



MORAY LOCAL REVIEW BODY

16 MAY 2023

SUMMARY OF INFORMATION FOR CASE No LR288

Ward 7 – Elgin City South

Planning Application 22/01451/APP – Retrospective permission for boundary fence at 94 Springfield Road, Elgin

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 12 January 2023 on the grounds that:

1. The high level boundary fence is out of keeping with the established open aspect character of the existing site and neighbouring housing and would therefore fail to comply with Policy DP1 (i) (a).
2. The high level fencing would partially enclose an area of open space to the rear of the property which requires natural surveillance in order to reduce crime and would therefore fail to comply with policy PP1 (ii).

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**.

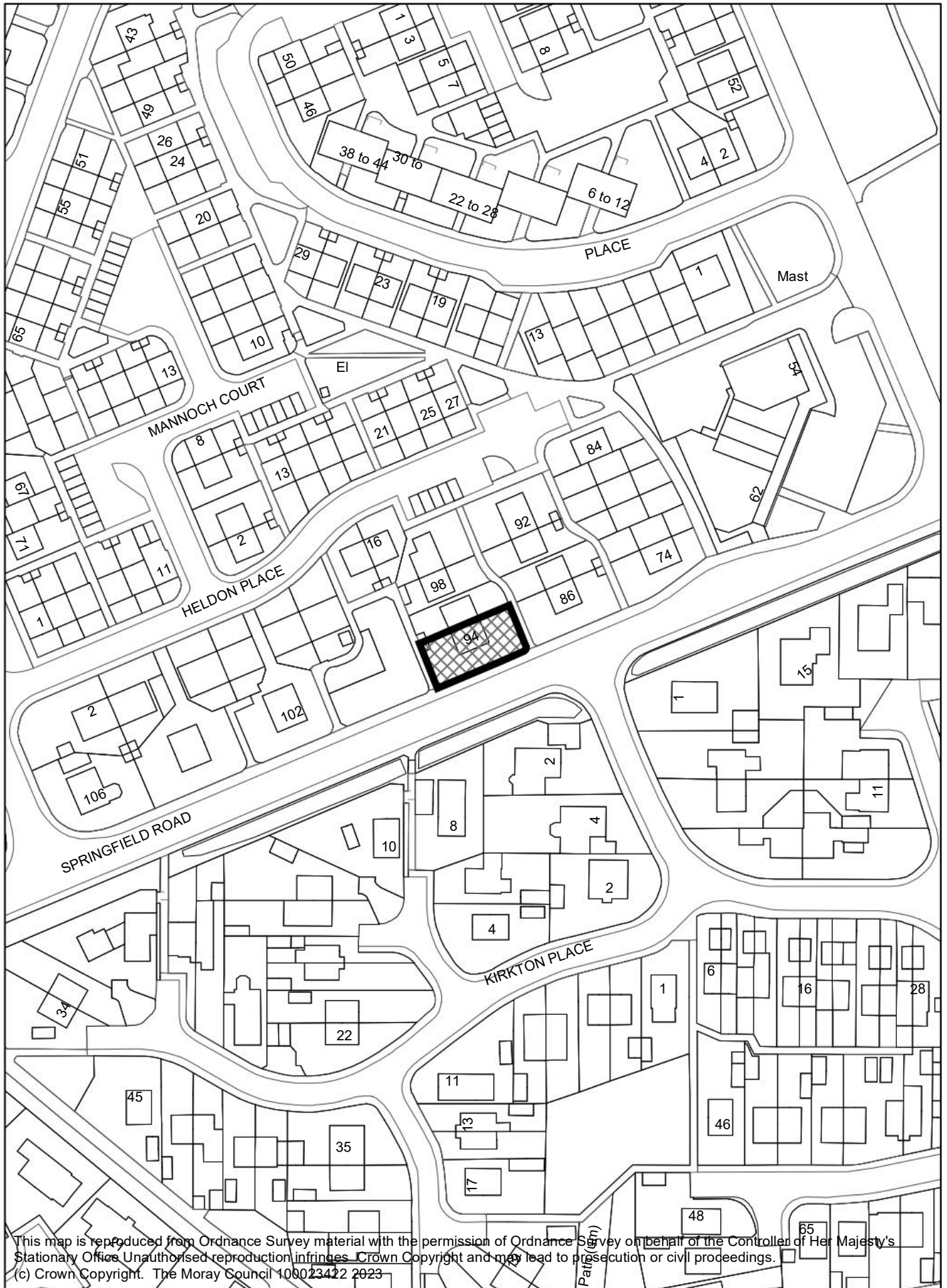
No Further Representations were received in response to the Notice of Review.

At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020 and deferred consideration of the above Review to request further information from the Appointed Officer and Interested Parties after considering the planning application in light of NPF4 with any response received being forwarded to the Applicant for comment.

The Appointed Officer's response is attached as **Appendix 5**. There was no response from the Applicant or any of the Interested Parties.



Location plan for Planning Application Reference Number : 22/01451/APP



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APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100602338-001

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.

Description of Proposal

Please describe accurately the work proposed: * (Max 500 characters)

Retrospective planning for boundary fence with amended drawings to the requirements of the transport managers comments in previous application

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="Mr"/>	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="Michael"/>	Building Number:	<input type="text" value="94"/>
Last Name: *	<input type="text" value="Barron"/>	Address 1 (Street): *	<input type="text" value="Springfield road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="[REDACTED]"/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="Iv306yu"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="[REDACTED]"/>		

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="94 SPRINGFIELD ROAD"/>
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 6YU"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="861385"/>	Easting	<input type="text" value="321513"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Pre-Application Discussion Details Cont.

In what format was the feedback given? *

Meeting Telephone Letter Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) * (max 500 characters)

information on applying for permission with updated drawings of previous application

Title:

Mr

Other title:

First Name:

Andrew

Last Name:

Miller

Correspondence Reference Number:

Date (dd/mm/yyyy):

17/01/2022

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

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.

Access and Parking

Are you proposing a new or 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 proposed to make. You should also show existing footpaths and note if there will be any impact on these.

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: Mr Michael Barron

On behalf of:

Date: 05/10/2022

Please tick here to certify this Certificate. *

Checklist – Application for Householder Application

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) Have you provided a written description of the development to which it relates? * Yes No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? * Yes No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? * Yes No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? *. This should have a north point and be drawn to an identified scale. Yes No
- e) Have you provided a certificate of ownership? * Yes No
- f) Have you provided the fee payable under the Fees Regulations? * Yes No
- g) Have you provided any other plans as necessary? * Yes No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). *

You can attach these electronic documents later in the process.

Existing and Proposed elevations.

Existing and proposed floor plans.

Cross sections.

Site layout plan/Block plans (including access).

Roof plan.

Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. Yes No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. * Yes No

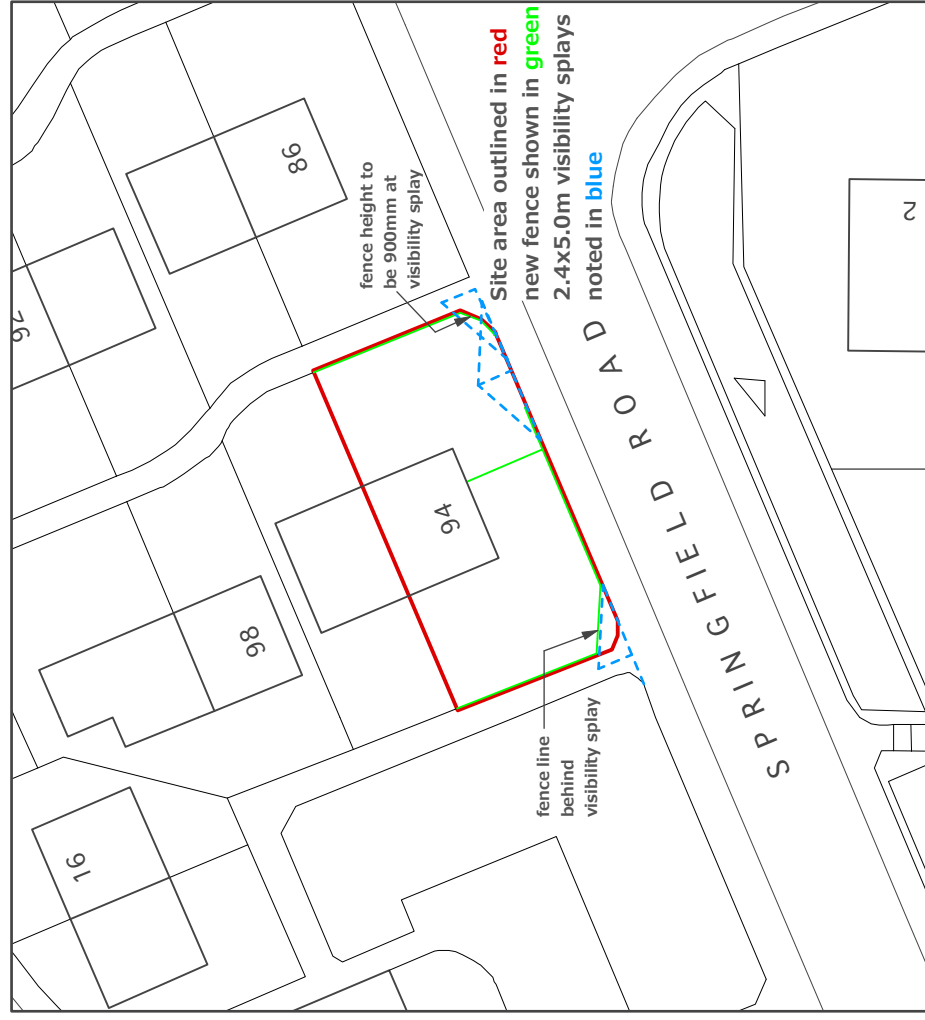
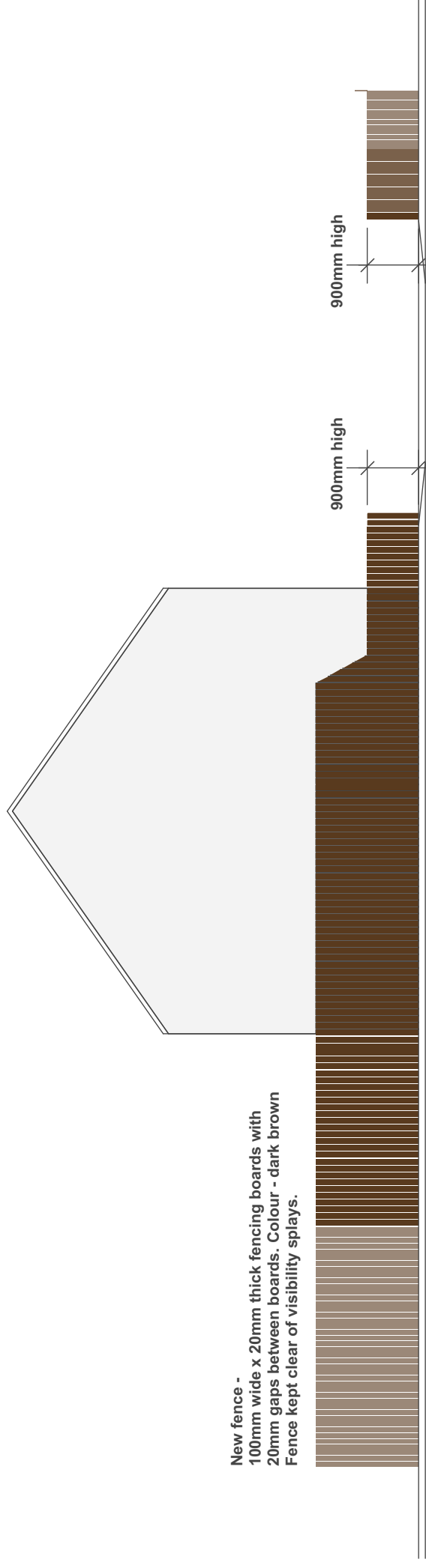
You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Michael Barron

Declaration Date: 05/10/2022



SITE PLAN

1-500

Site Area - 300m² (outlined in Red)



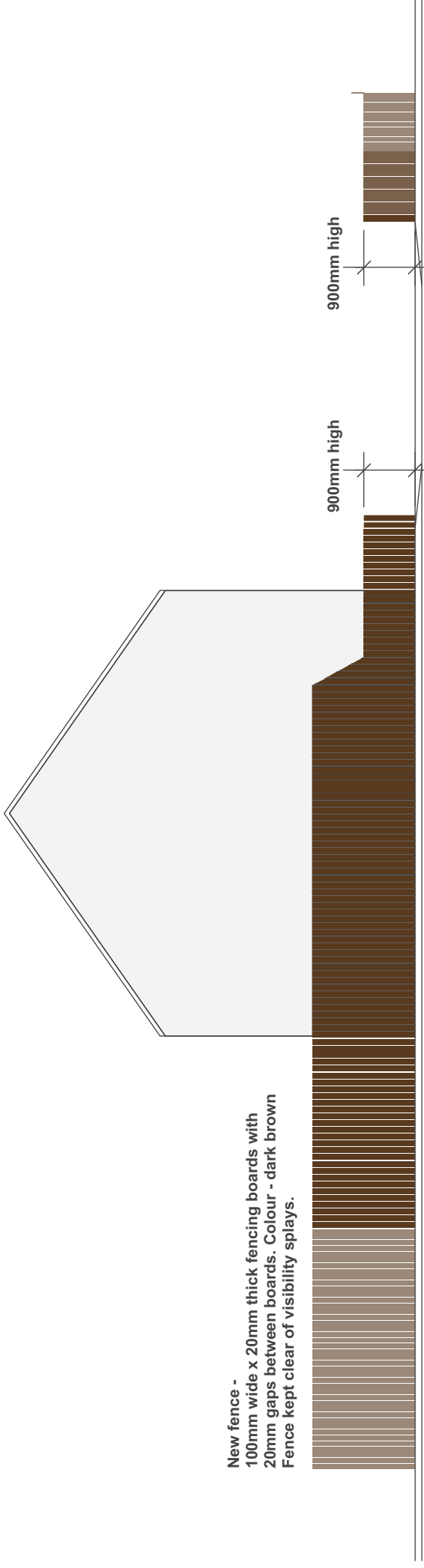
LOCATION PLAN

1-1250

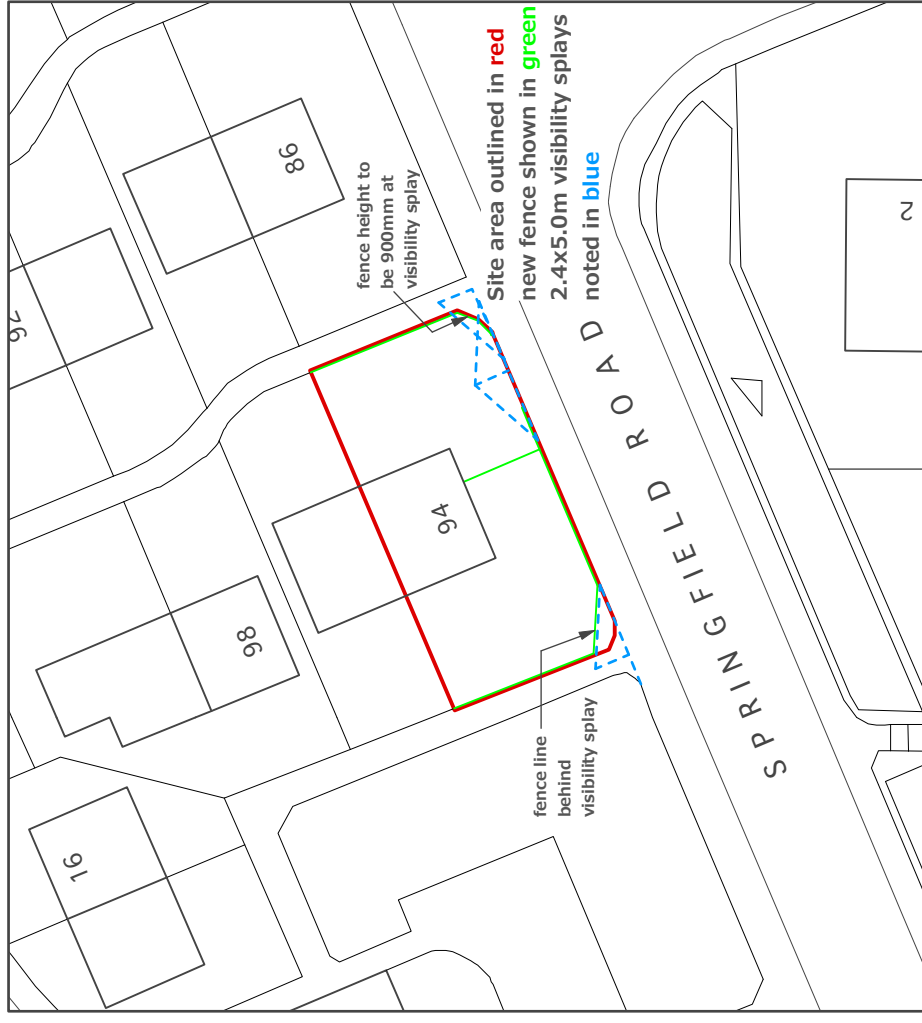


Rev A - Fence line at RHS amended, Fence height at LHS lowered. Jan '22

Retrospective Planning Application,
Fence Erected to side of House,
94 Springfield Road,
Elgin,
IV30 6YU.
Mr M. Barron



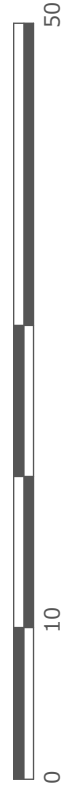
ELEVATION FROM SPRINGFIELD ROAD
1-100



SITE PLAN

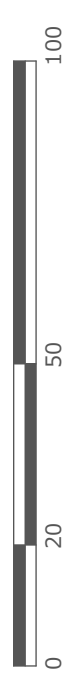
1-500

Site Area - 300m² (outlined in Red)



LOCATION PLAN

1-1250



Rev A - Fence line at RHS amended, Fence height at LHS lowered. Jan '22

Retrospective Planning Application,
Fence Erected to side of House,
94 Springfield Road,
Elgin,
IV30 6YU.
Mr M. Barron

My partner and I moved into our property on June 4th 2017. We decided in march 2018 to replace the existing 1.2 meter high boundary fence with a 1.8 meter high fence to the rear. This was due to several concerning issues. School kids littering our garden, throwing items of food at our dog and in some cases opening the gate and letting him out, this resulted in us not being able to let him into the garden during school hours when the school kids were out. The head teacher was contacted by myself on a number of occasions and is happy to be contacted with regards to the issues we discussed. Items from our garden such as plants and garden ornaments aswell as our garden bench going missing which lead to us installing CCTV directed at the front and rear of the property. [REDACTED]

[REDACTED] We also had many issues with people leaving the local pub and entering our garden aswell as the garden of the property to the front of our house, to relieve themselves.

By replacing the 1.2 meter boundary fence with a 1.8 meter high boundary fence this provided us with the much needed privacy and also a safe and secure environment for our nephew, dog and future children of our own.

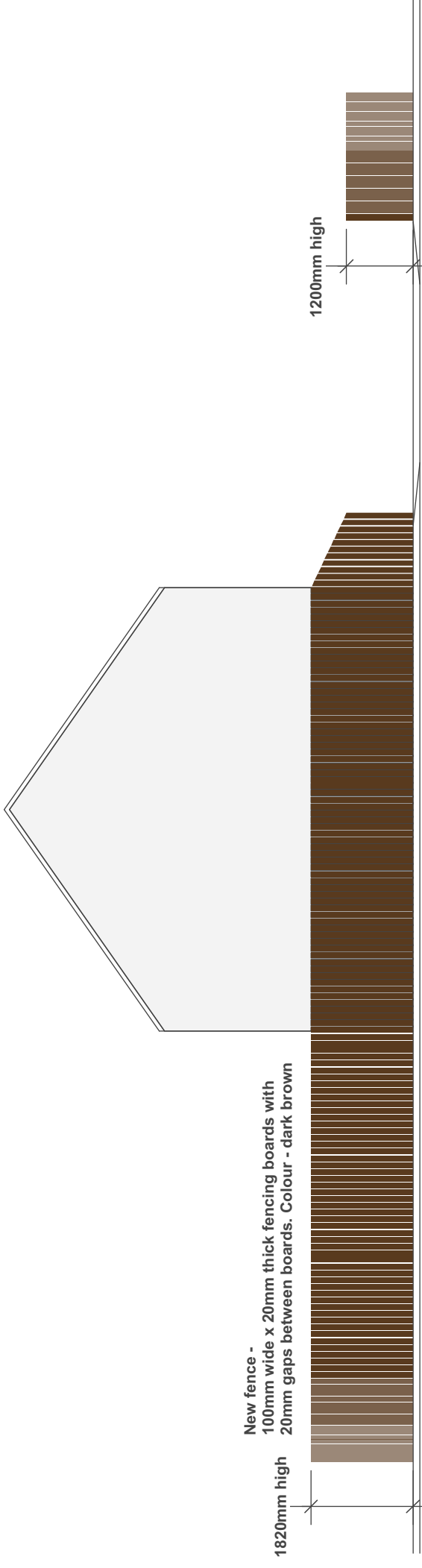
At the time of doing so we were unaware of the need for planning permission as the fence height of 1.8 meters is the same scale as properties across the road from us and in the surrounding area local to us and around Elgin as a whole.

Included in this application is a revised drawing of the fence, we have addressed the points set out by the transportation manager, who in their report in our previous application acknowledged the need for privacy due to the high number of pedestrian and vehicle movement in the area.

On receiving letters of notification of our previous planning application a number of our neighbors came to us with concerns as to what was going on, being aware of the difficulties we occurred four years ago. We also recently had a school kid enter our driveway, walk up to our door and get his friend to film him for a tik-tok video heavily kicking our front door whilst we were at work. We were alerted to this by our ring doorbell and was recorded on our front of house CCTV.

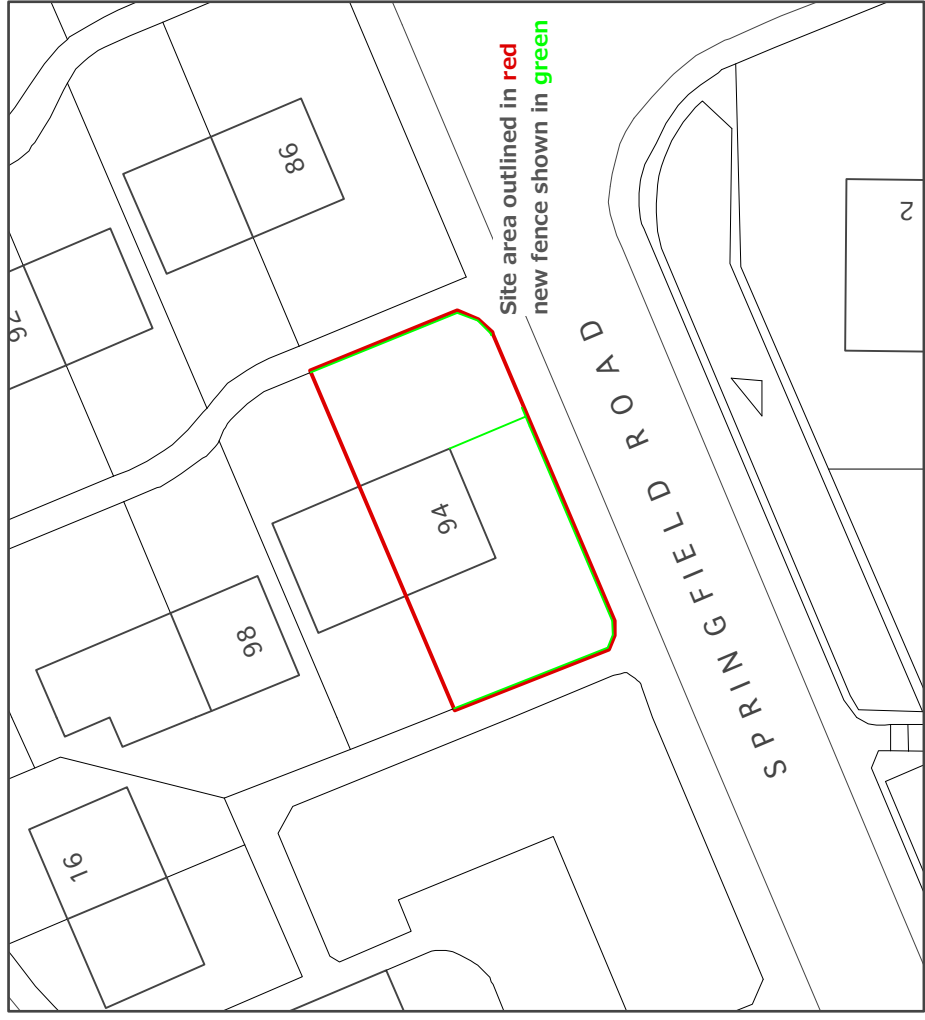
None of these details about the issues we were having were noted in our initial planning application as our architect submitted the application without knowing the details.

We are expecting our first child in January and we fear the removal of the fence would leave us with an unsafe garden to bring our child up in aswell as having a major affect on our nephews routine as this would involve him not being able to play in the garden aswel as our previous problems returning.



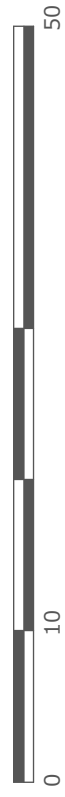
New fence -
100mm wide x 20mm thick fencing boards with
20mm gaps between boards. Colour - dark brown

ELEVATION FROM SPRINGFIELD ROAD
1-100



SITE PLAN
1-500

Site Area - 300m² (outlined in Red)



LOCATION PLAN
1-1250



Retrospective Planning Application,
Fence Erected to side of House,
94 Springfield Road,
Elgin,
IV30 6YU.
Mr M. Barron

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	21st October 2022
Planning Authority Reference	22/01451/APP
Nature of Proposal (Description)	Retrospective planning for boundary fence at
Site	94 Springfield Road Elgin Moray IV30 6YU
Site Postcode	N/A
Site Gazetteer UPRN	000133029398
Proposal Location Easting	321513
Proposal Location Northing	861385
Area of application site (M²)	
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=RJBI0TBGIY000
Previous Application	21/01030/APP
Date of Consultation	7th October 2022
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Michael Barron
Applicant Organisation Name	
Applicant Address	94 Springfield road Elgin Scotland lv306yu
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Sheila Bernard
Case Officer Phone number	
Case Officer email address	sheila.bernard@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

NOTE:

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

The statutory period allowed for a consultation response is 14 days. Due to scheduling

pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

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

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

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

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

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 22/01451/APP

Retrospective planning for boundary fence at 94 Springfield Road Elgin Moray IV30 6YU for Mr Michael Barron

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"/> |

This proposal relates to a previous retrospective planning application for the erection of a high boundary fence (21/01030/APP), and is effectively to now alter the erected boundaries in order to accommodate suitable pedestrian and vehicular visibility splays.

The submitted proposals show the lowering of the existing boundary fence adjacent to the vehicular access and adjacent to the existing remote footpath along the south east corner of the site; along with the setting back of the existing boundary fence located along the south west corner of the site; and thereby effectively re-instating the (key) visibility splays which were previously available prior to the high boundary being erected

Transportation therefore has no objections to the proposed alterations.

Condition(s)

1. Within three months of the date of this decision notice the sections of the existing high boundary fence shall be set back/ reduced in height in accordance with submitted drawing number 1 Revision A.

Reason: To ensure acceptable development in the interests of 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
email address: transport.develop@moray.gov.uk
Consultee: TRANSPORTATION

Date 25 October 2022

Return response to	consultation.planning@moray.gov.uk
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Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/>. (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

REPORT OF HANDLING

Ref No:	22/01451/APP	Officer:	Fiona Olsen
Proposal Description/ Address	Retrospective permission for boundary fence at 94 Springfield Road Elgin Moray IV30 6YU		
Date:	06.01.2023	Typist Initials:	SS

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Transportation Manager	25/10/22	No Objections subject to a condition

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP1 Placemaking	Y	See below
DP1 Development Principles	Y	See below

REPRESENTATIONS

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

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:

Proposal

The application seeks retrospective planning permission for a boundary fence which encloses an existing domestic garden.

The existing fence measures approx. 1.82m to the rear and side boundaries. The fence slopes down to a height of approx. 1.2m to the front boundary and is constructed in timber, stained in a dark brown.

The application proposes to reduce the height of the fence on part of the side boundary to 1.2m in order to ensure an appropriate pedestrian visibility splay is achieved at the property access.

Site

The site is located at 92 Springfield Road, New Elgin, Elgin and is an existing semi-detached property with gable end facing onto Springfield Road. The house fronts to a footpath to the west, with houses either side of the path. To the rear, the house backs on to a path and area of open space.

Site History

A previous application was submitted for retrospective permission for the fence in 2021 (21/01030/APP refers) and was subsequently refused. These proposals are slightly altered from the previous application in that the fence is proposed to be lowered at the eastern end of the side boundary to approx. 1.2m in height in order to provide a pedestrian visibility splay. These alterations to the fence height have not yet been undertaken.

Policy Assessment

Siting and Design (MLDP 2020 Policies DP1 & PP3)

This application is assessed against policies DP1 and PP3 of the Moray Local Development plan 2020. Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

Policy PP1 requires that developments are designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls. It also states that unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.

The application seeks to retrospective permission for a 1.82m metre fence (to the rear and side boundaries) and 1.2m fence (to the front boundary) at an existing dwellinghouse. Although it is proposed to reduce the fence in height partially on the side boundary (to approx. 1.2m), the majority of the side boundary and entirety of the rear boundary is proposed to be retained at approx 1.82m in height.

The existing site and surrounding area are characterised by terraced or semi-detached dwellinghouses, set along an established building line in a uniform manner. These properties are enclosed by low rise boundary treatments, particularly where they bound pathways, which results in most housing having open aspect gardens (including to the side and rear boundaries). The high level boundary fence here (at approx. 1.82m) would fully enclose the side and rear garden in a manner not in keeping with the established open aspect character present along Springfield Road and surrounding streets. As a result, a high level boundary fence in this location would be out of keeping with the established character of low level boundary fencing in this area and would therefore be unacceptable in terms of policy DP1.

An area of open space lies to the rear of the property, with a number of neighbouring properties forming pedestrian access onto this area. These properties form a 'U' shape and are all defined by low level boundary fencing. This open aspect ensures provision of natural surveillance to the area of open space which reduces crime. Again the high level side boundary fence faces onto a footpath,

running along the edge of Springfield Road. Therefore the proposal for a high level boundary fence in this location would not comply with policy PP1 which does not permit unbroken high level boundary enclosures where they face onto routes, open spaces and communal areas.

Road Safety (DP1)

Policy DP1 requires all development to provide a safe and suitable access to the road network. The submitted plans show the lowering of the existing boundary fence adjacent to the vehicular access and adjacent to the existing remote footpath along the south east corner of the site; along with the setting back of the existing boundary fence located along the south west corner of the site; and thereby effectively re-instating the (key) visibility splays which were previously available prior to the high boundary being erected. The Transportation Section have been consulted and are satisfied with the amendments to the boundary fence proposed and would have no objections, subject to a condition requiring the required sections of fence to be lowered and set back, in accordance with the submitted drawings, within three months of any decision date. This however would not overcome the aforementioned objections and the application will be refused.

Conclusion

The existing high level boundary fence is out of keeping with the established open aspect character of the existing site and neighbouring housing and would therefore fail to comply with Policy DP1 (i) (a). The high level fencing would also partially enclose an area of open space to the rear of the property which requires natural surveillance in order to reduce crime and would therefore fail to comply with policy PP1 (ii).

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None.

HISTORY

Reference No.	Description		
21/01030/APP	Retrospective application for fence erected to side of house at 94 Springfield Road Elgin Moray IV30 6YU		
	Decision	Refuse	Date Of Decision 08/10/21

ADVERT

Advert Fee paid?	N/A	
Local Newspaper	Reason for Advert	Date of expiry

DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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DOCUMENTS, ASSESSMENTS etc. *
 * Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc

Supporting information submitted with application?		NO
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Summary of main issues raised in each statement/assessment/report

Document Name:

Main Issues:

S.75 AGREEMENT

Application subject to S.75 Agreement		NO
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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
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Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
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Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
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Summary of Direction(s)



**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Elgin City South]
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:-

**Retrospective permission for boundary fence at 94 Springfield Road Elgin
Moray IV30 6YU**

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

Date of Notice: **12 January 2023**



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: -

1. The high level boundary fence is out of keeping with the established open aspect character of the existing site and neighbouring housing and would therefore fail to comply with Policy DP1 (i) (a).
2. The high level fencing would partially enclose an area of open space to the rear of the property which requires natural surveillance in order to reduce crime and would therefore fail to comply with policy PP1 (ii).

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
		Location Plan
		Elevations

**NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100624748-001

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="Mr"/>	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="Michael"/>	Building Number:	<input type="text" value="94"/>
Last Name: *	<input type="text" value="Barron"/>	Address 1 (Street): *	<input type="text" value="Springfield road"/>
Company/Organisation	<input type="text"/>	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="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="Iv306yu"/>
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:

94 SPRINGFIELD ROAD

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 6YU

Please identify/describe the location of the site or sites

Northing

861385

Easting

321513

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)

retrospective planning for boundary fence 22/01451/APP

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.

reasons for seeking review are uploaded in supporting documents

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)

reasons for seeking review transport managers advised drawing revised plans to fit transport managers drawings

Application Details

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

22/01451/APP

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

06/10/2022

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

12/01/2023

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 Michael Barron

Declaration Date: 11/04/2023

We are seeking review of our recently refused planning application for a 6ft fence at the side of our house because we believe we have been penalised because someone cannot see into our garden, a garden which we have made lovely and family friendly for our 5-year-old pet dog and our now 11-week-old baby. We feel that an appeal allows someone out with the Moray Council Planning department to review this application and take a nonbiased point of view considering all aspects and hopefully come up with a solution as to how we can maintain a safe, enclosed, private garden for our family home. We feel an appeal would help support us in a fair trial as every time we submit something to the Moray Council it seems to be a different excuse each time and a lack of care and consideration for what we are trying to do. Most importantly, our reasons for appealing the refusal are child and pet safety, cleanliness, theft prevention and privacy, none of which have been considered by the Moray Council Planning Officers.

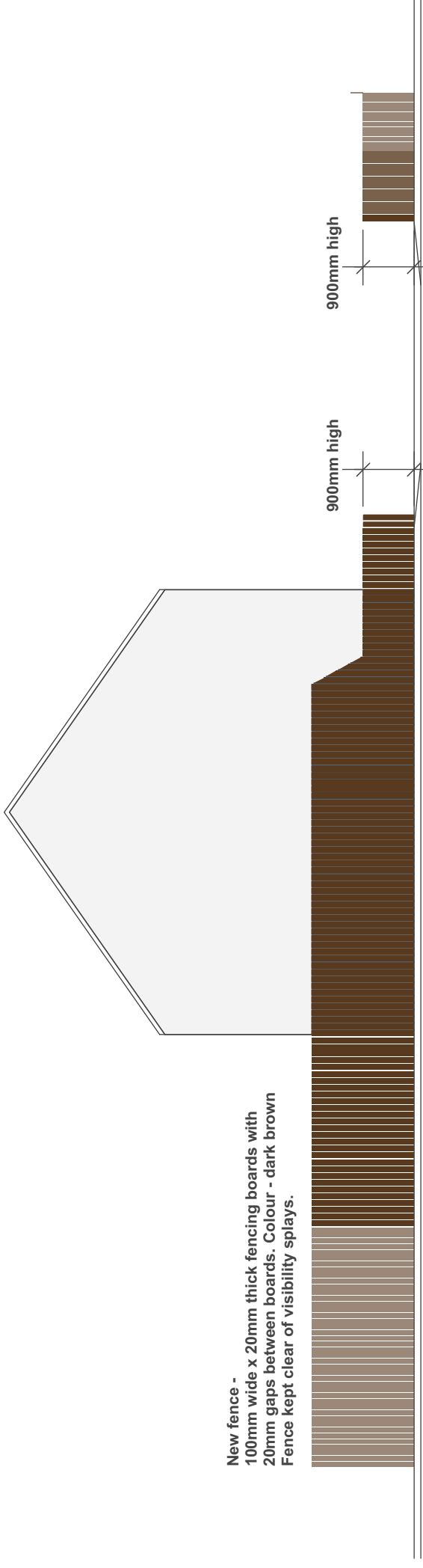
The application has been refused twice and, on both occasions, has had a new reason for refusal, none of which relate to the original letter regarding a 6ft fence at the side of the house. The first refusal was because the fence did not fit the character of the area and was not deemed safe by the transport manager as it is on the roadside. The second refusal was again because it did not fit the character of the area, but the planning officer had also added in that it blocks vision of crime. It has been frustrating not being able to have someone from the Council come round to the garden and try and help us keep somewhat of our fence or explain things to us. Covid has continually been used as an excuse but with all due respect, my wife works as a nurse, and we do not need reminded about how covid has impacted on our lives. A simple discussion when site visits were taking place could have been arranged at a two-meter distance in the garden. In reference to the transport manager's report – he is the only person at the Council who seemed to consider our privacy and so failed our current fence but commented with new drawings what he would deem road and path safe therefore grant permission. We were happy to change the fence to meet the new drawing and so submitted that on the second application, but it was failed and given another new reason for refusal. Our fence was erected in 2018 a few months after we moved into the property. We were served a notice to apply for retrospective planning for the 6ft fence three years later in 2021. The policies – DP1 and PP3 of the Moray Local Development Plan 2020 in which the planning officers refer to in their reports are policies which were not in place when the fence was initially erected. With regards to the 2020 policies – why were we asked to apply for retrospective planning and pay a fee if the policies about character of the area and crime reference were already in place. The planning officer who served the notice either did not know about these policies suggesting they were not in place until after our application was submitted or he believed we would get permission for the fence.

In addition I would also like to add that taking our fence down to 4ft will not make a difference to viewing crime. We also share a 6ft fence between the neighbouring house which has been in place since 2017 by choice of both parties therefore there is no vision down to the neighbouring gardens and this has never been an issue and the neighbours are grateful for the extra bit of privacy. Policy DP1 2020 refers to the development not adversely impacting neighbouring properties in terms of privacy, day light and overbearing loss of amenity as quoted by the latest planning officer in her report. When our neighbours were served with letters about our fence, they did not understand what the problem was. With regards to loss of amenities we are not sure what amenities our fence prevents someone from having. Our architect was also of the same opinion. We are not responsible for reporting crime that happens out with our property boundary. With reference to not fitting the character of the area, there has been a house extension in the local area where the materials used have been new and updated models, so it does not match with the surrounding houses in the

neighbourhood, yet it was passed by planning. There are several properties in the local area with 6ft fencing on the roadside and blocking vision round paths, in particular Dornoch Links, Elgin – the path coming from the street onto the fast Elgin – Birnie Road with no vision round the corner but this was passed by planning. We have gone from initially being informed that planning is required for a 6ft fence at the side of the house to being told that the fence at the back blocks vision round the path to then the front driveway restricting view to then the fence being out of character and now the fence blocks vision of crime. Having a 4ft fence would allow a police officer to look further round the corner onto the path but from a distance they would need to be on the same path to view what crime they were witnessing, similar for regular pedestrians.

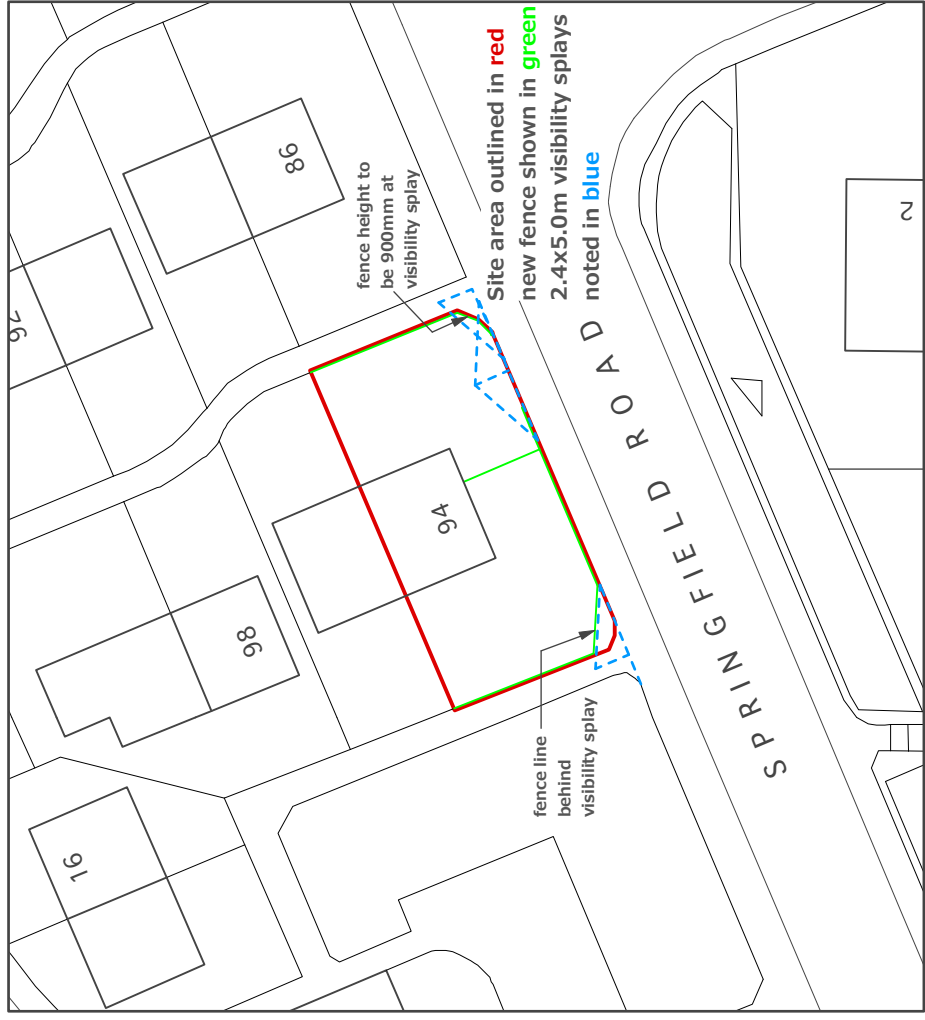
The review should also consider why the Moray Council planning department only responded to our many contacts in the beginning because we reported concerns to our Local MSP. The Council have not been very forthcoming nor supportive in the matter. We were posted a letter and just expected to take the fence down which we have not and sadly in the process have had no support from the Council around how we can maintain some of our privacy in our own bought home. There have been different views and reasons shared by the Council over an initial letter, a phone call and reports but no direct face to face verbal communication. We have spoken to the local head teacher at the High School with regards to children during school hours who have accessed our garden for no good reason, littering, trying to feed our dog and on one occasion damage to the property by a school child. We also spoke with Police Scotland about items missing from the garden when we initially moved in and were told that there is minimal, they can do because it is open to opportunists with a 4ft fence. We previously wrote and discussed the issues with the lack of communication from The Moray Council to Richard Lochhead and have again contacted him with regards to this matter.

The removal of the 6ft fence down to a 4ft fence would cause child safety and road safety issues due to problems we occurred with the 4ft fence we had when moving into the property where people would purposely open our gate resulting in our dog being able to escape from the garden. There was also the road safety factor of my autistic nephew who would regularly climb over the 4ft fence due to lack of understanding of road safety.



New fence -
100mm wide x 20mm thick fencing boards with
20mm gaps between boards. Colour - dark brown
Fence kept clear of visibility splays.

ELEVATION FROM SPRINGFIELD ROAD
1-100



SITE PLAN

1-500

Site Area - 300m² (outlined in Red)



LOCATION PLAN

1-1250



Rev A - Fence line at RHS amended, Fence height at LHS lowered. Jan '22

Retrospective Planning Application,
Fence Erected to side of House,

94 Springfield Road,

Elgin,

IV30 6YU.

Mr M. Barron





APPENDIX 3

RESPONSE TO REQUEST FOR FURTHER INFORMATION

Lissa Rowan

Subject: RE: 22/01451/APP - 94 Springfield Road Elgin

From: Fiona Olsen <Fiona.Olsen@moray.gov.uk>
Sent: 13 April 2023 10:44
To: Lissa Rowan <Lissa.Rowan@moray.gov.uk>
Cc: Beverly Smith <Beverly.Smith@moray.gov.uk>
Subject: RE: 22/01451/APP - 94 Springfield Road Elgin

Hi Lissa,

Happy that no new information is presented.

NPF4 Comments:

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13th February 2023, following approval by the Scottish Parliament in January. The basic siting and design principles for householder developments continue to apply within NPF4 Policy 16(g).