

Address: Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray

Proposal: Proposed dwellinghouse and detached garage on

Case Officer: Sheila Bernard

## Customer Details



## Comment Details

Commenter Type: Neighbour

Stance: Customer made comments neither objecting to or supporting the Planning Application

Comment Reasons:

Comment: There was Giant Hogweed growing on this site last year near No 3. I sprayed this with weed killer but there is no guarantee that it was eradicated.

## **REPORT OF HANDLING**

<b>Ref No:</b>	22/00542/PPP	<b>Officer:</b>	Sheila Bernard
<b>Proposal Description/ Address</b>	Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray		
<b>Date:</b>	26.05.2022	<b>Typist Initials:</b>	LMC

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

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Environmental Health Manager	27/04/22	No objections
Contaminated Land	08/04/22	No objections
Transportation Manager	22/04/22	No objections subject to conditions.
Scottish Water	15/04/22	No objections subject to Scottish Water Pre-Development Enquiry Process. No waste water facilities available.
Moray Flood Risk Management	12/05/22	Assessment confirms that obligations are required towards healthcare. An affordable housing contribution is also required.
Planning And Development Obligations	14/04/22	No objections
Moray Flood Risk Management	19/05/22	No objections
Aberdeenshire Council Archaeology Service	20/04/22	No objections

<b>DEVELOPMENT PLAN POLICY</b>		
<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP1 Placemaking		
PP2 Sustainable Economic Growth		
PP3 Infrastructure and Services		
DP1 Development Principles		
DP4 Rural Housing	Y	Refer to observations below
EP2 Biodiversity		

EP4 Countryside Around Towns	Y	Refer to observations below
EP8 Historic Environment		
EP12 Management and Enhancement Water		
EP13 Foul Drainage		

<b>REPRESENTATIONS</b>		
Representations Received		NO
Total number of representations received: FOUR		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
<p><b>Issue:</b> Contrary to the Moray Local Development Plan 2020.</p> <p><b>Comments (PO):</b> The proposed site sits within both a Pressurised and Sensitive Area and an area of Countryside Around Town where no new housing is permitted within these identified areas.</p>		
<p><b>Issue:</b> Giant Hogweed was identified on site and was sprayed with weed killer, however there is no guarantee that it was eradicated.</p> <p><b>Comments (PO):</b> This is not a material planning consideration and is subject to separate legislative controls.</p>		
<p><b>Issue:</b> Loss of natural light due to trees on front boundary line.</p> <p><b>Comments (PO):</b> Species of all tree/hedge planting, numbers and spacing will require to be addressed in any forthcoming application for planning permission; any potential light impacts from trees proposed along the site boundary would be assessed at that time.</p>		
<p><b>Issue:</b> There is existing drainage issues where Darkland Road floods to a depth of 0.5m near the junction with South Darkland. This is caused by poor drainage from the ditch and a pipe that crosses the road and the field to the north.</p> <p><b>Comments (PO):</b> The Flood Risk management Team were consulted on this matter and have raised no concerns at this stage, however if an application for full planning was submitted, more details would be required and would be assessed at that time.</p>		
<p><b>Issue:</b> The access to Darklands Road has poor surfacing and poor visibility.</p> <p><b>Comments (PO):</b> The Transportation Manager has raised no objections to the proposal on road safety grounds, subject to conditions including the provision of visibility splays and the upkeep of the splays, as well as the first 10m of existing track from carriageway upgraded and surfaced with bituminous macadam across its full existing width and that any new boundary walls or fences be set back from the edge of the public road at a minimum distance of 2m behind the required visibility splays.</p>		
<p><b>Issue:</b> Other recent applications for planning permission along the Darklands Road have not complied with planning conditions implemented.</p> <p><b>Comments (PO):</b> This is not a material planning consideration when assessing this application however, these comments have been passed to the Condition Monitoring Officer to investigate.</p>		

**Issue:** The access track to South Darklands is the responsibility of the householders and is not a hard surface and therefore would not withstand construction traffic associated with a new build house.

**Comments (PO):** The Transportation Manager has not raised any objections subject to conditions including the first 10m of the access to be surfaced in bituminous macadam across the full existing width. Beyond this point the remainder of the track and its maintenance is a private matter. Therefore any issues in relation to shared access would be dealt with between owners and are not a material planning matter.

## **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

### **Policy**

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**

An application for planning permission in principle (PPP) for the erection of a dwellinghouse and detached garage on a plot of land adjacent to 1-5 South Darklands, Lhanbryde. This application seeks to determine whether the principle of a dwellinghouse being erected on this site is acceptable. The proposed site plan shows an indicative layout with the dwellinghouse and garage situated at the north end of the site adjacent to number 5. The site plan also shows both a private waste septic tank and a surface water soakaway and a variety of landscaping around the boundaries of the site.

### **The Site and Surroundings**

The proposed house would sit on an area of land adjacent to the access track for the area known as South Darkland. The site sits within both a Pressurised and Sensitive Area and an area of Countryside Around Towns (Elgin) as identified in the Moray local Development Plan 2020, and is located around 2km to the north west of the centre of the settlement of Lhanbryde. The site area is 2568sqm in size and gradually rises to the south. To the north and west of the site is open countryside, and to the south east there are five dwellinghouses.

### **Policy Assessment**

#### **Siting and Character (DP1, DP4, EP4)**

Policy DP4 sets out the requirements for rural housing proposals, through the means of a development hierarchy. In this hierarchy the majority of rural housing development is to be accommodated within identified Rural Groupings, followed by the re-use of sites where development has previously occurred and finally to sites in the open countryside. Given the high levels of rural housing development, in many areas of Moray, the open countryside has been identified as either being a Pressurised and Sensitive Area or in an area of immediate pressure. In this instance the proposed site is located in a Pressurised and Sensitive Area. No siting or design criteria is set out within Pressurised and Sensitive Areas as new housing in these locations is not supported.

Policy EP4 sets out the requirements for dealing with development in the Countryside around Towns (CAT) which are classed as sensitive areas and are designated as such to prevent development sprawl into the countryside and to maintain the distinction between the countryside and the town. No new rural housing will be permitted within these areas unless the criteria set out in Policy EP4 is met. The proposed site sits within the CAT area around Elgin and does not involve the rehabilitation, conversion, limited extension, replacement or change of use of any existing buildings or for the purpose of agriculture, forestry or low intensity recreational or tourism; or is designated as long term housing allocation released for development. The proposals do not fall within any of the above mentioned criteria.

Policy DP1 requires development to be of a scale, density and character which is appropriate to the surrounding area, and must be integrated into the surrounding landscape. Policy DP1 also states that proposals should not adversely impact the amenity of any neighbouring properties. As this application is for Planning Permission in Principle (PPP) no detailed designs or material finishes have been submitted and would be assessed in any forthcoming full application if permission was granted.

The proposed house site sits within a Pressurised and Sensitive Area where this is no scope for new rural housing. The introduction of a new dwellinghouse in this location will have an adverse impact on the character and appearance of the surrounding area given that the site lacks the required immediate (on the boundary of the site) backdrop of existing landform, trees and buildings to provide acceptable enclosure.

In addition to this the proposed introduction of a further house in this location alongside existing housing would contribute to unacceptable cumulative build-up which will negatively impact the landscape character of this area.

The proposed house site is located within the Countryside Around Towns Area identified by Policy EP4, and would not fall with any of the excepted categories of development permitted under this policy, and as such would result in development sprawl into the countryside affecting the special character of this area.

On this basis the proposal would be contrary to Policy DP1, DP4 and EP4 of the Moray Local Development Plan 2020.

### **Water and Drainage (EP12 and EP13)**

Scottish Water has raised no objection to the proposals subject to their Pre-Development Enquiry process, however there are no waste water facilities in the vicinity of this development and therefore the applicant would need to investigate private treatments. In this regard the proposals show a septic tank with soakaway positioned on the site plan, with the latter supported by SuDS calculations. The Flood Risk Management Section have assessed and are content with this information, and have raised no objections to the proposals.

However this is separate from and does not override the unacceptable siting impact of the development as contrary to the requirements of Policy DP1, DP4 and EP4.

### **Access and Parking**

The Transportation Manager has raised no objections to the proposal and has recommended conditions to ensure safe access and parking on the site should permission be granted. These include the provision of visibility splays and the upkeep of these, the provision of an Electrical vehicle (EV) charging point, parking and turning, as well as the first 10 metres of the road to be surfaced in bituminous macadam across the full existing width. A condition is also recommended in regards to the proposed bin store and its positioning. The proposal would comply with the relevant access and parking requirements of Policy DP1 (ii) and PP3.

However this is separate from and does not override the unacceptable siting impact of the development as contrary to the requisite elements of Policy DP1, DP4 and EP4.

### **Developer Obligations and Affordable Housing Contribution (PP3 and DP2)**

Developer contributions towards healthcare and a contribution to affordable housing is required as part of the proposal. Payment of the contributions and affordable housing contribution would be undertaken through an upfront payment or through the provision of a Section 75 Agreement.

The applicant/agent has confirmed acceptance of the identified obligations should planning permission be given. This acceptance of developer obligations and affordable housing contributions



is separate from and does not override the unacceptable impact of the development as contrary to the requisite elements of Policy DP1, DP4 and EP4.

### Conclusion and Recommendation

The proposal would result in the introduction of a new dwellinghouse in a pressurised and sensitive area and a countryside around towns area where new housing is not permitted, and will contribute to an unacceptable cumulative build-up of housing and adversely affect the character and appearance of these protected areas. It is therefore contrary to Policies DP1, DP4 and EP4 and is recommended for refusal.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

### HISTORY

Reference No.	Description			
	Decision		Date Of Decision	

### ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises Departure from development plan	05/05/22	
PINS	No Premises Departure from development plan	05/05/22	

### DEVELOPER CONTRIBUTIONS (PGU)

Status	Contributions Sought
--------	----------------------

### 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:	Drainage Statement and drainage calculations.	
Main Issues:	SUDS calculations provided	

### 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:		

<b>DIRECTION(S) MADE BY SCOTTISH MINISTERS</b> (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**

**[Fochabers Lhanbryde]  
Planning Permission in Principle**

TO



With reference to your application for planning permission in principle 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:-

**Proposed dwellinghouse and detached garage on Site Adjacent To 1-5 South Darklands Lhanbryde Elgin Moray**

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

Date of Notice: **27 May 2022**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
Moray Council  
PO Box 6760  
ELGIN  
Moray  
IV30 1BX

**IMPORTANT**  
**YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

**SCHEDULE OF REASON(S) FOR REFUSAL**

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

The proposal is contrary to policies DP4 Part d) ii), DP1(i) and EP4 for the following reasons:

- i) The proposal site falls within the Pressurised and Sensitive Area identified by Policy DP4 Part d) ii), in which no new house sites will be permitted due to the detrimental landscape and visual impacts associated with high levels of rural housing build up in these areas. The proposed house in this location is contrary to Policy DP4 and DP1(i). The proposed new dwellinghouse will have an adverse impact on the character and appearance of the surrounding area given that the site lacks the required immediate (on the boundary of the site) backdrop of existing landform, trees and buildings to provide acceptable enclosure.
- ii) The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area.
- iii) The site falls within the Countryside Around Towns Area identified by Policy EP4, in which no new rural housing will be permitted unless the proposal involves the rehabilitation, conversion, limited extension, replacement; or change of use of existing buildings or for the purpose of agriculture, forestry or low intensity recreational or tourism; or is designated as long term housing allocation released for development. The proposals do not fall within any of the above criteria and will result in development sprawl into the countryside affecting the special character of this area.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

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

Reference	Version	Title
S.DARK/PL/02		Block plan
S.DARK/PL/01		Site plan
		Location 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.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

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](mailto: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 100551237-004

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.

## 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:	S Reid Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stewart	Building Name:	The Sma Glen
Last Name: *	Reid	Building Number:	
Telephone Number: *	+447598299753	Address 1 (Street): *	Roths
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Aberlour
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB38 7AG
Email Address: *	info@sreiddesign.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Strathlene House"/>
First Name: *	<input type="text" value="Steve"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Cox"/>	Address 1 (Street): *	<input type="text" value="Calcots"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland, UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 8NB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="info@sreiddesign.co.uk"/>		

## 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"/>
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"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin, Moray IV30 8NT

Northing	<input type="text" value="861876"/>	Easting	<input type="text" value="326115"/>
----------	-------------------------------------	---------	-------------------------------------

## 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)

Proposed dwelling-house and detached garage at Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin, Moray IV30 8NT

## 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.

Please see separate NOR Supporting Statement.

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)

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)

Location Plan Site Plan Block plan NOR Supporting Statement Letter from Mr I.Dean

## Application Details

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

22/00542/PPP

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

04/04/2022

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

27/05/2022

## 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: Mr Stewart Reid

Declaration Date: 06/07/2022



# Site Adjacent To 1-5 South Darklands, Lhanbryde, Elgin, Moray

**NOTICE OF REVIEW**  
(PLANNING REFERENCE - 22 / 00542 / PPP)

# Supporting Statement

**S Reid Design**

CHARTERED ARCHITECTURAL DESIGN SERVICE

# Site Adjacent To 1-5 South Darklands, Lhanbryde, Elgin, Moray

## Supporting Statement

### Background to Application

The applicant, Mr Steve Cox, is working on behalf of a Mr Jim Silvestri who has lived at North Darkland farm for his entire life and his family have lived on the farm for 100 years. Unfortunately, Mr Silvestri's health is not what it was and he now wishes to build a bungalow adjacent to 1-5 Darklands so that he can continue to help out in the day to day running of the farm with a view to retirement in the future. The proposal would allow him to still be involved as much as possible in the farm while residing in more comfortable accommodation.



PHOTO OF SITE FROM NORTH



## Reasons for Refusal i

In the refusal notice for the proposal the council state the following -

The proposal is contrary to policies DP4 Part d) ii), DP1(i) and EP4 for the following reasons:

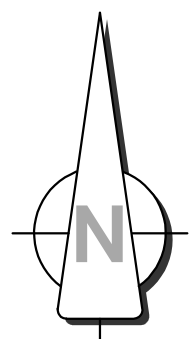
i) The proposal site falls within the Pressurised and Sensitive Area identified by Policy DP4 Part d) ii), in which no new house sites will be permitted due to the detrimental landscape and visual impacts associated with high levels of rural housing build up in these areas. The proposed house in this location is contrary to Policy DP4 and DP1(i). The proposed new dwellinghouse will have an adverse impact on the character and appearance of the surrounding area given that the site lacks the required immediate (on the boundary of the site) backdrop of existing landform, trees and buildings to provide acceptable enclosure.

## Response to Refusal i (please refer to aerial map below)

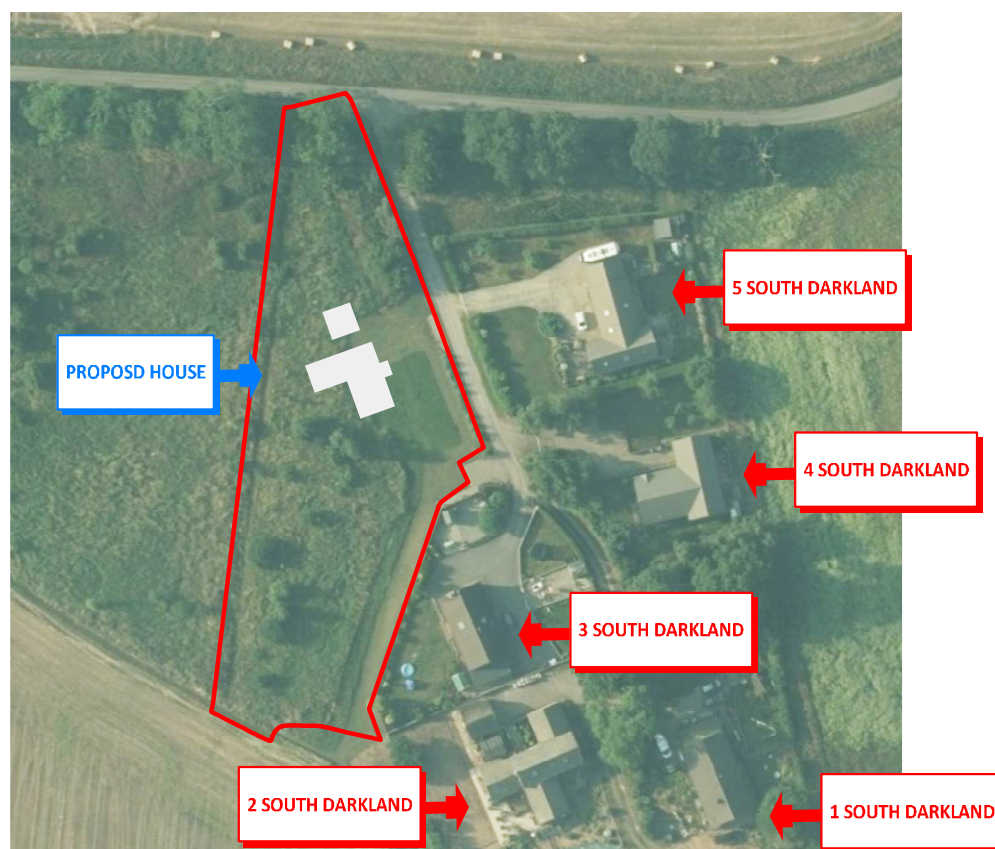
We understand that the site falls within into a pressurised and sensitive area however given the context that the proposal would be located adjacent to an already established build-up of houses we feel that another house would not have any detrimental landscape or visual impact at this location compared to say a new house in a corner of a field with no enclosure or containment.

We believe that this area of ground lends itself to an additional house and that the proposal would integrate well into the surrounding landscape for the following reasons -

- **EXISTING HOUSES PROVIDING ENCLOSURE** - 5no. existing dwelling-houses next door which would provide a context for this proposal and would help it blend in to the landscape, ensuring it is not a "stand alone" proposal but rather part of a small settlement with containment and enclosure (see photo on page 3).
- **MATURE TREES / ESTABLISHED WOODLAND** - a grouping of existing mature trees are located to the south which would give a backdrop to the dwelling-house. Further, a row of existing mature trees exist at the roadside providing a level of softening and concealment.



Aerial View





## Reasons for Refusal ii and iii

ii) The proposed introduction of a further house in this location alongside existing housing is considered to constitute an unacceptable cumulative build-up of housing which will negatively impact the landscape character of this area.

iii) The site falls within the Countryside Around Towns Area identified by Policy EP4, in which no new rural housing will be permitted unless the proposal involves the rehabilitation, conversion, limited extension, replacement; or change of use of existing buildings or for the purpose of agriculture, forestry or low intensity recreational or tourism; or is designated as long term housing allocation released for development. The proposals do not fall within any of the above criteria and will result in development sprawl into the countryside affecting the special character of this area.

## Response to Refusal ii and iii

ii) We disagree with this point. We strongly feel that the proposal would compliment the existing settlement here. If planning were granted, a sensitive bungalow design would be proposed to integrate with the houses which exist at the moment. The design would be based around the Moray Council Rural Housing design criteria.

Further to this, the existing settlement creates a backdrop for the proposed house. This backdrop would ensure that the proposal was in no way prominent or an unacceptable addition to the existing settlement. We would consider this proposal part of a jigsaw, complimenting and enhancing what exists at the moment (please see annotated photo below).

ii) While we acknowledge the site falls within the CAT (Countryside Around Town) identified by EP4 in the Moray Local Plan 2020 we are of the opinion that the proposal would not only integrate well with the existing settlement for reasons already mentioned but would also enhance the area. We would also like to point out that although Mr Silvestri's health is not what it was he is still very keen to play a part in the day to day running of the farm and to build a house himself for semi-retirement purposes leading to eventual full retirement. The proposal does not directly fit into one of above mentioned CAT exceptions however we would stress that the proposal should be approved for reasons of necessity to allow the applicant to enjoy a more comfortable life and to be able to play a part in the continuation of the farm business he has been involved with all his life. This proposal would be for his own use.



# Conclusion

In conclusion, we respectfully ask the LRB panel to consider what this proposal means for the Mr Silvestri.

Mr Steve Cox is the applicant for this proposal however he is acting on behalf of Mr Silvestri who has lived at North Darklands farm for his entire life and wishes to semi-retire to a bungalow here so that he can help out in the day to day running of the farm. The farm itself will be changing hands at some point however the future owner, Mr Ian Dean, is very keen to retain Mr Silvestri's services due to his invaluable knowledge and experience of farming (please see supporting letter from Mr Dean).

Further to the above, Mr Silvestri would be looking to build the proposed house himself for semi-retirement purposes leading to full retirement. The proposal would be a perfect answer for his needs.

In terms of planning policy we understand why the planning department did not support the application given the fact that it is located in the CAT however we strongly feel that a house at this location would not only have a positive impact but would integrate well with an already established settlement and we would ask for an exception to be made in this case.

We respectfully ask that the appointed LRB panel approves this appeal.



Ian Dean & Co.  
Wester Clockeasy  
Urquhart  
Lhanbryde  
IV30 8LP

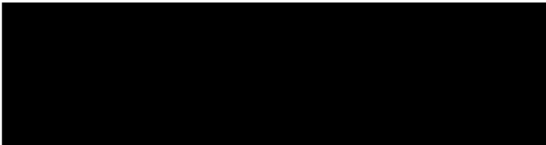
01343 842210

02/07/2022

To whom it may concern,

On Completion of the sale of north and south Darkland farms Mr Silvestri will be retained as farm manager/consultant on a part time self employed basis. His knowledge and experience of farming these units over the last 50 years will be invaluable to our business.

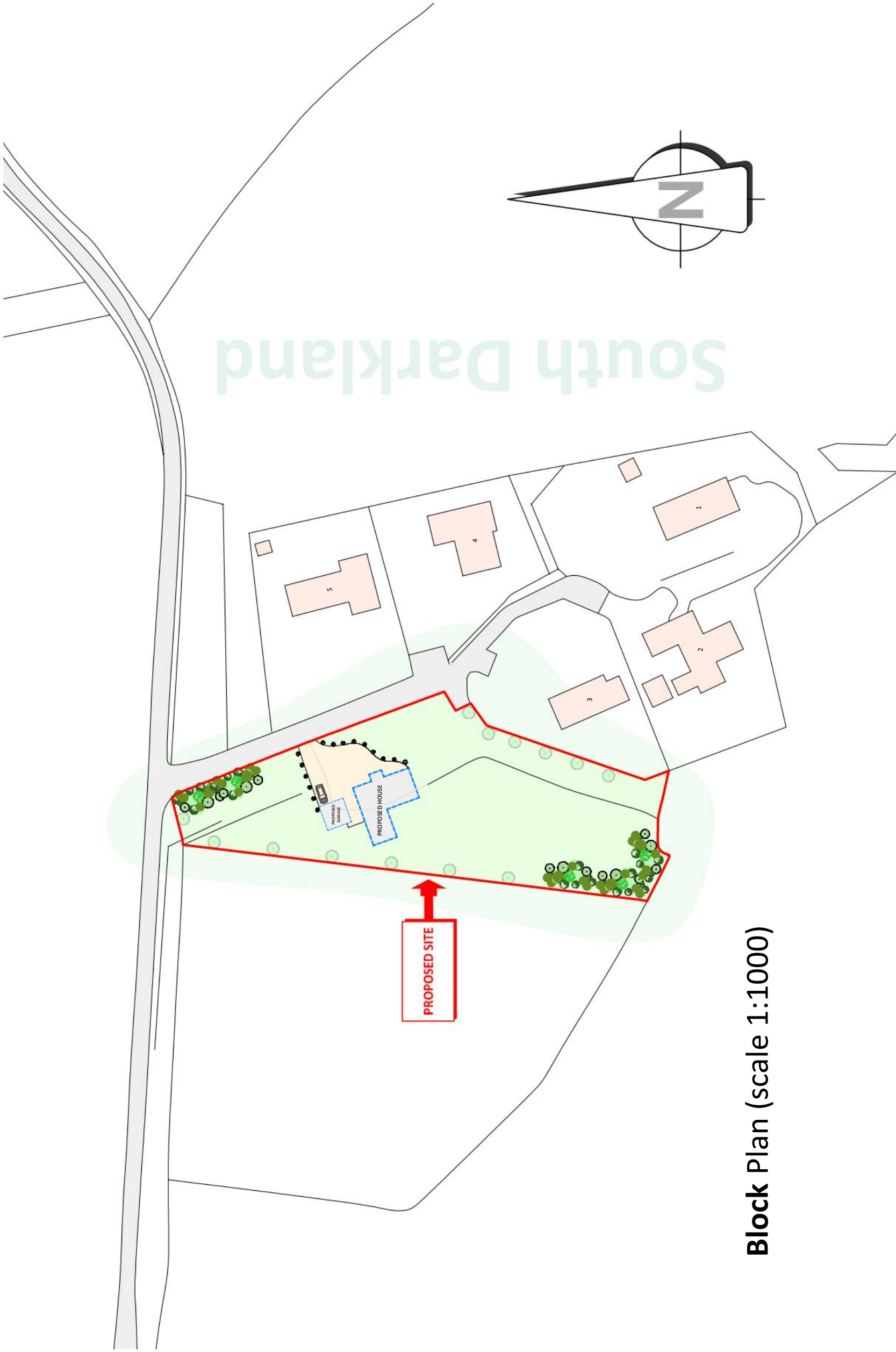
Kind Regards



Ian Dean  
Ian Dean & Co.







Block Plan (scale 1:1000)

DATE	SCALE	DRG. NO.
MAR 2022	1:1000 (A3)	S.DARK / PL / 02

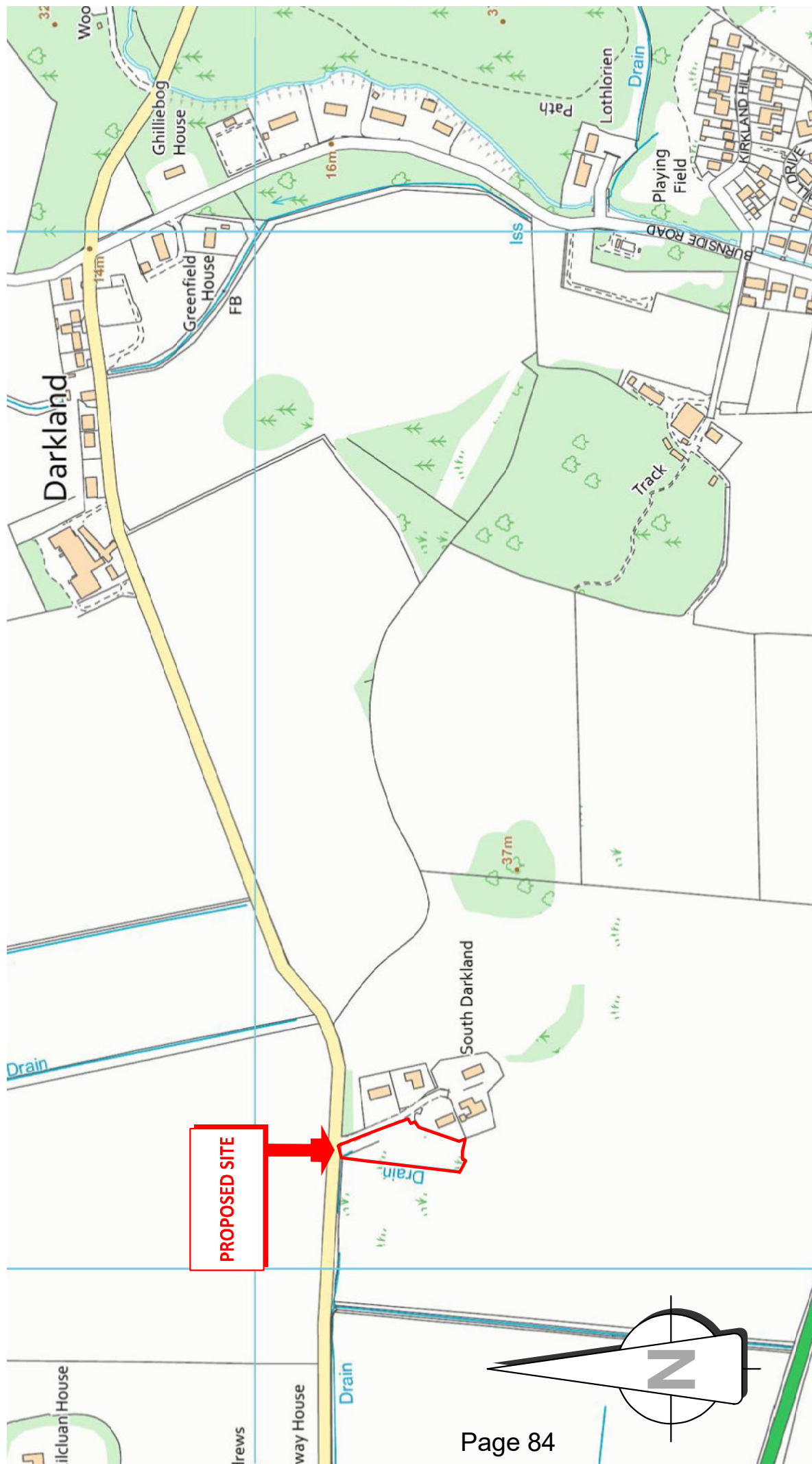
Proposed dwelling-house and detached garage at  
Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
Moray IV30 8NT For Mr S.Cox

S Reid Design

CHARTERED ARCHITECTURAL DESIGN SERVICE



S.REID MCIAT  
CHARTERED ARCHITECTURAL TECHNOLOGIST  
THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
M - (07598) 299753  
M - (07926) 151101  
E - info@sreiddesign.co.uk  
W - www.sreiddesign.co.uk

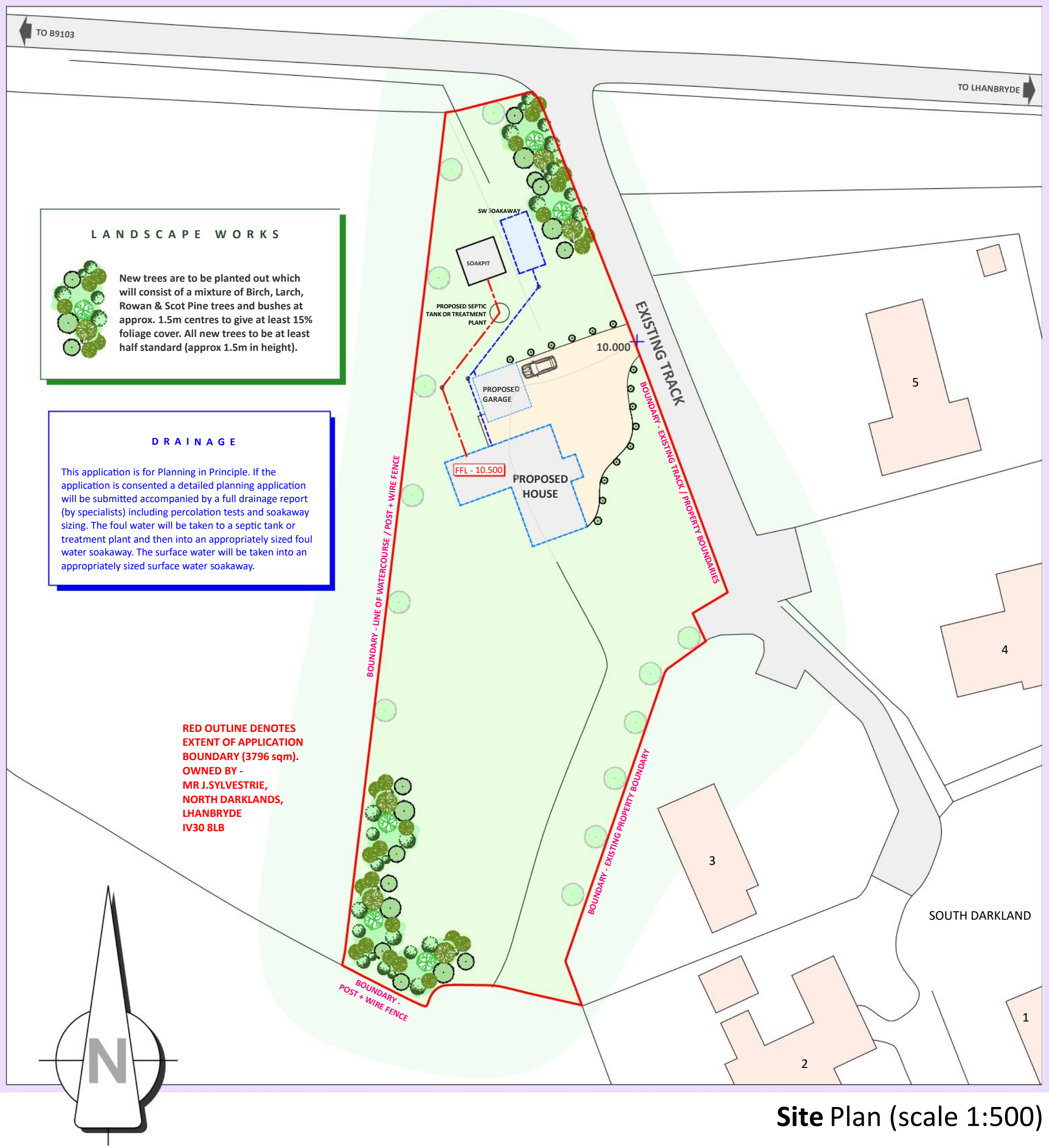


Proposed dwelling-house and detached garage at  
 Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
 Moray IV30 8NT For Mr S.Cox

<p><b>S.REID MCIAT</b>          CHARTERED ARCHITECTURAL TECHNOLOGIST          THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG          M - (07598) 299753          M - (07926) 151101          E - info@sreiddesign.co.uk          W - www.sreiddesign.co.uk</p>	
---	--



Site adjacent to 1-5 South Darkland



**S Reid Design**

CHARTERED ARCHITECTURAL DESIGN SERVICE

S.REID MCIAT  
CHARTERED ARCHITECTURAL TECHNOLOGIST  
THE SMA GLEN, ROTHES, ABERLOUR, AB38 7AG  
M - (07598) 299753  
M - (07926) 151101  
E - info@sreiddesign.co.uk  
W - www.sreiddesign.co.uk

DATE	SCALE	DRG. NO.
MAR 2022	1:500 (A3)	S.DARK / PL / 01

Proposed dwelling-house and detached garage at  
Site adjacent to 1-5 South Darkland, Lhanbryde, Elgin  
Moray IV30 8NT For Mr S.Cox





## **APPENDIX 3**

# **FURTHER REPRESENTATIONS FROM INTERESTED PARTIES**



**Lissa Rowan**

---

**From:** [REDACTED]  
**Sent:** 04 August 2022 17:37  
**To:** Lissa Rowan  
**Subject:** Re: Planning Appeal 65978

**Warning. This email contains web links and originates from outside of the Moray Council network.**

**You should only click on these links if you are certain that the email is genuine and the content is safe.**

Dear Linda

**Planning Appeal 69578**

Thank you. Here is our response to the counter proposal made by the applicant regarding South Darkland. We can speak only for No 5:

1. Nothing that is stated changes the fact that the new dwelling is in an area specifically excluded from development. There are other areas close by which are not excluded and they should be used
2. Much as we have sympathy with Mr Silvestri's health issues - and this is the first time we have learnt that he plans to live in the new property if approved - it is surely irrelevant to a planning application. The house would still be there long after Mr Silvestri has departed
3. We totally disagree that the proposed property would 'have a positive impact' on the locality or 'fit in well'. It most certainly would not enhance our outlook nor that of the other houses involved. At present I can see to Pluscarden from my house. If a new property were to be built in the planned location I would lose that outlook - and the new owner would gain it

Please use the above paras as our counter to this Notice of Review

Sincerely

[REDACTED]

-----Original Message-----

From: Lissa Rowan <Lissa.Rowan@moray.gov.uk>  
To: [REDACTED]  
Sent: Mon, 1 Aug 2022 15:45  
Subject: RE: Planning Appeal 65978

Good afternoon [REDACTED]

Thank you for your email and I apologise for the delay in replying as I was on annual leave.

I am sorry you are having difficulty accessing the documents.

If you follow this [link](#), it should take you to the paperwork associated with the appeal.

Kind regards

Lissa

**Lissa Rowan** | Committee Services Officer | Governance, Strategy and Performance Services

[lissa.rowan@moray.gov.uk](mailto:lissa.rowan@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)

07765 741754



**From:** [REDACTED]  
**Sent:** 22 July 2022 14:05  
**To:** Lissa Rowan <Lissa.Rowan@moray.gov.uk>  
**Subject:** Planning Appeal 65978

Lisa

Thank you for your email. I attempted to log into the associated documents using your reference but without success. Could you re-send the details please?





## 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:

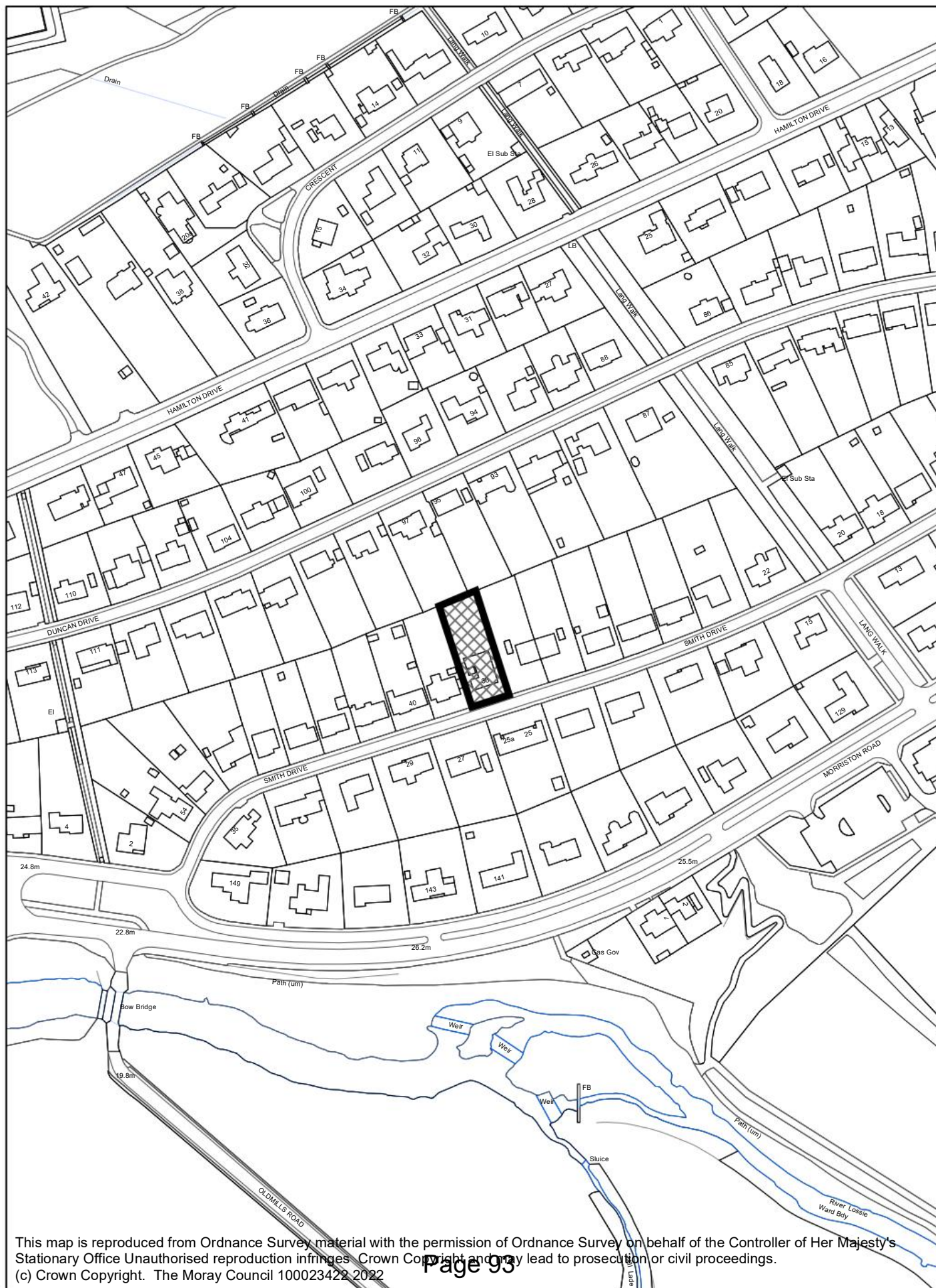
- The site is within a quiet residential area and the scale of the proposal would result in a level of activity in relation to the arrival and departure of children and staff and activity throughout the day that is not in keeping with the character of the area.
- There would be an adverse impact on the 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**.











# **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"/>
----------	-------------------------------------	---------	-------------------------------------



## 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

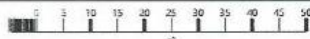
## Payment Details

Online payment: 313142

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

Created: 14/03/2022 21:02

# 36 Smith Drive Elgin IV30 4NE



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

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

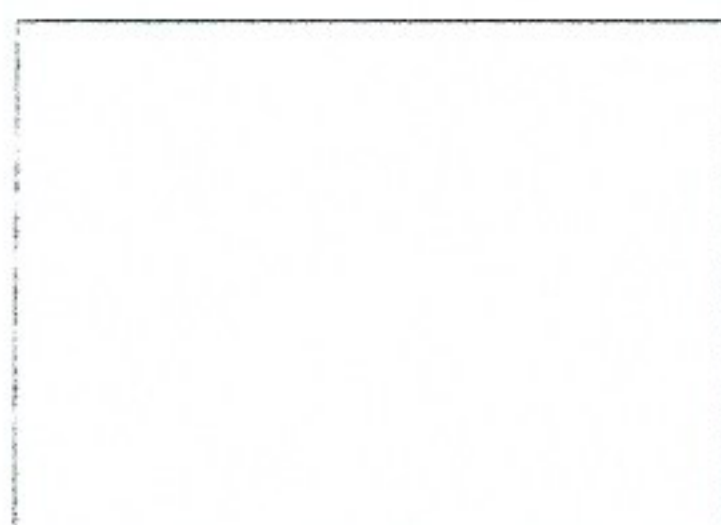
©Crown Copyright Ordnance Survey. Licence no. 100057546







36 Smith Drive Elgin IV30 4NE



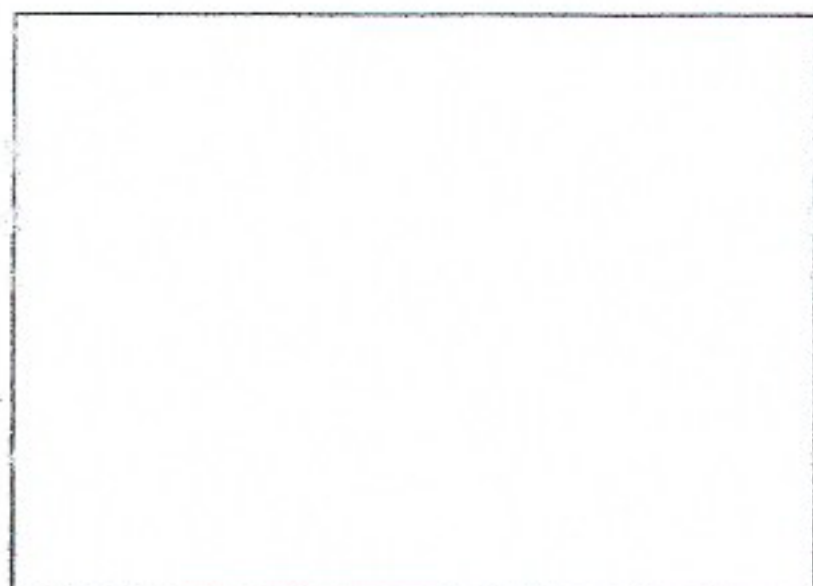
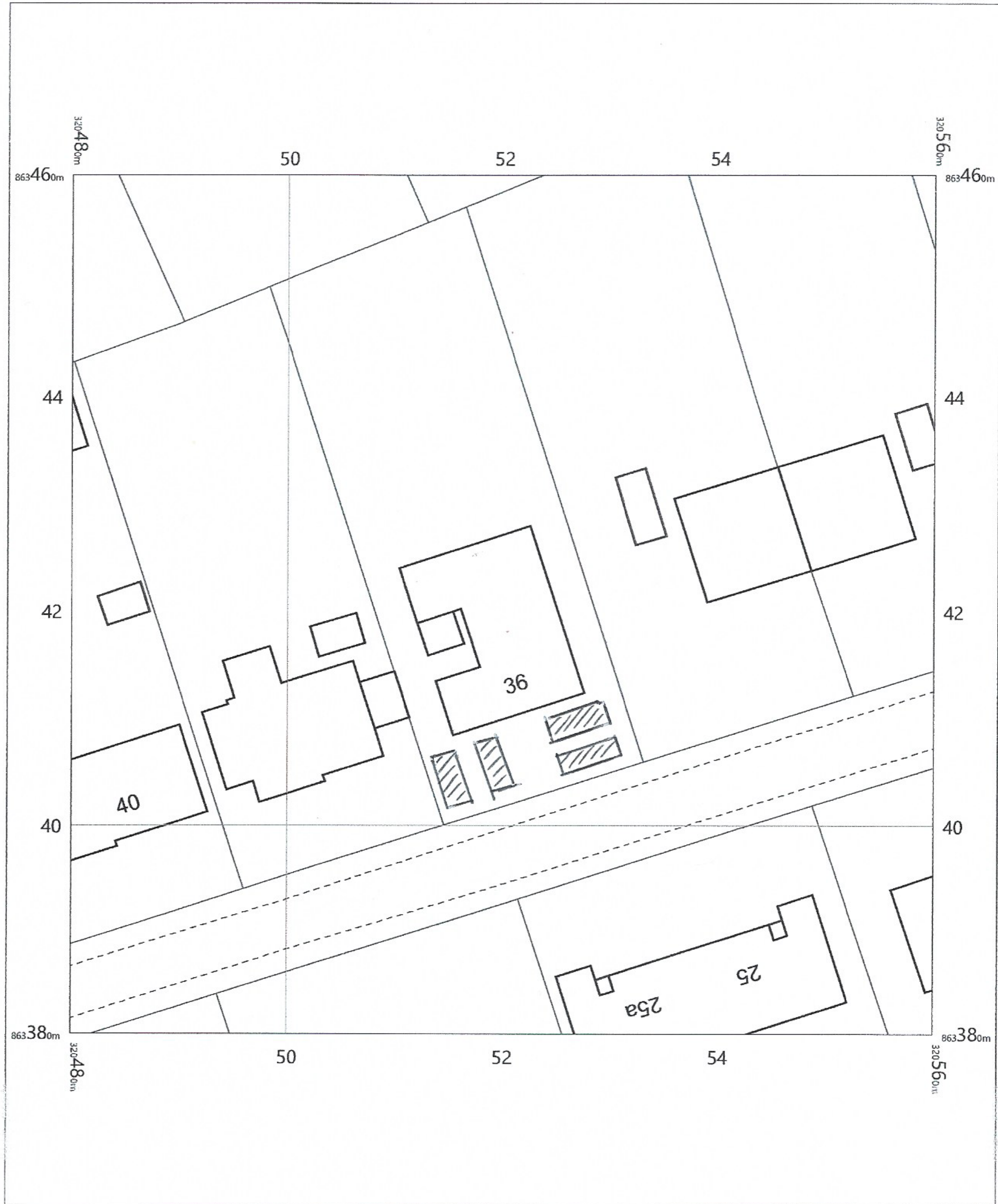
OS MasterMap 1250/2500/10000 scale  
Thursday, March 18, 2021, ID: M4P-00947505  
[www.nicolsondigital.com](http://www.nicolsondigital.com)  
1:500 scale print at A4, Centre: 320520 E, 863421 N  
©Crown Copyright Ordnance Survey, Licence no. 100057546







# 36 Smith Drive Elgin IV30 4NE



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

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

©Crown Copyright Ordnance Survey. Licence no. 100057546







## **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

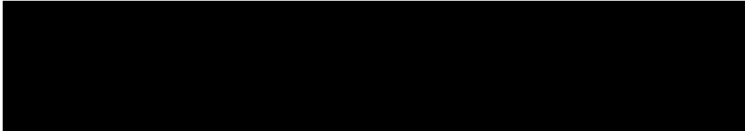
Application Number: 22/00400/APP

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

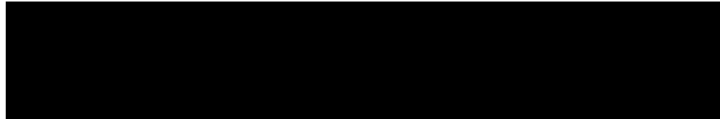
Application Number: 22/00400/APP

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

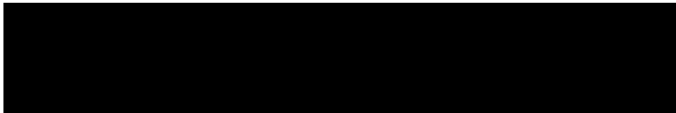
Application Number: 22/00400/APP

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

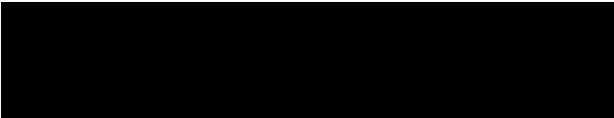
Application Number: 22/00400/APP

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

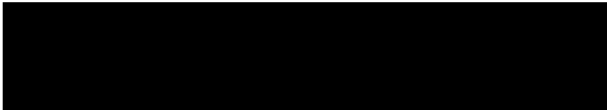
Application Number: 22/00400/APP

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](mailto: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

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	31st March 2022
<b>Planning Authority Reference</b>	22/00400/APP
<b>Nature of Proposal (Description)</b>	Increase number of children approved under ref 21/00400/APP from 9 to 15 at Child Minding Business at
<b>Site</b>	36 Smith Drive Elgin Moray IV30 4NE
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133025343
<b>Proposal Location Easting</b>	320521
<b>Proposal Location Northing</b>	863418
<b>Area of application site (M<sup>2</sup>)</b>	700
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R8RY5YBGM1X00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R8RY5YBGM1X00</a>
<b>Previous Application</b>	21/00400/APP
<b>Date of Consultation</b>	17th March 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Little Sparkles
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	36 Smith Drive Elgin Moray IV30 4NE
<b>Agent Name</b>	
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Lisa Macdonald
<b>Case Officer Phone number</b>	01343 563479
<b>Case Officer email address</b>	<a href="mailto:lisa.macdonald@moray.gov.uk">lisa.macdonald@moray.gov.uk</a>
<b>PA Response To</b>	<a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a>

**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](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](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto: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](mailto:transport.develop@moray.gov.uk)

**Consultee:** TRANSPORTATION

**Return response to**

**[consultation.planning@moray.gov.uk](mailto: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

<b>Ref No:</b>	22/00400/APP	<b>Officer:</b>	Lisa Macdonald
<b>Proposal Description/ Address</b>	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		
<b>Date:</b>	29.04.2022	<b>Typist Initials:</b>	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

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
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

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

### REPRESENTATIONS

<b>Representations Received</b>	<b>YES</b>	
<b>Total number of representations received: 8</b>		

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><b>Issue:</b> Contributors welcome the service provided and are supportive of the proposed expansion.</p> <p><b>Comments (PO):</b> The support for the business is noted.</p>
<p><b>Issue:</b> The development will not create nuisance.</p> <p><b>Comments (PO):</b> 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	

<b>DOCUMENTS, ASSESSMENTS etc. *</b> <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		
<b>Document Name:</b> Supporting Statement  <b>Main Issues:</b> <ul style="list-style-type: none"> <li>• Statement of numbers, employees and opening hours.</li> <li>• Parking and drop off arrangements.</li> <li>• Employment schemes.</li> <li>• Need for childcare in Moray.</li> </ul>		

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

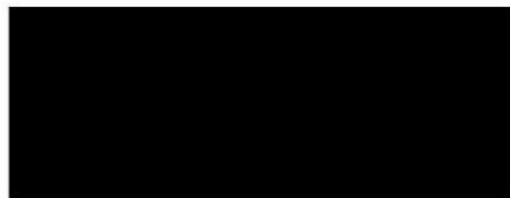


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**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](http://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](mailto: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? * <div style="margin-top: 10px;"> <input checked="" type="checkbox"/> Refusal Notice.           <div style="margin-top: 5px;"> <input type="checkbox"/> Grant of permission with Conditions imposed.             <div style="margin-top: 5px;"> <input type="checkbox"/> No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.               </div> </div> </div>	
<h3 style="margin: 10px 0;">Statement of reasons for seeking review</h3> <p style="margin: 10px 0;">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)</p> <p style="margin: 10px 0;">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.</p> <p style="margin: 10px 0;">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.</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0; min-height: 50px;">         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.       </div>	
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * <div style="float: right;"> <input checked="" type="checkbox"/> Yes   <input type="checkbox"/> No         </div>	
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) <div style="border: 1px solid black; padding: 10px; margin-top: 10px; min-height: 50px;">         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.       </div>	
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) <div style="border: 1px solid black; padding: 10px; margin-top: 10px; min-height: 50px;">         As per previous comments.       </div>	
<h3 style="margin: 10px 0;">Application Details</h3> <div style="display: flex; justify-content: space-between; align-items: flex-start; margin-top: 10px;"> <div style="width: 60%;"> <p style="margin: 10px 0;">Please provide the application reference no. given to you by your planning authority for your previous application.</p> <p style="margin: 10px 0;">What date was the application submitted to the planning authority? *</p> <p style="margin: 10px 0;">What date was the decision issued by the planning authority? *</p> </div> <div style="width: 35%;"> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">Ref: 22/00400/APP</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">15/03/2022</div> <div style="border: 1px solid black; padding: 5px;">29/04/2022</div> </div> </div>	

## 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