



MORAY LOCAL REVIEW BODY

29 NOVEMBER 2018

SUMMARY OF INFORMATION FOR CASE No LR212

Planning Application 18/00542/APP: Operate childminding business from dwelling at 6 Holyrood Drive, Elgin, Moray, IV30 8TP

Ward 7 – Elgin City South

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 19 July 2018 on the grounds that:

The proposal is contrary to policies PP1, IMP1, T5 and T2 of the Moray Local Development Plan 2015 for the following reasons:

1. The employing of two assistants and caring for up to 9 children will result in a significant intensification of use of this house, which, in turn, would result in an unreasonable level impact on the residential amenity of the surrounding neighbouring properties, at odds with the requirements of policies PP1 and IMP1.

2. The proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5, and as a result would also be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.

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**.

The Applicant's response to Further Representations is attached as **Appendix 4**.

At the meeting of the Moray Local Review Body (MLRB) on 25 October 2018, the MLRB deferred consideration of Case LR212 to request further information from:

Transportation: Page 3 of the Report of Handling states that "Caring for nine children and two assistants could generate up to 22 additional vehicle movements associated with this house." The MLRB queried how this calculation was made and whether these were

additional to the current number of vehicle movements or the total number of vehicle movements generated by the business.

Applicant: Clarification was sought as to how many assistants would be employed by the Applicant as there are references to 2 assistants in some paperwork and only one in others.

The response from Transportation and the Applicant to the MLRB's request for further information is attached as **Appendix 5**.

No further response was received from the Applicant in relation to the further information submitted from Transportation.

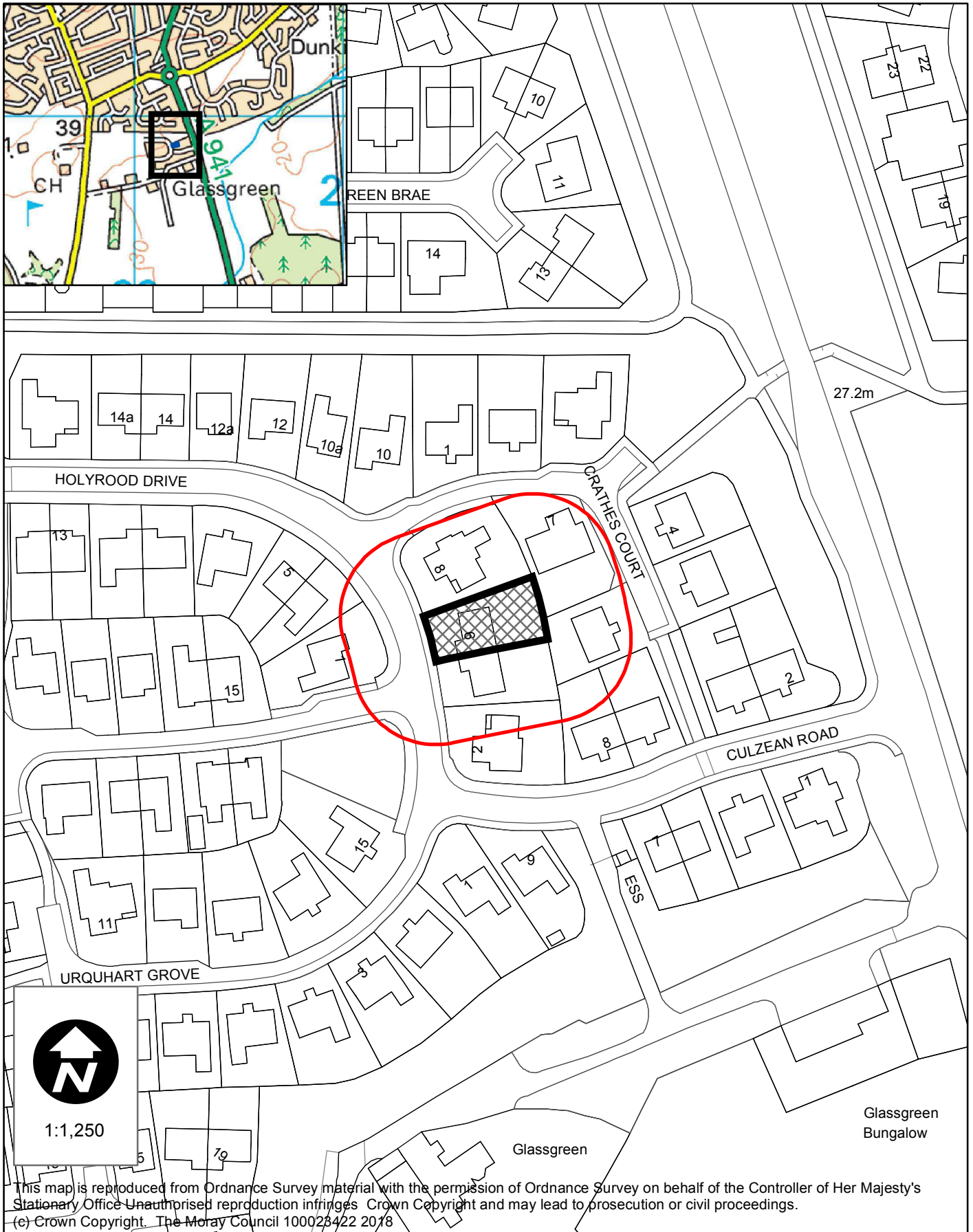
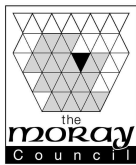
Site Plan for Neighbour Notification purposes only

Town and Country Planning

(Development Management Procedure)(Scotland) Regulations 2008

Planning Application Reference Number:

18/00542/APP





APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 01343 563 501 Fax: 01343 563 263 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 100093511-001

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)

Seeking planning permission to expand my childminding business from my private property

Is this a temporary permission? *

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?

☐ Yes ☒ No

(Answer 'No' if there is no change of use.) *

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="Tracy"/>	Building Number: <input type="text" value="6"/>
Last Name: *	<input type="text" value="Ritchie"/>	Address 1 (Street): * <input type="text" value="Holyrood Drive"/>
Company/Organisation	<input type="text" value="Tracy Ritchie Childminder"/>	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="Moray"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="IV308TP"/>
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="6 HOLYROOD 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 8TP"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="860859"/>	Easting	<input type="text" value="322194"/>
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Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☐ Yes ☒ No

Site Area

Please state the site area:

350.00

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 and childminding business

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.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

4

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

4

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

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.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? *

☐ Yes ☒ No

If Yes or No, please provide further details: * (Max 500 characters)

Using current waste provision in use already have also bought a trailer to take any excess to local recycle centre myself

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

☐ Yes ☒ No

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 Tracy Ritchie

On behalf of:

Date: 19/04/2018

☒ 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)

Areas of use by minded children are playroom which is converted garage and outdoor play area in garden and downstairs toilet and dining room

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)

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 Tracy Ritchie

Declaration Date: 19/04/2018

Payment Details

Online payment: 283037

Payment date: 19/04/2018 16:14:40

Created: 19/04/2018 16:15

18/00542/APP

25 APR 2018

Tracy Ritchie

6 Holyhood Drive

ELGIN

IN30 8TP

Application No - 18/00542/APP

Dear Teresa

Further to our telephone conversation and email received please find enclosed plans I have as discussed for my house.

I also agree to my application description to read as pointed out in note 1. of your email.

Point 3 of Email at the moment I have 3-4 children on my books who are dropped off at my property all at different times of the day as my husband uses his car to get to work the parents normally park in the drive in his space or just stop outside house in street to drop child as they normally just drop child and leave Parents are never normally here for any more than 10 mins. All other children in my care I collect from their own home and drop them off at home too. My hours of operation are 7am to 8pm Monday to Friday. We also have the grass area in our garden to park cars on if required we are planning in near future to be lock blocking this area to provide ample parking off the road.

I hope this all helps to process my application.
Should you require anything further please contact me.

Thanks

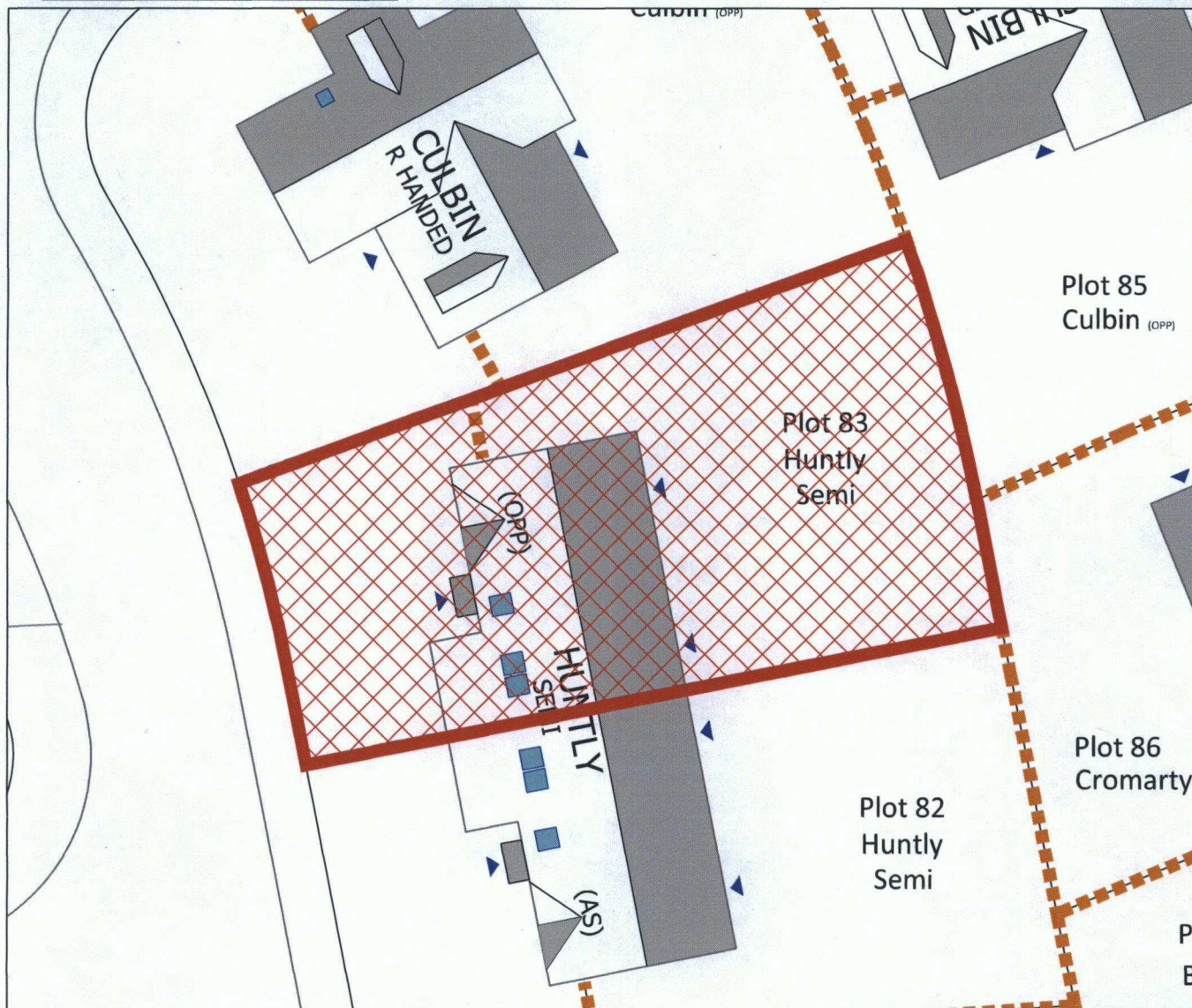


Tracy Ritchie

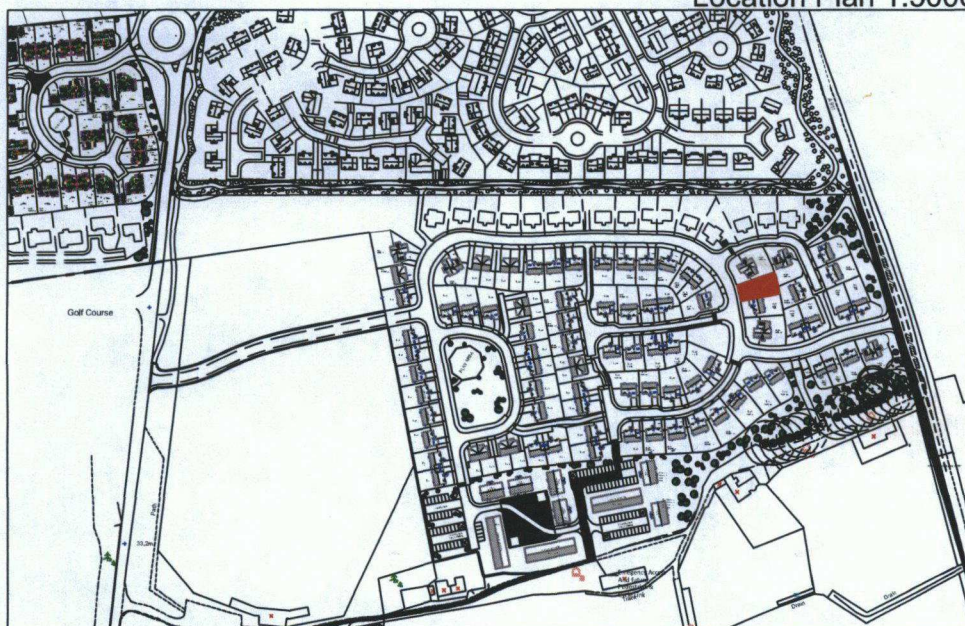
Plot 83

Total Area = 0.0367ha

Scale 1:250



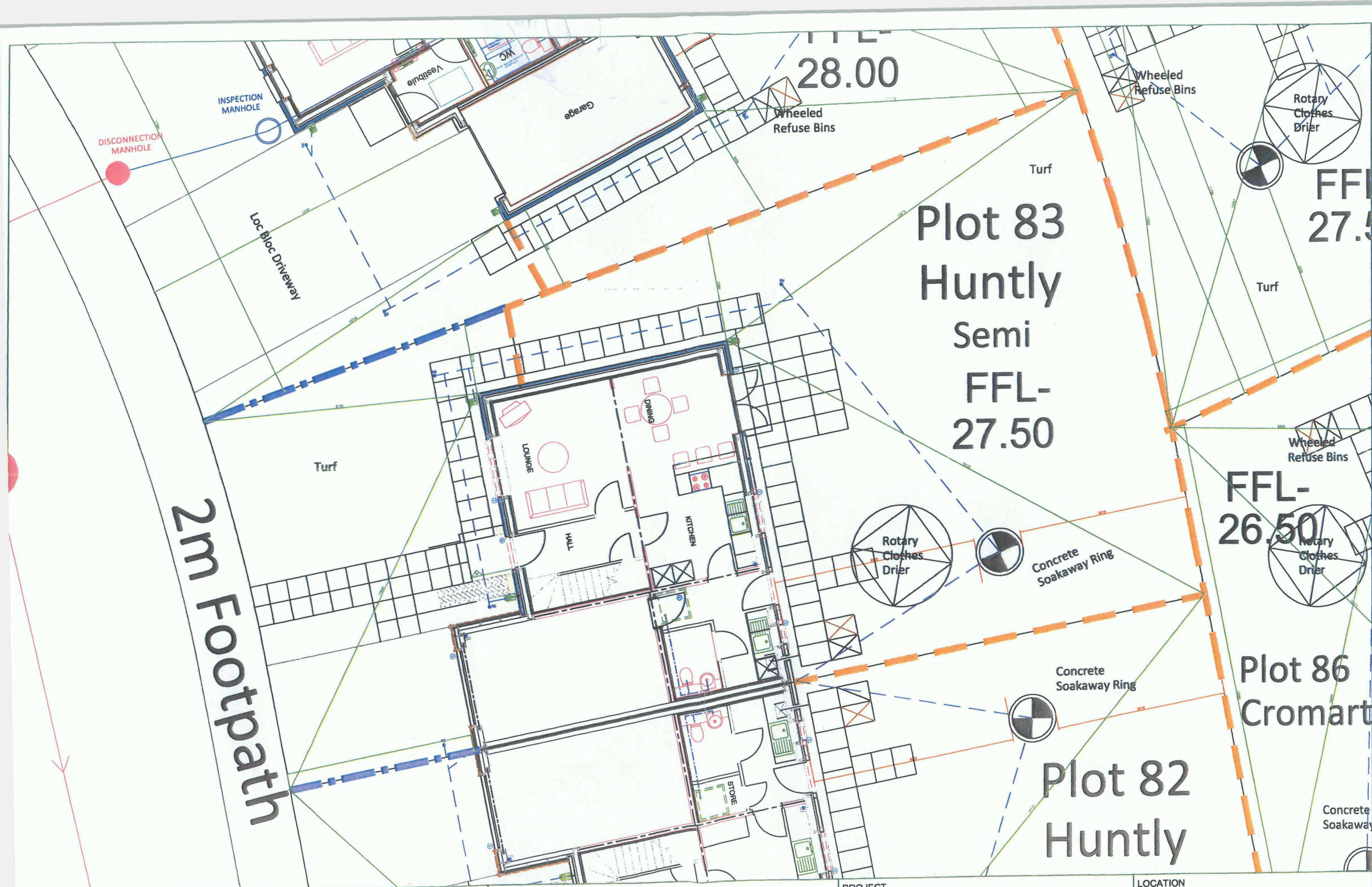
Location Plan 1:5000



REVISIONS

	
SPRINGFIELD PROPERTIES PLC ALEXANDER FLEMING HOUSE 8 SOUTHFIELD DRIVE ELGIN IV30 6GR	
TEL 01343 552550 FAX 01343 551776 E-MAIL info@springfield.co.uk	
PROJECT Plot 83	
DESCRIPTION Feu Plan	
LOCATION Duncansfields, R10	
CLIENT Springfield Properties PLC	
DWG No PLT83/R10/FP/01	
DRAWN KP	SCALE Various

25 APR 2018



PROJECT Plot 83			LOCATION R10 Duncansfield, Elgin	
DESCRIPTION Site Plan			CLIENT Springfield Properties PLC	
DRAWN BW	CHECKED	SCALE 1:100 @ A3	DWG No PLT83/R10/SP/01	25 APR 2018

Consultation Request Notification – Building Standards

Planning Authority Name	The Moray Council
Response Date	15th May 2018
Planning Authority Reference	18/00542/APP
Nature of Proposal (Description)	Operate childminding business from dwelling at
Site	6 Holyrood Drive Elgin Moray IV30 8TP
Site Postcode	N/A
Site Gazetteer UPRN	000133066811
Proposal Location Easting	322194
Proposal Location Northing	860859
Area of application site (Ha)	350 m2
Additional Comments	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P7GZBRBGLSF00
Previous Application	14/00850/ID 10/02115/APP
Date of Consultation	1st May 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Tracy Ritchie Childminder
Applicant Organisation Name	
Applicant Address	6 Holyrood Drive Elgin Moray IV308TP
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Joe Taylor
Case Officer Phone number	01343 563082
Case Officer email address	joe.taylor@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.

MORAY COUNCIL PLANNING CONSULTATION RESPONSE

From: Building Standards

Planning Application Ref. No: 18/00542/APP

Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP for Tracy Ritchie Childminder

In terms of Building Warrant requirements.

Please

- | | | |
|-----|--------------------------------------------------------------------------------------------|-------------------------------------|
| (a) | A Building Warrant is required | x |
| (b) | A Building Warrant is not required (IBS008) | <input checked="" type="checkbox"/> |
| (c) | A Building Warrant will not be required but must comply with Building Regulations.(IBS009) | x |
| (d) | Comments | <input type="checkbox"/> |

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Contact: William Clark
email address: william.clark@moray.gov.uk
Consultee: Building Standards

Date 10.05.2018
Phone No 01343 563291

Return response to

consultation.planning@moray.gov.uk

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MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Environmental Health Manager

Planning Application Ref. No: 18/00542/APP

Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP for Tracy Ritchie Childminder

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

- | | Please |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below | X
<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 | X |
| (d) Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Condition(s)

Informatives

1. The premises will require to comply with the Food Hygiene (Scotland) Regulations 2006.
2. The food business will require to register with the Environmental Health Section at least 28 days prior to opening.

Contact: Kevin Boyle
email address:
Consultee:

Date.....11 May 2018
Phone No 3354

Return response to	consultation.planning@moray.gov.uk
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Additional Comment	See letter regarding operation of business
Development Hierarchy Level	LOCAL
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MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 18/00542/APP

Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP for Tracy Ritchie Childminder

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

Please

- (a) I OBJECT to the application for the reason(s) as stated below
- (b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal ☐
- (c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below ☒
- (d) Further information is required in order to consider the application as set out below ☐

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.

The developer should note that this development is served by a private road, which is not yet adopted by the Roads Authority.

Contact: DA/AG

Date 16 May 2018

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

Consultee: TRANSPORTATION

Return response to

consultation.planning@moray.gov.uk

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From: Transportation Manager

Planning Application Ref. No: 18/00542/APP

Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP for Tracy Ritchie Childminder

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Please

- | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------|--------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below | x |
| (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 type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Note: This further - revised response has been provided on the basis of further information relating to the staffing element for this proposal.

The following parking standards apply to the proposed development:

- For residential dwellings 2no Parking spaces for a dwelling with 3 bedrooms or less, and 3no parking spaces for a dwelling with 4 bedrooms or more.*
- For 'Day Nursery' 1.2 spaces per staff member, plus consideration of a pick up/drop off zone.*

The introduction of additional staff for this proposal means that additional parking provision would be required. There is scope within the site to provide one additional parking space. However as this a three bed dwelling with only one current parking space (previous garage was converted to living space) the addition of a new parking space would only bring up the total parking provision to 2 spaces which would meet the requirements for the dwelling but not for the proposed development (ie no additional parking space for staff). There is no scope to provide more than one single additional parking space within the site.

Due to the existing vehicular access arrangements for the adjacent properties (dropped kerbs at driveways) there would appear to be very limited opportunity for suitable on-street parking outside the site, and as a result this proposal would likely result in inconsiderate parking behaviour (parking over the footway/ blocking driveways etc).

Reason(s) for objection

The proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5, and as a result would also

be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.

Contact: DA/AG

Date 25 June 2018

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

Consultee: TRANSPORTATION

Return response to	consultation.planning@moray.gov.uk
---------------------------	---------------------------------------------------------------------------------------------------

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://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.

Comments for Planning Application 18/00542/APP

Application Summary

Application Number: 18/00542/APP

Address: 6 Holyrood Drive Elgin Moray IV30 8TP

Proposal: Operate childminding business from dwelling at

Case Officer: Joe Taylor

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Activity at unsociable hours/behaviour
- Contrary to Local Plan
- Loss of privacy (being overlooked)
- Noise
- Parking
- Road safety

Comment: I object to this proposal, this does not fit with the development, this is a residential area and given the time cars are already parked outside often restricting visibility when exiting driveways and blocking two traffic on an already busy street I am concerned that with potentially increased business this will be made worse, an accident has already been caused during the winter months when a parked car was hit. I am also concerned about the increase in noise from having additional children being outside. There are plenty of childcare providers nearby with purpose built buildings.

REPORT OF HANDLING

Ref No:	18/00542/APP	Officer:	Iain T Drummond
Proposal Description/ Address	Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP		
Date:	19/07/2018	Typist Initials:	LRM

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response
Environmental Health Manager	15/05/18	No objections
Building Standards Manager	17/05/18	No objections
Transportation Manager	25/06/18	Recommends refusal

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)
PP1: Sustainable Economic Growth	Y	
T2: Provision of Access	N	
T5: Parking Standards	Y	
IMP1: Developer Requirements	Y	

REPRESENTATIONS

Representations Received	YES	
Total number of representations received ONE		
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		
Issue:		
1. The development is not in keeping with the surrounding residential area.		
2. The existing business causes parking issues and restricts visibility when exiting driveways and blocking two traffic on an already busy street.		

3. Concern regarding the increased noise of the additional children playing outside.

Comments (PO):

These issues are discussed on the observations section of this report, where it is concluded that the application should be refused on the grounds of impact on neighbouring residential amenity and insufficient parking arrangements.

OBSERVATIONS – ASSESSMENT OF PROPOSAL

The Proposal

The application seeks planning permission to operate a childminding business from dwelling at 6 Holyrood Drive, Elgin.

The applicant currently operates a childminding business from the house at present and cares for up to 6 children at any one point and employs an assistant, however wishes to increase the maximum capacity to nine children and employ two assistants.

The Site

The existing house is a semi-detached relatively new one and a half storey house, with neighbouring houses to the north south and east and access road to the west with further neighbouring houses beyond.

The applicants have converted their garage to form additional living accommodation.

Appraisal

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 2015 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below.

Principle and amenity impact (PP1 & IMP1)

In general terms and based on previous case law, the operation of a childminding business for up to six children is viewed as being ancillary to the main use of a house and as such does not require planning permission, hence the reason the applicant currently operates a childminding business from the house for up to six children.

However, the applicant has applied for planning permission as she wishes to care for up to nine children and two assistants as part of the business.

Policy PP1 encourages sustainable economic growth where the natural and built environment is protected. Policy IMP1 outlines that new development must be of a scale, density and character appropriate to the surrounding areas.

In this case the existing house is semi-detached and located in a relatively high density modern housing development. The childminding business allows for both indoor and outdoor play areas for the children. The rear garden ground of the house is surrounded on all sides by the private rear garden ground for all neighbouring houses to the north, south and east.

The general principle behind setting the upper threshold for child minding businesses at six children without requiring planning permission is that this equates to the level of activity which could be generated by a large single family utilising a house. Once this threshold is exceeded careful consideration needs to be given to the characteristics of the site and surrounding area to ensure that the increased intensification of the use of the house will not result in an adverse impact on the residential amenity of the neighbouring houses.

Caring for nine children and two assistants could generate up to 22 additional vehicle movements associated with this house. This is taking into account a drop off and pick up of each child by a separate family and the movement to and from the house of the assistants. This is a significant increase of vehicle/general activity associated with this house which is considered to result in an unreasonable impact on the residential amenity of the street.

In addition to the above, taking into account the relatively high density of the surrounding houses and that the existing house is semi-detached, and that the private rear garden areas of four properties all back onto the applicants rear garden space which would be used as a play area for the children. The additional intensity of use over and above what would reasonably be expected from a house of this size would result in an unreasonable level of impact on the amenity of the neighbouring houses.

Although the applicant has outlined that her current business operation involves the picking up and dropping off of children and that not all children are present at any one time and that this reduces the impact of the business on the surrounding neighbours. It is accepted that this is the case at present, however, there would be no way in planning terms to control the activity of the business to reflect these arrangements. This is on the basis that it would not be reasonable or enforceable to apply conditions to insist that only a certain number of children can be dropped off or picked up in any given day.

With all of the above in mind the operation of a childminders for up to six children in what is a relatively high density street, is considered to be the maximum number of children that would be appropriate to care for in this house without having an unreasonable level of impact on the amenity of the neighbouring residents and to increase this to a maximum of nine children would result in an unacceptable impact on the amenity of neighbours.

Access and Parking (T2 & T5)

The Transportation service has been consulted in relation to the development and has confirmed the following,

The following parking standards apply to the proposed development:

- For residential dwellings 2no Parking spaces for a dwelling with 3 bedrooms or less, and 3no parking spaces for a dwelling with 4 bedrooms or more.
- For 'Day Nursery' 1.2 spaces per staff member, plus consideration of a pick up/drop off zone.

The introduction of additional staff for this proposal means that additional parking provision would be required. There is scope within the site to provide one additional parking space. However as this a three bed dwelling with only one current parking space (previous garage was converted to living space) the addition of a new parking space would only bring up the total parking provision to 2 spaces which would meet the requirements for the dwelling but not for the proposed development (ie no additional parking space for staff). There is no scope to provide more than one single additional parking space within the site.

Due to the existing vehicular access arrangements for the adjacent properties (dropped kerbs at driveways) there would appear to be very limited opportunity for suitable on-street parking outside the site, and as a result this proposal would likely result in inconsiderate parking behaviour (parking over the footway/ blocking driveways etc.).

With all of the above in mind the transportation service has objected to the development on the basis that the proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5, and as a result would also be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.

Recommendation

Refuse Planning Permission.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description			
14/00850/ID	Convert garage to living room at 6 Holyrood Drive Elgin Moray IV30 8TP			
	Decision	Permitted Development	Date Of Decision	03/07/14
10/02115/APP	Erection of 30 houses on site R9 and 90 houses and 60 flats on site R10 at R9 (Birnie Road) And R10 (Glassgreen) Elgin Moray			
	Decision	Permitted	Date Of Decision	15/05/12

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises	31/05/18	
PINS	No Premises	31/05/18	

DEVELOPER CONTRIBUTIONS (PGU)

Status	
---------------	--

DOCUMENTS, ASSESSMENTS etc. *

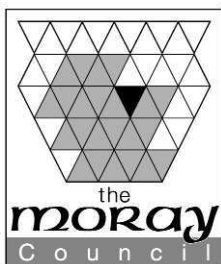
** Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

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)			



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

REFUSAL OF PLANNING PERMISSION

**[Elgin City South]
Application for Planning Permission**

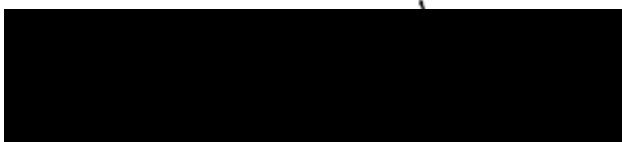
TO Tracy Ritchie Childminder
6 Holyrood Drive
Elgin
Moray
IV308TP

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:-

**Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray
IV30 8TP**

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

Date of Notice: **19 July 2018**



HEAD OF DEVELOPMENT SERVICES

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

The proposal is contrary to policies PP1, IMP1, T5 and T2 of the Moray Local Development Plan 2015 for the following reasons:

1. The employing of two assistants and caring for up to 9 children will result in a significant intensification of use of this house, which, in turn, would result in an unreasonable level impact on the residential amenity of the surrounding neighbouring properties, at odds with the requirements of policies PP1 and IMP1.
2. The proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5, and as a result would also be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.

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

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

N/A

DETAILS OF MATTERS SPECIFIED IN CONDITIONS

Approval, consent or agreement has been GRANTED for the following matter(s):-

N/A

The matter(s) was/were specified in conditions imposed on the earlier grant of planning permission:-

N/A

**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, The 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

NOTICE OF REVIEW

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

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

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

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

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name **TRACY KITCHIE**

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

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

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

Yes ☒ No ☐

Planning authority

MORAY COUNCIL

Planning authority's application reference number

18/00542/APP

Site address

Description of proposed
development

INCREASE NO OF CHILDREN CARED FOR

Date of application

Date of decision (if any)

19/7/18

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

Nature of application

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

Review procedure

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

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

1. Further written submissions ☐
2. One or more hearing sessions ☒
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☐

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

TO EXPLAIN IN MORE DETAIL HOW MY BUSINESS IS RUN

Site inspection

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

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

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

Statement

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

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

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

I HAVE APPEALED THIS DECISION BECAUSE I FEEL THAT IT IS NOT FAIR. THE COUNCIL SAY THERE IS A LACK OF CHILDCARE IN THE AREA AS IT IS AND I AM REGISTERED WITH COUNCIL FOR 2 YEAR OLD FUNDING. I FEEL THEY HAVE NOT CONSIDERED MY APPLICATION FAIRLY. A CHILDMINDER DOES NOT OPERATE THE SAME AS A NURSERY CHILDREN ARE NOT ALL DROPPED OFF AT THE SAME TIME. THEY ARE DROPPED OFF AND COLLECTED AT DIFFERENT TIMES. I HAVE ALSO LISTED OTHER POINTS IN ATTACHED LETTER.

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

Yes ☐ No ☒

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

List of documents and evidence

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

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

Checklist

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

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

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

Declaration

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

Signed



Date

7/8/18

- 9 AUG 2018

Tracy Ritchie
6 Holyrood Drive
Elgin
IV30 8TP

23rd July 2018

The Clerk
The Moray Council Local Review Body
Legal and Committee Services
Council Offices
High Street
Elgin
IV30 1BX

To whom it may concern

Application ref 18/00542/APP

I wish to appeal the decision to refuse me permission to increase my childcare business to a maximum of 9 children per day.

Reason 1. Employing of 2 assistants. I am not employing 2 assistants I only have 1 assistant, who parks her vehicle either in my drive next to my car or on the grass area in my garden outside my living room window thus not causing any issues with the other people using the road and blocking any other neighbour's visibility from their driveways.

There would very rarely be 9 children here at 1 time at most if this was to be the case it would only be for very short periods during holiday times and a crossover when drop off and collection of children takes place.

Most of the children in my care are either collected by myself and dropped off by myself to and from their own homes. Parents who do drop and collect their children are normally only here or a maximum of 10-15 mins and are encouraged to park either on my drive, on my grass which if planning is approved will be replaced with hardcore, or in the 2 parking spaces adjacent to my house. They are all told not to block my neighbours access.

Reason 2. Proposal does not incorporate adequate on site vehicular parking facilities. I can create a further 2 spaces on the grassed area in my front garden and I can fit 2 cars in my drive as this is the

case just now daily thus giving me 4 spaces in total. As parents are only dropping and collecting children they don't stay with the children as they have jobs to go to so they are literally there for minutes so I don't see how this causes an issue there are other people in the scheme running businesses from their houses i.e. beauty businesses who regularly have clients parked outside their houses on the road outside their houses for hours at a time which to me does not cause any issues for other people coming in and out of the estate.

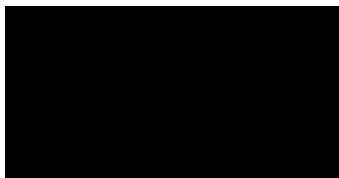
I would perhaps suggest that someone maybe comes to my house during my working hours to see for themselves how my business is run in my property as I have spoke to most of my neighbours and none of them have any problems with my proposal and am sure would be quite happy to give me a letter to this affect to prove they have no issues.

I am also aware of 4 other childminders in the Elgin area whom I believe have not done things officially like I have and do not have planning permission but have permission from care inspectorate to care for over 6 children at any one time by lying to care inspectorate by saying they have planning which was not checked or verified by care inspectorate at the time hence to me they are doing this job under false pretences.

Even if the care inspectorate granted me permission to care for 9 children this would mean I can care for up to 5 pre-school children aged between 0mths and 5 years and 4 before and after school children aged 5 years to 14 years. This being the case I very rarely have and more than 2-3 after school children daily if any so I don't feel this would cause the impact on the purpose of my property nor would it affect my neighbours.

I would be more than happy for this planning to be granted for me to increase my spaces by enabling me to care for 1 further preschool child on a daily basis. This would mean I could care for 4/5 pre school children instead of 3 which would not cause any impact on parking in the street as 3 of the children I have at the moment are collected and dropped off by myself as their parents do not drive.

I look forward to hearing back from you in due course.



Tracy Ritchie



APPENDIX 3

FURTHER REPRESENTATIONS FROM INTERESTED PARTIES

Lissa Rowan

Subject: FW: Planning Application 18/00542/APP
Attachments: img20180902_12064204.pdf

Lissa Rowan | Committee Services Officer | Legal and Democratic Services

lissa.rowan@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)

01343 563015



From: [REDACTED]
Sent: 06 September 2018 19:13
To: Lissa Rowan
Subject: Re: Planning Application 18/00542/APP

Notice of Review: Planning Application 18/00542/APP

I respect the right to an appeal on the planning rejection, however the basis for the rejection as outlined by the transportation manager has not changed.

I note that from the applicants appeal they have stated 3 of the children are currently collected and dropped off by the applicant due to the parents being unable to drive, whilst I agree that this would not increase the traffic today there is no guarantee that future children under the applicants care would require this service, in the future, traffic flow could increase as result, this to me reinforces the transportation managers original decision.

The two adjacent parking spaces mentioned are not parking spaces, they form part of the road into a cul-de-sac (Eilean Donan Way) which is a single lane road, these spaces are required to ensure traffic can flow in and out safely without backing up onto Holyrood Drive.

In addition I have attached a copy of the deeds which are applicable to each property in the development. I refer you to section 3.1 Use, it states that "*the plot shall not be used for the carrying on therein of any trade, business or profession...*" an application to run a childminding business appears to oppose the deed of conditions. Section 3.4 Maintenance, this requires that "*the owner shall maintain the garden ground in front of the dwellinghouse on the plot in a neat and tidy state at all times*", hardcoring the front garden to make room for a car park of a business I feel contradicts this clause and will impact the design of the development, I also struggle to see how any necessary alterations could be made to the pavement to drop the kerbs in order to create a driveway.

DEED OF CONDITIONS

by

SPRINGFIELD PROPERTIES PLC

**Subjects: Birnie Road, Elgin
(Part of MOR8511)**

Kerr Stirling LLP
10 Albert Place
Stirling
FK8 2QL

ref AEM / CJM

CONTENTS

Clause	Page No
1 Definitions, Interpretation and Construction	3
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3 Restriction and Prohibitions	7
4 Maintenance	10
5 Insurance	11
6 Manager Burden	12
7 Servitudes	14
8 Disputes	17
9 Statutory Undertakers/Reservations	17

WE, SPRINGFIELD PROPERTIES PLC, incorporated under the Companies Acts (Registered Number SC031286) and having our Registered Office at Alexander Fleming House, 8 Southfield Drive, Elgin IV30 6GR proprietors of the Development as hereinafter defined CONSIDERING THAT we are about to develop the Development for residential units PROVIDE as follows:

1 Definitions, Interpretation and Construction

1.1 Definitions

In this Deed:

“Consent” means:-

In relation to any Plot, all consents required under the Planning Acts and where the Developer owns any Plot in the Development the written consent of the Developer.

“Developer” means:-

The said Springfield Properties PLC.

“Development” means:-

The subjects at Birnie Road, Elgin shown delineated by a red line on the Plan and forming part and portion of the larger subjects registered in the Land Register of Scotland under Title No. MOR8511.

“Development Common Property” means:-

all infrastructure and Service Media (so far as not adopted by statutory undertakers) and any facilities or services of common use to all the Plots in the Development including all roads, footpaths and cycle paths, the access to the sub-station shown coloured brown on the Plan; service strips so far as not included within individual Plots together with the open space, landscaped areas and play areas as shown coloured green on the Plan.

“Maintenance” means

Without limitation the repair and replacement, maintenance, restorations, upkeep, upholding, inspection, cleaning, painting and other routine works, gardening, landscaping, re-instatement of parts, altering levels, and the words “maintain” and “maintaining” shall be construed accordingly.

“Manager” means:-

the Developer or such organisation or person who may be appointed in accordance with the provisions of Condition 6 hereof.

“Manager Duties” means:-

- (a) Laying out a Maintenance schedule for the Development Common Property and Public Open Space (if any);
- (b) Ordering Maintenance repairs, decoration and other operations in respect of the Development Common Property and Public Open Space (if any);
- (c) Employing such gardeners, cleaners and other contractors as may be required for the Maintenance and preservation of the Development Common Property and Public Open Space (if any);
- (d) Fixing the amount of the annual maintenance charge to be paid by the Owners in terms of Condition 6, and if appropriate, the amount of any initial deposit required to be paid by Owners on purchasing a Plot;
- (e) Arranging collection on behalf of the Owners the said annual maintenance charge or initial deposit;
- (f) Arranging common insurance policies, if required;
- (g) Modifying or revoking any previous Maintenance schedule or work instructed or arrangements made.

“Mutual Property” means

- (a) Fences, walls or concrete edgings separating Plots which shall be deemed to be erected to the extent of one half on each Plot;
- (b) any common gable wall serving two dwellinghouses or garages which shall be deemed to be erected to the extent of one half on each Plot or garage solum (where garages are separate from Plots);
- (c) any other item of property common to two or more plots including but not restricted to the Private Road shown dotted purple on the Plan.

“Owner” means:-

at any time the Owner at any time of any Plot and where two or more persons own the Plot includes both or all of them.

“Plan” means:-

the plan annexed and executed as relative to this Deed of Conditions.

“Planning Acts” means:-

the Town and County Planning (Scotland) Act 1997, the Planning (Listed Building and Conservation Areas (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997, the Building (Scotland) Act 2003, the Planning (Scotland) Act 2006 and any other future or substitute legislation of a similar purpose or nature.

“Plot” means:-

any area of ground within the Development on which a single dwelling house and garage (if applicable) has been or is to be erected, declaring that where any Plot is bounded by the external site boundary of the Development or any Development Common Property or Public Open Space, the boundary enclosure shall lie entirely within the Plot boundary.

“Public Open Space” means:-

those areas to be laid out as public open spaces including play areas in accordance with the requirements of the Local Authority as indicated in green on the Plan.

“Service Media” means:-

all drains, cables, pipes, wires and other equipment, apparatus or plant relative to the supply or disposal of water, electricity, gas, drainage and telecommunications to or from the Plots.

“Service Strip” means:-

the area or conduit under or through which Service Media are led along the perimeter of the Plot shown coloured yellow and pink on the Plan.

“Visibility Splay” means:-

Any area designated as such by the Local Authority.

1.2 Interpretation and Construction

Save to the extent that the context or the express provisions otherwise requires, in this Deed of Conditions:

- 1.2.1 words importing any gender include all other genders;

- 1.2.2 words importing the singular number only include the plural number and *vice versa*;
- 1.2.3 words which import the whole are to be treated as including reference to any part of the whole;
- 1.2.4 where at any one time there are two or more persons included in the expression "Proprietor" obligations contained in this Deed of Conditions are binding jointly and severally on them;
- 1.2.5 words importing individuals include legal persons and *vice versa*;
- 1.2.6 references to this Deed of Conditions or to any other document are to be construed as reference to this Deed of Conditions or to that other document as modified, amended, varied, supplemented, assigned, novated or replaced from time to time;
- 1.2.7 any reference to a Condition is to the relevant Condition of this Deed of Conditions;
- 1.2.8 reference to any statute or statutory provision (including any subordinate legislation) includes any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended, extended, consolidated or replaced by the same, and includes any orders, legislation, instruments or other subordinate legislation made under the relevant statute or statutory provision;
- 1.2.9 any phrase introduced by the words "including", "include", "in particular" or any similar expression is to be construed as illustrative only and shall not be construed as limiting the generality of any preceding words.

1.3 Headings

The headings in this Deed of Conditions are included for convenience only and are to be ignored in its construction.

1.4 Exercise of rights conferred by this Deed

Any rights conferred on an Owner or the Manager by this Deed of Conditions may be validly exercised by any person duly authorised by such Owner or the Manager

respectively including its tenants, agents and tradesmen, but subject to any limitations or restrictions imposed upon such Owner or the Manager by this Deed.

2 Community Burdens

2.1 Creation

2.1.1 The conditions set out in Conditions 2 to 5 are imposed on the Plots in the Development as community burdens.

2.1.2 To the extent that the Developer is the Owner of any Plot, the conditions set out in Conditions 2 to 5 are real burdens in favour of such Plot.

2.1.3 Condition 6 is a manager burden.

2.2 Date of creation and application

The conditions imposed by this Deed of Conditions will take effect, in respect of a Plot, on the date of registration in the Land Register of Scotland of a disposition or other conveyance of that Plot in which the conditions in this Deed of Conditions are expressly stated to apply.

2.3 Lands Tribunal applications

No application may be made to the Lands Tribunal for Scotland under sections 90(1)(a)(i) and 91(1) of the Title Conditions (Scotland) Act 2003 in respect of the community burdens and servitudes created in this Deed for a period of five years after the date of registration of this Deed of Conditions in the Land Register of Scotland.

3 Restrictions and Prohibitions

3.1 Use

Each Plot is to be used solely for the construction of a single private dwellinghouse and relative garage, and the said dwellinghouse shall not be sub-divided or occupied by more than one family at a time. The Plot shall not be used for the carrying on therein of any trade, business or profession or for the selling of any goods or wares of any sort whether or not such use may be deemed incidental or natural to the

ordinary residential use of the Plot or whether any person occupying the same may have contractual right to use the same for or in connection with or arising out of any trade, business or profession notwithstanding any rule or law to the contrary; no board, card, plate or advertising notice of any kind shall be placed on the Plot except for the occasional sale or lease thereof; no power boats, marine craft or caravans, commercial vehicles or vehicles other than private motor cars, motor cycles or cycles shall be parked or stored in the open on the Plot or on any other part of the Development outside the Plot and no handicrafts carried on in the Plot nor shall anything be done on the Plot which may be deemed a nuisance or occasion disturbance to other Owners in the Development or the

3.2 Alterations

Other than as built by the Developer, or specifically authorised by the Developer where a Plot is sold prior to construction, no buildings on any Plot shall be built, altered, extended or rebuilt in any way until Consent has been obtained, and all such building, alterations, extensions or rebuilding shall conform to all terms of the Consent.

3.3 Boundary walls and fences

The Owner of each Plot shall be bound to maintain all boundary walls, fences or hedges bounding his Plot to the satisfaction of the Developer whilst they are Owner of any part of the Development and thereafter to the satisfaction of the Manager and shall free and relieve the Developer of all claims in respect of such walls and fences. No boundary walls or fences shall be added to or increased in height or altered in any way unless with Consent. No further boundary division, divisional or other walls or fences, shall be erected on the Plot in front of the building line at any time.

3.4 Maintenance

Each Owner shall maintain his Plot and the buildings thereon in a good tidy state of repair and decoration and take all appropriate steps either by himself or in conjunction with others to prevent damage to the fabric of the buildings on the Plot which may prejudice the stability thereof or create a nuisance to other Owners or their tenants and in particular, but without prejudice to the foregoing generality, by control of vermin and immediate treatment of any treatment of any dry rot or other form of rot or infestation which may be detected and the repair of any damage to water or other service pipes or wires; and any Owner shall, in the event of failure to take timeous and adequate measures to prevent and repair such damage or such

defect including notification to adjoining owners whose premises may be affected with a view to safe guarding their property, be liable for any damage caused thereby; each Owner shall maintain the garden ground in front of the dwellinghouse on the Plot in a neat and tidy state at all times

3.5 Painting

The external painting of any dwellinghouses or garages on the Plots including window surrounds, exteriors and all external doors shall be maintained in good condition at all times and in a colour scheme to match the colour of the paintwork as at the date of the first sale of the dwellinghouse by the Developer.

3.6 Garage/Parking Space

Each Owner shall be prohibited from using or permitting to be used any car parking space or garage located on the Plot or pertaining to the Plot (if separate from the Plot) for any purpose other than for the parking of private cars, motor cycles or cycles and from selling, leasing or disposing of said parking space or garage separately from the remainder of the Plot.

3.7 Prohibitions

- 3.7.1 Outwith the Plot, the parking of private motor cars, motor cycles or other vehicles shall not be permitted anywhere in the Development except either in designated parking spaces or, without causing an obstruction, on a roadway. No repairs to motor vehicles of any kind shall be carried out in any part of the Development other than repairs to the Owner's own vehicles within the curtilage of the Plot.
- 3.7.2 No rubbish bins or bags or any other form of refuse receptacle or any other articles of any nature shall be permitted to be left or deposited otherwise than in accordance with the regulations and recommendations of the Local Authority;
- 3.7.3 No clothes drying lines shall be attached to or suspended from any window in any house on a Plot or from any part of the exterior walls thereof;
- 3.7.4 The Owner is hereby expressly prohibited from keeping poultry, ducks, pigeons, rabbits, bees or other livestock or domestic animals (except for two cats or dogs or other indoor domestic pets) which prove a nuisance to adjoining Owners. The Developer, until they cease to be the Owner of any part of the Development and thereafter the Manager shall have the sole discretion to determine whether or not such livestock or domestic animals constitute a nuisance. No dog is permitted on the

Development Common Parts unless it is (a) on a lead and (b) accompanied by a responsible person. No dog must be allowed to foul any part of the Development;

3.7.5 No trees, shrubs or bushes shall be cut down, lopped, damaged or removed from any part of the Development unless the same have become dangerous or over grown and then only with Consent. The Owners shall be bound to maintain in good order all hedges, shrubbery and trees in the Development;

3.7.6 The playing of ball games shall not be permitted anywhere in the Development Common Parts except in designated play areas;

3.7.7 No buildings shall be erected over the line of any sewer or drain.

3.8 Service Strips

Where the Plot is affected by a Service Strip, the Owner shall not construct or have on the Service Strip or any part thereof any buildings, walls, fences or other structure whether permanent or temporary and shall not alter the level of the Service Strip or plant any trees, shrubs or plants thereon or otherwise impede access to the Service Strip. The Owner shall permit (a) the laying and maintenance of public utilities plant on the Service Strip for the full width of the Plot; (b) the maintenance of the kerbing ex adverso the front boundary of the Plot or garden ground including a right of access to the Service Strip at all times without notice for the purposes of maintaining, repairing, renewing or replacing the said kerbing; (c) the clearance of snow, slush or ice or the like from the roads at any time without notice and the deposit of such snow, slush, ice or the like and also any deposit of sand, salt and the like on the Service Strip.

3.9 Visibility Splays

Where the Plot is affected by a Visibility Splay, the Owner shall not erect, plant or allow within the Visibility Splay any fence, tree, shrub or other structure more than one metre in height, all to the satisfaction of the Local Authority.

4 Maintenance Obligations

4.1 Each Plot is burdened with an equal share along with all other Plots of the cost of upholding and maintaining in good repair the Development Common Property and any Public Open Space, and of the management and administration charges payable to the Manager.

- 4.2 Where any Owners has a common right any item of Mutual Property or a right in common to any item of property along with other Owners, each Owner shall be bound jointly to uphold and maintain in good order and repair the same in all time coming and in the event of damage or destruction, repair or renew the said property, each Plot paying an equal share along with the others having a common right of the cost of so doing;
- 4.3 Each Plot is burdened with an equal share along with all other Plots of the cost of upholding and maintaining the sewers, roads and footpaths forming part of the Development unless or until these are adopted by the local authority and each Owner shall allow the Developer or their contractors access to the Development after the sale of all of the Plots for the purposes of carrying out snagging works to any of the Plots and completing the access road or public open space or any other part of the Development.
- 4.4 The Owner of each Plot will be responsible for the whole cost of maintaining any boundary or fences or walls which do not separate the Plot from another Plot on the Development and for a one half share of the cost of maintaining any fences, walls or other boundary enclosures separating one Plot from another.

5 Insurance

- 5.1 Any dwellinghouse or other building on a Plot must be insured by the Owner with a reputable insurer for full re-instatement value.
- 5.2 Any building which is destroyed or damaged must be rebuilt or repaired by the Owner within two years from the date of damage or destruction occurring.
- 5.3 For the purposes of Clause 5.2 (a) the whole sum received from the Insurers must be expended on the rebuilding or repair; (b) the building must be restored to its previous design and dimensions and (c) the building must be restored at least to the value thereof immediately prior to such destruction or damage.

6 Manager Burden

The Development is subject to the following manager burden:-

- 6.1 At any time prior to the date upon which the Developer ceases to own any Plot within the Development, the Developer shall be entitled to appoint a Manager ("the Initial Manager") for a period ("the Initial Period") which will not exceed the date five years from the date of registration of this Deed in the Land Register.
- 6.2 The Manager shall carry out the Manager's Duties and/or such other duties or activities as authorised by the Developer or by a meeting of the Owners as aftermentioned.
- 6.3 Following the earliest to occur of (a) the expiry of the Initial Period, (b) the resignation of the Initial Manager, and (c) (in the case of no Initial Manger being appointed) the registration of a Disposition by the Developer to an individual Owner of the last Plot within the Development, the Owners may at a meeting convened as aftermentioned appoint a Manager or terminate the appointment of any Manager
- 6.4 The Manager or any of the Owners shall be entitled to call a meeting of all of the Owners within the Development to be held at such reasonably convenient time (except at weekends or on public holidays) and place as the Manager or the Owner or Owners convening the said meeting may determine on at least seven days written notice of the said meeting being given to all of the Owners, and at any meeting so convened, any of the Owners may be represented by a mandatory appointed by written mandate to attend, vote and act on behalf of the Owner or Owners granting the mandate. Where such a meeting is convened, the Owners of Fifty per cent (50%) of the Plots within the Development or the mandatory or mandatories of such Owners shall be a quorum. The Owners or their mandatories present at the said meeting shall be entitled to one vote for each Plot owned by them or their principal. In the event of any of the Plots being owned by two or more Owners, only one of those Owners shall be entitled to vote and in no case shall more than one vote be allowed in respect of each Plot.
- 6.5 A simple majority of those voting at any such meeting shall be entitled:-
 - 6.5.1 to order any Maintenance or other operations to be carried out to or on the Development Common Property and Public Open Space, and to carry out or order to be carried out the Manager's Duties;

- 6.5.2 to make any regulations considered necessary with regard to the Maintenance, use or enjoyment of the Development Common Property (including without prejudice to the foregoing generality provisions for the determination and collection of the annual maintenance charge specified in 6.7 hereof);
- 6.5.3 to delegate to the Manager full right, power and authority to take charge of all matters pertaining to the Manager's Duties, including the power to employ others to undertake to carry out the said Duties, as if the said right, power and authority had been exercised by a simply majority vote at such a meeting;
- 6.5.4 to enforce the provisions of this Deed;
- 6.5.5 to vary or discharge the said provisions, subject to the requirement in Condition 2.3.1 hereof;
- 6.5.6 to exercise any of the mutual servitudes referred to in Condition 7 hereof;
- 6.5.7 to dismiss any Manager (except that it shall not be permitted to dismiss the Initial Manager until after the expiry of the Initial Period) and to appoint such Manager as the meeting may approve;
- 6.6 At any such meeting, the decision of a simply majority of these present and noting as aforesaid shall be binding on all the Owners within the Development, whether consentors thereto or not, subject to there being a quorum present.
- 6.7 Each Owner shall pay to the Manager an annual maintenance charge (to cover all Maintenance expenses and charges and the Manager's remuneration) to be reasonably determined by the Manager or by a meeting of the Owners convened as aforesaid, said charge to be paid to the Manager at such times and in such manner as requested by him, and to be applied by the Manager towards the Owner's liability for his share of any expenses, charges and remuneration due in terms of this Deed. If in any year the annual maintenance charge exceed Owner's liability for his share of such expenses, charges and remuneration, the excess may be held by the Manager as an advance payment for liability in subsequent years. All sums held by the Manager in respect of the Development are held by him in trust for the Owners.
- 6.8 The Manager shall, at least once a year, make available to a meeting of the Owners convened as aforesaid a full and vouched statement of account (in arrears) of his intromissions or shall make such statement available by post or at his place of business to each Owner.

- 6.9 Where any Owner sells or disposes of his Plot, he shall notify the Manager within 14 days the Date of Entry of the new Owner, regarding the date of sale or disposal and the identity of the new Owner.

7 Servitudes

The rights in this Condition are servitudes imposed on the relevant burdened properties in favour of the relevant benefited properties

7.1 Community Servitudes

7.1.1 For the purposes of this Condition 7.1:

- (i) the burdened property is the Development, and
- (ii) each Plot is a benefited property.

7.1.2 The following servitudes are imposed on the Development in favour of each Plot:

- (i) a right of access for pedestrian and vehicular traffic (including construction traffic) over all roads, footpaths, lanes, cycle lanes or paths, parking spaces and service strip within the Development, other than those situated within any Plot;
- (ii) a right of access over, and use of, (including a right to erect scaffolding) any other Plot for the purpose of inspecting, cleaning, repairing and renewing any building, wall, fence or other structure erected on a Plot;
- (iii) a right of access over, and use of, (including a right to erect scaffolding) any other Plot for the purpose of inspecting, cleaning, repairing and renewing the Service Media serving a Plot.
- (iv) a right to use for the purpose of servicing each Plot, the Service Media serving the Development.
- (v) a right of wayleave in respect of any gutter, eaves, downpipe or surface water drain serving a Plot which over hangs or lies on another Plot.

7.2 Development Servitudes

7.2.1 For the purposes of this Condition 7.2:

- (i) the burdened property is the Development,
- (ii) each Plot is a benefited property, and

7.2.2 The following servitudes are imposed on the Development in favour of each Plot:

- (i) a right to lead pipes, cables, wires or other enclosed units over or under the Development for sewage, electricity, gas, water and all other necessary purposes;
- (ii) a right to install, construct and lay drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units and to connect into such drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units as already exist or are installed by virtue of Condition 7.2.2(i), and
- (iii) a right to carry out all necessary acts of inspection, maintenance and renewal in respect of such drains, sewers, electric cables, gas and water mains, and other pipes, cables and enclosed units;
- (iv) a right of access for pedestrian and vehicular traffic (including construction traffic) over all roads, footpaths, lanes, cycle lanes or paths, parking spaces and service strip within the Development, including a right to form, construct, re-design, and re-align the roads, footpaths, cycle lanes or paths, parking spaces and lanes.

7.2.3 The rights conferred by this Condition 7.2 may be exercised in respect of any current or future development of the benefited property under this Condition 7.2.

7.2.4 Except for the right granted by Condition 7.2.2(i), the rights conferred by Condition 7.2 are extinguished in respect of any part of the benefited property when that part ceases to be owned by the Developer.

7.3 Building Servitudes

7.3.1 For the purposes of this Condition 7.3:

- (i) each Plot is a burdened property, and
- (ii) the benefited property is the Development

7.3.2 The following servitudes are imposed as servitudes on each Plot in favour of the Development:

- (i) a right of access (including a right to erect scaffolding) for the purpose of the erection of a building or other structure on any other Plot.
- (ii) a right to move or remove any part or parts of any boundary wall or fence, and to re-position any boundary wall or fence to coincide with the title plans.

7.3.3 The rights conferred by this clause are extinguished in respect of any part of the benefited property when that part ceases to be owned by the Developer.

7.4 Exercise of servitude rights

7.4.1 The parties exercising the rights and obligations contained in Conditions 7.1, 7.2 and 7.3 will:

- (i) except when exercising the rights contained in 7.1.2 (i), (iv) and (v) give reasonable prior written notice to the relevant Owners or the Developer (except in an emergency);
- (ii) exercise the rights at reasonable times and in a reasonable manner;
- (iii) keep any disturbance and interference to a minimum; and
- (iv) make good all physical damage caused to the Development, or the Plots to the reasonable satisfaction of the affected Owners or the Developer as soon as reasonably practicable.

- 7.4.2 The rights contained in Conditions 7.1, 7.2 and 7.3 may be exercised only where it is reasonably necessary for the purpose in question.

8 Disputes

Any questions disputes or differences which may arise among any of the Owners shall, failing agreement, be referred to an arbiter jointly appointed by the parties or failing agreement by an arbiter to be appointed at the request of any party by the Chairman for the time being of the Scottish Branch of the Royal Institution of Chartered Surveyors in respect of practical matters relating to the Development, or by the President of the Law Society of Scotland in respect of legal matters relating to the Development or this Deed of Conditions, and the decision of such arbiter shall be binding upon the parties who shall each bear their own costs in respect of any such determination. The application of Section 3 of the Administration of Justice (Scotland) Act 1972 is expressly excluded.


9 Statutory Undertakers/Reservations

- 9.1 There are reserved in favour of the local or public authorities and statutory undertakers and the like all necessary rights of access for the installation, repair, maintenance, cleaning and renewal of all electric and telegraphic cables, water, gas and drainage pipes, sewers, soil, waste and water supply pipes and all other cables, pipes and transmitters and other services serving the Plots in the Development in, through and under any part of the Development provided that such rights may be exercised by any local or public authority or statutory undertaker without any liability on the part of us or our successors, and none of the Owners will have any claim against the Developer.

- 9.2 There is reserved to the Developer full power to make whatever alterations and deviations they may consider proper, including the right to depart entirely from the plans of the Development and to dispose of any part of the Development for such purposes as they may think fit and the Owners shall have no right in title to object and shall have no claim in respect thereof:

IN WITNESS WHEREOF these presents consisting of this and the seventeen preceding pages together with the Plan annexed and executed as relative hereto are subscribed as follows:-

Signed for and on behalf of the said Springfield Properties PLC

At <u>STIRLING</u>	<u>Louisa Gardiner</u>Witness
On the <u>11TH</u>	<u>LOUISA GARDINER</u> Full Name
Day of <u>SEPTEMBER</u>	<u>10 ALBERT PLACE</u> Address
Two Thousand and Thirteen	<u>STIRLING FK8 2QL</u>
	<u>PARALEGAL</u>Occupation
Colin James Mackenzie As Attorney for Springfield Properties PLC	



ENVIRONMENTAL SERVICES

Diane Anderson

Senior Engineer

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Our reference: DA/LRB212

Your reference: LR/LR212

Chief Legal Officer
Per Ms L Rowan
Committee Services
The Moray Council
High Street
ELGIN
IV30 1BX

07 September 2018

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

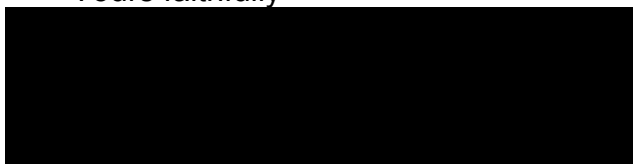
**REQUEST FOR REVIEW: PLANNING APPLICATION PLANNING APPLICATION 18/00542/APP –
OPERATE CHILDMINDING BUSINESS FROM DWELLING AT 6 HOLYROOD DRIVE, ELGIN, IV30 8TP**

I refer to your letter dated 17 August 2018.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully



Diane Anderson
Senior Engineer

Local Review

LRB Ref 212

Planning Application Reference 18/00542/APP Operate childminding business from dwelling at 6 Holyrood Drive, Elgin, Moray, IV30 8TP

Response from Transportation, Moray Council

1. This document is in response to the Notice of Review and the Statement of Case submitted on behalf of Tracy Ritchie childminder and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 18/00542/APP to operate childminding business from dwelling at 6 Holyrood Drive, which is within the new 'Duncansfield' development to the south of Elgin. Holyrood Drive forms part of the main access route from the A941 in and out of the 'Duncansfield' development and serves the majority of houses within the development. In future the road will also connect through to the adjacent 'The Range' development to the west, which is currently under construction.
3. 6 Holyrood Drive is a three bedroom house with one single 'on-plot' parking space (driveway) available at the property.
4. Planning application 18/00542/APP sought to increase the maximum number of children cared for at any one time by the childminding business from six to nine. Currently the appellant employs one assistant which would increase to two assistants to care for the increased number of children.
5. The Appellant's statement suggests that the increase in the number of children is reduced. However this is new information, not available at the time of the application, and has not been considered as part of the Transportation response.
6. Transportation received the consultation for planning application 18/00542/APP on 01 May 2018. Site visits were undertaken both during day and at morning peak period. Site Photographs are attached (**TMC01**).
7. 6 Holyrood Drive is a recently constructed house in the 'Duncansfield' development. The approved layout plan for this development showed two parking spaces for the house, one on a driveway and one within a garage. This provision met the Moray Council Parking Standards of two parking spaces for a three bedroom house.
8. In 2014 an informal determination was sought regarding the conversion of the integral garage to an additional room. The Planning department's response to this enquiry highlighted that the requirement to provide parking to the Moray Council Parking Standards at the property would still apply to the property. A copy of the response to the informal determination enquiry is attached (**TMC02**).
9. Moray Council Parking Standards for Day Nursery are 1.2 spaces per staff member (and consideration of a safe pick up/drop off zone). Therefore the proposed increase in the number of children and staff would require additional parking for members of staff, as set out in the Transportation consultation response dated 25 June 2018 (**TMC03**).
10. As there is only one parking space available for use by the house, additional parking provision of three on-plot parking spaces would be required (four in total) for the house and the staff employed by the child minding business.

Local Review

LRB Ref 212

Planning Application Reference 18/00542/APP Operate childminding business from dwelling at 6 Holyrood Drive, Elgin, Moray, IV30 8TP

11. The appellant states that two cars can currently be accommodated within the driveway and a further two cars could be accommodated within the garden ground. However this proposal would compromise the provision of an accessible parking space at the property (which is wider than the standard 2.5 metres) and the provision of a level access route to the front door of the property, both of which are required to meet Building Regulations.
12. There would appear to be scope to provide only one additional parking space within the garden ground to the north of the footpath whilst retaining access to the front door. Additionally there may be road drainage implications associated with provision of additional drop kerbs at this particular location. The provision of two parking spaces would only meet Moray Council Parking Standards associated with the residential dwelling alone.
13. The availability of on-street parking within the vicinity of 6 Holyrood Drive is very limited. The property is in close proximity to three road junctions, Culzean Road/Holyrood Drive, Holyrood Drive/Eilean Donan Way and Holyrood Drive/Crathes Court and there are a number of driveways for adjacent properties.
14. Rule 243 of the Highway Code states:

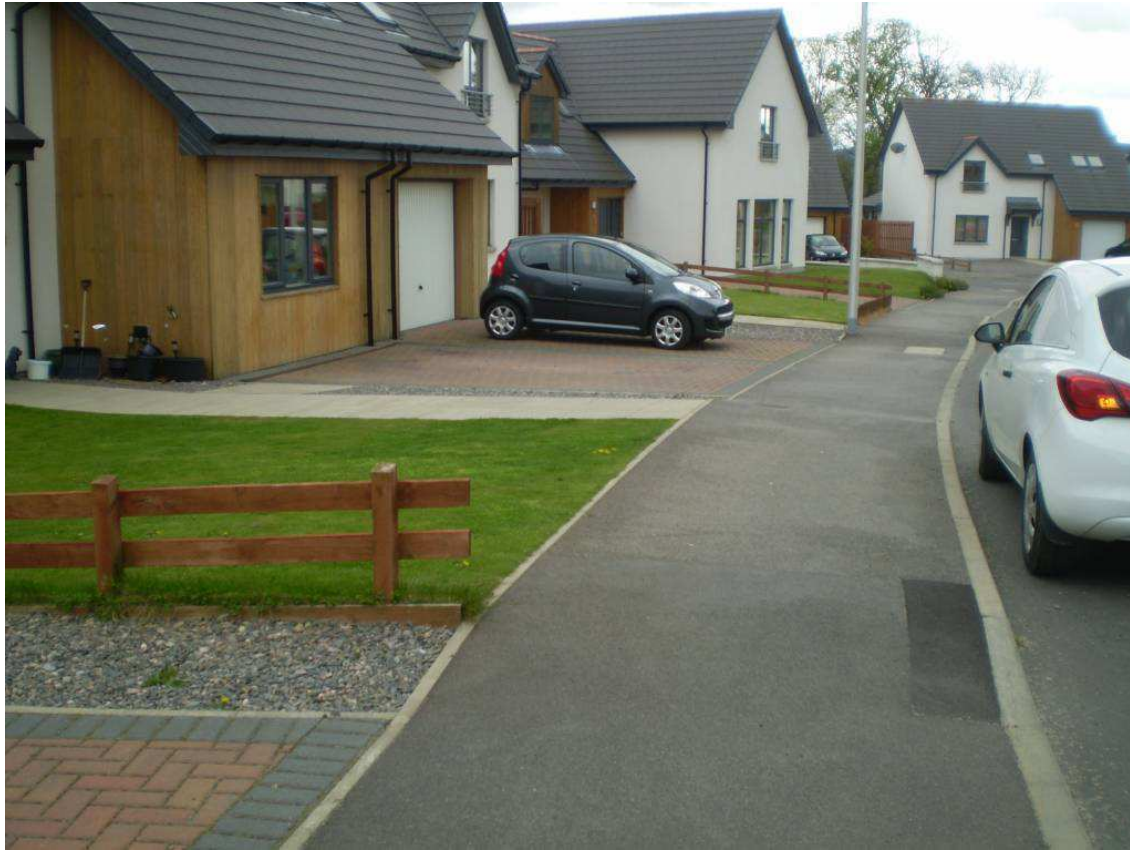
*‘Do not stop or park
.... opposite or within 10 metres (32 feet) of a junction, except in an authorised parking space.....
.... in front of an entrance to a property.....’*
15. The on-street areas in close proximity to the property where this rule would apply are shown on the attached Moray Council Drawing (**TMC04**). Even with the provision of an additional parking space, the lack of provision of on-plot parking for staff, and a dedicated drop off/pick up area will result in an increased demand for on-street parking which would be likely to lead to indiscriminate parking behaviour to the detriment of road safety.
16. Transportation, respectfully, requests the MLRB to uphold the decision by the appointed officer on the grounds that the proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5.

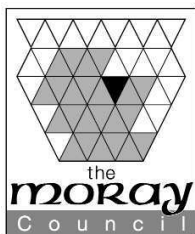
Transportation
7 September 2018

Documents

TMC01	Site Photographs
TMC02	14/00850/ID Planning Consultation response dated 03 July 2014
TMC03	18/00542/APP Transportation Consultation Planning Response 25 June 2018
TMC04	Holyrood Drive On-Street Parking

LR 212 – APPENDIX TMC01





DEVELOPMENT SERVICES

Keith Henderson

Planning Assistant

The Moray Council

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Telephone: 01343 563614 Fax: 01343 563990

Harris Caprock

E-mail: keith.henderson@moray.gov.uk

Website: www.moray.gov.uk

Email: gsustins@harris.com

Your reference:

Our reference: 14/00850/ID KH/RS

3 July 2014

Dear Sir

Convert garage to living room at 6 Holyrood Drive Elgin Moray IV30 8TP

I refer to your enquiry regarding planning approval for the above and advise you that on the basis of the information supplied your proposals are permitted development under the Town & Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, Schedule 1, Part 1, Class 2B. As a result no formal planning application requires to be submitted on this occasion.

Please note however that conditions attached to the planning permission for this property also apply and require the provision of parking within the house plot i.e. 2 spaces for a property of up to 3-bedrooms and 3 spaces from a property of 4 or more bedrooms and you should ensure that the requirements for parking continue to be met at all times.

With reference to the above, if your proposals are altered in any way, you should contact Development Control, Development Services, of this Department as soon as possible, in order that the planning position can be confirmed.

Please contact the Building Standards Duty Officer in order to ascertain whether a Building Warrant will be required for these proposals.

A duty officer is available each week day afternoon for consultation at the Access Point, Council Office, Elgin between 2pm and 4pm or telephone the duty officer on 01343 563243. No appointment is necessary.

I have retained a copy of your plans for record purposes.

Yours faithfully



Keith Henderson
Planning Assistant

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	15th May 2018
Planning Authority Reference	18/00542/APP
Nature of Proposal (Description)	Operate childminding business from dwelling at
Site	6 Holyrood Drive Elgin Moray IV30 8TP
Site Postcode	N/A
Site Gazetteer UPRN	000133066811
Proposal Location Easting	322194
Proposal Location Northing	860859
Area of application site (Ha)	350 m²
Additional Comment	See letter regarding operation of business
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P7GZBRBGLSF00
Previous Application	14/00850/ID 10/02115/APP
Date of Consultation	1st May 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Tracy Ritchie Childminder
Applicant Organisation Name	
Applicant Address	6 Holyrood Drive Elgin Moray IV308TP
Agent Name	
Agent Organisation Name	
Agent Address	
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Joe Taylor
Case Officer Phone number	01343 563082
Case Officer email address	joe.taylor@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.

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 18/00542/APP

Operate childminding business from dwelling at 6 Holyrood Drive Elgin Moray IV30 8TP for Tracy Ritchie Childminder

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

Please

- | | | |
|-----|-----------------------------------------------------------------------------------------------------------------------|--------------------------|
| (a) | I OBJECT to the application for the reason(s) as stated below | x |
| (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 type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below | <input type="checkbox"/> |

Note: This further - revised response has been provided on the basis of further information relating to the staffing element for this proposal.

The following parking standards apply to the proposed development:

- For residential dwellings 2no Parking spaces for a dwelling with 3 bedrooms or less, and 3no parking spaces for a dwelling with 4 bedrooms or more.*
- For 'Day Nursery' 1.2 spaces per staff member, plus consideration of a pick up/drop off zone.*

The introduction of additional staff for this proposal means that additional parking provision would be required. There is scope within the site to provide one additional parking space. However as this a three bed dwelling with only one current parking space (previous garage was converted to living space) the addition of a new parking space would only bring up the total parking provision to 2 spaces which would meet the requirements for the dwelling but not for the proposed development (ie no additional parking space for staff). There is no scope to provide more than one single additional parking space within the site.

Due to the existing vehicular access arrangements for the adjacent properties (dropped kerbs at driveways) there would appear to be very limited opportunity for suitable on-street parking outside the site, and as a result this proposal would likely result in inconsiderate parking behaviour (parking over the footway/ blocking driveways etc).

Reason(s) for objection

The proposal does not incorporate adequate on-site vehicular parking facilities to meet the Moray Council Parking Standards and is contrary to Policy T5, and as a result would also

be likely to lead to an undesirable increase in on-street parking to the detriment of road safety.

Contact: DA/AG

Date 25 June 2018

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

Consultee: TRANSPORTATION

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://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.

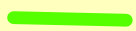
LR 212 APPENDIX TMC 04 - HOLYROOD DRIVE ON STREET PARKING



LEGEND



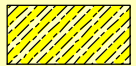
SITE



PARKED VEHICLES PREVENT DRIVEWAY ACCESS



PARKED VEHICLES AFFECT OPERATION OF JUNCTION



EXISTING DRIVEWAYS



GARDEN GROUND



PATHWAY

6 HOLYROOD DRIVE ELGIN

Reproduced from the Ordnance Survey map with the permission
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APPENDIX 4

APPLICANT'S RESPONSE TO FURTHER REPRESENTATIONS

Tracy Ritchie
6 Holyrood Drive
Elgin
IV30 8TP
19th September 2018

Chief Legal Officer
Per Ms L Rowan
Committee Services
The Moray Council
High Street
ELGIN
IV30 1BX

Dear Lissa

In response to the recent notification you sent to me via email I have been in touch with Springfield and they have no objection to me running my childminding business from my house I have attached an email from them as proof provided to me by them following my discussions. I have also attached emails from my neighbour directly opposite me and one from my neighbour directly out the back of me who have quite clearly stated no objection and I feel some very valuable points have been put across by both regarding parking issues that the Moray Council may see as an issue that none of us can.

As a childminder I offer home care for people's children most of which come are 2 children per family. Any children who are dropped off are quite literally dropped off outside my house thus being there no more than 10 mins at a time also any parents that do drop off are asked to be mindful of my neighbours and not block their access. I do not run as a nursery where children all arrive at the same time all children I care for come at different times of the day to suit their parents work schedule.

Regarding me creating more parking I think I have been misunderstood my plan would have been to do what my neighbour across from me has done and dig up grass and put down gravel in keeping with the rest of the street. This would be where my car and my assistant's car would be parked throughout the day thus leaving my driveway clear for parents to safely drop off and collect their children.

I also would like to point out that I don't understand why the transport department changed their mind on their decision because when I was tracking the progress of my application they had marked it as not having any objection then they changed their mind and removed this from my file I would like an explanation as to why this happened.

Typical Day to highlight when children are dropped off and collected at my house

7.30am	child 1 arrives (parent)
8.10am	child 2 arrives (parent)
11.00am	child 2 is dropped home (by me)
11.30am	child 3 Collected from nursery (by me)
12.00am	Child 4 Collected from nursery (by me)
1430pm	Child 4 Dropped home (by me)
1500pm	Child 5 Collected from school (by me)
1700pm	Child 3 and 5 Dropped Home (by me)
1730pm	Child 1 Collected (by Parent)

I can't see where this causes an issue for transport as this is based on one of my busiest days at the moment.

I am more than happy to arrange for someone from council to come to my house at a suitable time to us both to observe the comings and goings.

I hope this explains things a bit clearer

Tracy Ritchie

From: Andrew Todd Andrew.Todd@springfield.co.uk
Subject: 6 Holyrood Drive Elgin
Date: 14 Sep 2018 at 13:13:37
To: tslritchie13@talktalk.net

Hi,

As discussed, I can confirm on behalf of Springfield Properties plc that we have no objection to you using your home for a childminding business and will not raise any action in respect of this under the title deeds for this property.

Kind regards

Andy

(confirmed in capacity as company secretary of Springfield Properties plc)

Andrew Todd

Group Director - General Counsel

T 01324 555536

E andrew.todd@springfield.co.uk



Larbert Office

Springfield Properties PLC, Springfield House, 3 Central Park Avenue, Larbert, FK5 4RX
T 01324 555536 F 01324 574891 www.springfield.co.uk E larbert@springfield.co.uk

Elgin Office

Springfield Properties PLC, Alexander Fleming House, 8 Southfield Drive, Elgin, Moray, IV30 6GR
T 01343 552550 F 01343 551776 www.springfield.co.uk E info@springfield.co.uk



From: Lynn Alsamarraie [REDACTED]
Subject: Council Lynns letter.
Date: 13 Sep 2018 at 17:30:42
To: [REDACTED]

To whom it may concern. I Lynn Alsamarraie live at 7 Crathes Court Elgin , IV308TR. Would like to reassure the council that as my garden backs on to Tracey Ritchie's Garden I have no qualms with Tracey running her child care business from her address. The children are only their through out the day when most people are at work, and not at the weekend. And it is no different to having a large family living next door. Personally I can't see any problem .

Kind regards

Lynn Alsamarraie .

1 Holyrood Drive
Elgin
Moray
IV308TP
15.09.2018

To whom it may concern,

We would like it to be noted that we have absolutely no issue with a childminding business being run in our street by Tracy Ritchie.

Living directly opposite number 6, we have never had any issues regarding parking of cars. Pick ups and drop off times fall well within working hours during the day, and these pick ups and drop offs are brief. Parents never block our drive and are respectful of where residents usually park their own vehicles.

Likewise, we have had absolutely no issues with noise from the children attending for childminding.

As a working parents ourselves, we know that home childminders (like Tracy) are invaluable to facilitate parents returning to work.

Yours sincerely

Morag and Steven Reid



APPENDIX 5

RESPONSE TO REQUEST FOR FURTHER INFORMATION

Local Review

LRB Ref 212

Planning Application Reference 18/00542/APP Operate childminding business from dwelling at 6 Holyrood Drive, Elgin, Moray, IV30 8TP

Response from Transportation, Moray Council

1. This document is in response to the Letter from the Clerk to the Moray Local Review Board dated 29 October 2018 seeking further information with regard to a statement on traffic generation contained within the Report of Handling for planning application 18/00542/APP to operate childminding business from dwelling at 6 Holyrood Drive.
2. The Transportation Planning Consultation Response (dated 25 June 2018) objected to the proposal on the basis that it does not incorporate adequate on-site vehicular parking facilities contrary to Policy T5, and as a consequence would result in an increased demand for on-street parking which would be likely to lead to indiscriminate parking behaviour to the detriment of road safety. Additional supportive information was included within Transportation's subsequent response to the Local Review dated 7 September 2018.
3. This request for additional information relates to the following statement by the Planning Officer and seeks clarification of the basis of the calculated assessment of vehicle movements:

"Caring for nine children and two assistants could generate up to 22 additional vehicle movements associated with this house"

4. The Planning Officer's assessment of the number of associated trips appears to have been on the basis of:

11 people (2 staff + 9 children)

x 2 trips per day (drop off/ pick up) each by separate vehicle

= total 22 trips (11 x 2).

Although described as "*additional*" this figure would in fact equate to the **total** number of trips associated with the child minding business, rather than relating to the **additional** number of trips (ie associated with the proposed increase in the number of children being looked after and additional staff).

5. As stated previously Transportation objected to the proposal on the basis of there being insufficient parking provision, and not the associated increase in (or total) number of vehicle trips. For the purpose of clarity Transportations calculation of **additional** trips would be the following:

4 People (1 new staff + 3 new children)

x 4 trips per day (Drop off Arrive and depart, Pick up arrive and depart) each by separate vehicle

= total 16 additional trips (4 x 4).

Transportation
30 October 2018

Lissa Rowan

From: Tracy Ritchie [REDACTED]
Sent: 29 October 2018 10:31
To: Lissa Rowan
Subject: Re: Notice of Review: Planning Application 18/00542/APP

Hi Lissa

In response to notice of review.

I only have one assistant. [REDACTED]

[REDACTED] hope this helps and clarifies things

Many thanks

Tracy Ritchie

Sent from my iPad

On 29 Oct 2018, at 09:42, Lissa Rowan <Lissa.Rowan@moray.gov.uk> wrote:

Good morning

Please find attached correspondence in relation to the above Notice of Review.

Kind regards

Lissa

Lissa Rowan | Committee Services Officer | Legal and Democratic Services

lissa.rowan@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)

01343 563015