

From: Peter Stanworth <peter.stanworth@aberdeenshire.gov.uk>
Sent: Monday, February 19, 2024 11:33 AM
To: Local Review Body Submissions <localreviewbodysubmissions@aberdeenshire.gov.uk>
Cc: Gayle Buchan <gayle.buchan@aberdeenshire.gov.uk>; Michal Cieslewicz <michal.cieslewicz@aberdeenshire.gov.uk>
Subject: APP/2018/1279 review

Good morning,

I have considered my predecessors original reply which I have attached, I agree with the decisions that Lesley made at the time. If however you have any further questions or require any more information or advice, please contact me directly.

The only difference from the time of the original application is that we now collect three waste streams Waste, Black bin. Paper & card, Blue bin and Cans and plastic containers, Orange bin. So adequate storage would be required. I have also attached the dimensions for our current collection vehicles.

Thank you for submitting your intentions for my attention.

Kind Regards

P Stanworth

Peter Stanworth

Waste Services Leader
Infrastructure Services
Aberdeenshire South

Tel 01467 533445
Mob 07570 951096

Peter.stanworth@aberdeenshire.gov.uk



Our Ref:
Your Ref: APP/2018/1279

Infrastructure Services

Waste Management

Unit 7 Harlaw Way

Harlaw Industrial Estate

Inverurie

Aberdeenshire

AB51 4SG

Tel 03456 08 12 07

Fax

www.aberdeenshire.gov.uk

Please ask for: Lesley Forrest
Direct Dial: 01467 536662

Date: 29/06/2018

If you have difficulty reading this document please contact Lesley Forrest on 01467 536662

Dear Sir/Madam

Proposal: Full Planning Permission for Erection of Children's Day Care Nursery (Class 10 Non-Residential Institutions), Erection of Children's Workshop, Formation of Wildlife Pond and Erection of Dwellinghouse Address: Land Adjacent To Rothnick Croft, Netherley, Stonehaven, Aberdeenshire, AB39 3QU Grid Reference: 387228.795779

Thank you for submitting the Planning Application to my service for review and comment.

Waste management has no objection subject to the following conditions being met and the proposed layout being designed to the satisfaction of Roads Development.

The lorry travels from West to East therefore can the bin store please be built on the left side of the road entrance bell-mouth (as you look at the property from the road). That way, when the lorry pulls in the bins are naturally to the rear of the lorry for safe emptying.

The bins will need to be enclosed on at least 3 sides to prevent them from escaping onto the road and situated behind the visibility splay in accordance with Roads Management requirements.

Access

In all cases, vehicular access is of paramount importance. Collection vehicles are generally Large Goods Vehicles (LGV) of approximately 10 metres in length and require adequate space to manoeuvre. They have a turning circle of 21.5 metres diameter. Where possible the need for these large vehicles to reverse should be negated/minimised. Refuse vehicles should in any case not be required to reverse for a distance greater than 12 metres in accordance with British Standard 5906:2005.



It should be noted that where vehicles are expected to access a private development the road surface should be constructed of adequate quality to withhold the weight of vehicles up to 32 tonnes Gross Vehicle Weight.

The Council will also not take responsibility for fair wear and tear where access into private developments is requested. In the event that a private road falls below an acceptable standard or that access becomes difficult for any reason for refuse/recycling vehicles the collection point will revert to the nearest public road. Documents outlining the dimensions including turning circles of the refuse collection vehicles currently in service are attached to this letter.

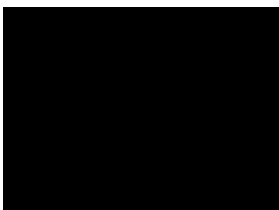
Commercial Developments

It is difficult to assess the needs of any commercial development before it is occupied but space should be designated for storage of waste/recycling containers bearing in mind that some establishments may use large industrial type skips. If there is a likelihood of any food premise being installed then it should be noted that this type of business usually generates significant volumes of waste. It is desirable for commercial premises to have some indoor space allocated for storage of waste or recyclables. Outdoor bin storage should be enclosed on 3 sides to prevent receptacles from moving away from their storage points.

All businesses will be affected by the new Waste (Scotland) Regulations 2012 and we recommend that applicants for commercial developments familiarise themselves with these, more information can be found here:

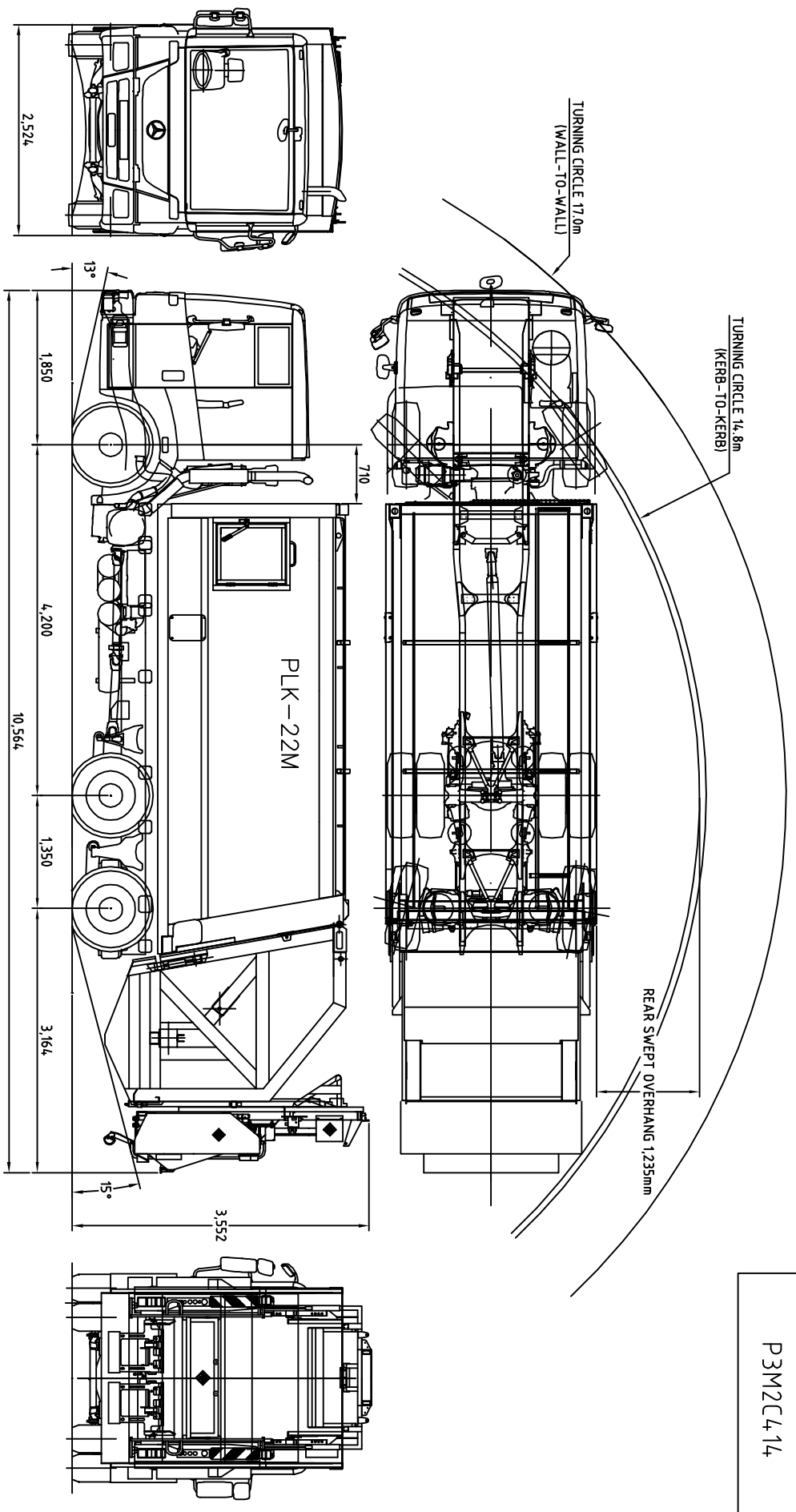
http://www.sepa.org.uk/waste/moving_towards_zero_waste/zero_waste_regulations.aspx

Yours Faithfully



Lesley Forrest
Support Leader

attachments:
Mercedes Econic Turning Circles
Mercedes Econic Front and Rear Plan



CHASSIS: MERCEDES-BENZ
 MODEL: ECONIC EURO 5 2629LL 6x2 REAR-STEER
 CAB: 4 MAN CREW
 WHEELBASE: 4,200mm + 1350mm

BODY: POWERLINK 22M
 HOIST: OTTO CONTINENTAL

TOLERANCES
 UNLESS OTHERWISE SPECIFIED:
 LINEAR (mm)
 X = ± 1
 XX = ± 0.1
 LINEAR (inches)
 .XX = ± .06
 .XXX = ± .030
 ANGULAR = ± 1'

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DIVISION: E
 CODE: —

UNITS: THE HEIL CO. DUNFERMLINE, SCOTLAND

TITLE: POWERLINK 22M / OTTO CONTINENTAL
 ECONIC EURO 5 6x2 RS 4200mm W/B

REV.	—	FIRST ISSUE	24/06/13	CJF	ECO No.
	WAS				

MATERIAL: DATE: 24/06/13 SCALE: NTS

DRAWN BY: CJF PART No. P3M2C414

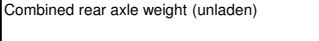
CHASSIS:- MERCEDES ECONIC 2630LL EURO 6 6X2 REAR-STEER 4500mm W/B 1350mm BOGIE
 BODY TYPE:- POWERLINK 16
 TAILGATE:- OPTIMISED
 HOIST:- TERBERG OMNIDEL
 DRAWING:- H1M2C605 Rev0
 DENSITY:- 600 kg/cu.m (COMPACTOR BODY)
 DENSITY:- 500 kg/cu.m (POD BODY)

POD:- 5M POD
 LOAD CELLS:- NOT FITTED
 REVISION:- 0

CHASSIS SPECIFICATION:-
 Permitted (plated) Loading per axle

AXLE 1 -	8000	kg		19000 kg 26000 kg
AXLE 2 -	11500	kg		
AXLE 3 -	7500	kg		
			Total Permitted (plated) GVW	

UNLADEN CHASSIS:-
 Weight of chassis per axle

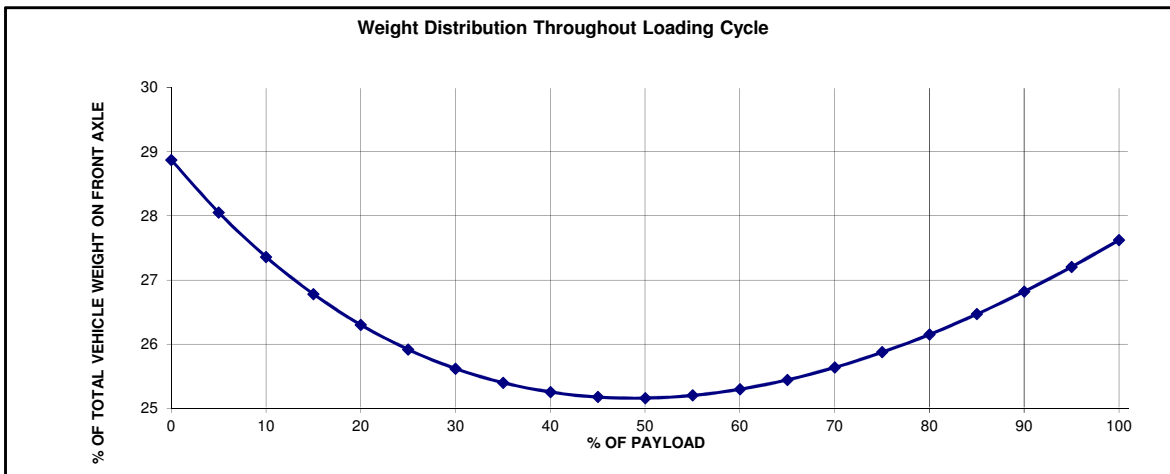
AXLE 1 -	4440	kg		3090 kg
AXLE 2 -	2200	kg		
AXLE 3 -	890	kg		

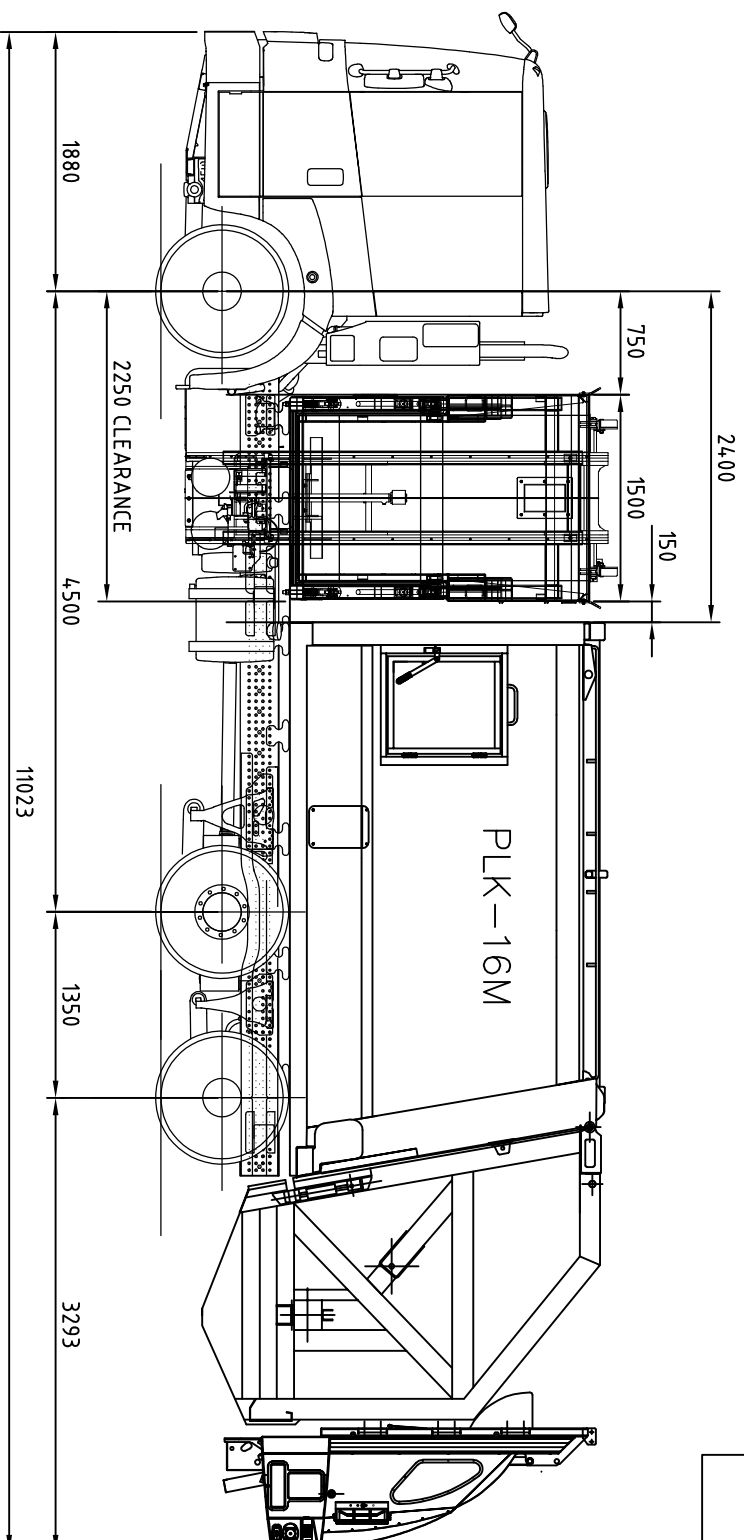
WEIGHT OF BODY :- 5195 kg
 CoG OF BODY:- 3366 mm
 CoG PAYLOAD:- 2257 mm
 MOUNT POSITION:- 2400 mm
 WEIGHT OF HOIST:- 595 kg
 CoG OF HOIST:- 6080 mm
 WEIGHT OF TAILGATE:- 0 kg
 CoG OF TAILGATE:- 0 mm
 WEIGHT OF EJECTOR PLATE:- 395 kg
 CoG OF EJECTOR PLATE (RETRACTED):- 300 mm
 WEIGHT OF RECYCLING POD:- 1750 kg
 CoG OF RECYCLING POD:- 1500 mm
 WEIGHT OF RECYCLED MATERIAL:- 2500 kg
 CoG OF RECYCLED MATERIAL:- 1500 mm
 WEIGHT OF DRIVER:- 80 kg
 CoG OF DRIVER:- 0 mm
 WEIGHT OF EJECTOR CYLINDER 160 kg
 CoG OF EJECTOR CYLINDER (RETRACTED):- 200 mm
 DIMENSION AXLE 1 TO AXLE 2 4500 mm
 DIMENSION AXLE 1 TO AXLE 3 5850 mm

NOTE:
 Mount Position is from front of body
 to centre of front wheel

NOTE: Recycling Pod full

	FRONT AXLE	REAR AXLE	TOTAL	FRONT AXLE %	REAR AXLE %
CHASSIS	4440	3090	7530		
BODY & TAILGATE	-757	5952	5195		
PRIMARY HOIST	-408	1003	595		
TAILGATE	0	0	0		
EJECTOR PLATE	183	212	395		
RECYCLING POD	1228	522	1750		
RECYCLED MATERIAL	0	0	0		
DRIVER	80	0	80		
EJECTOR CYLINDER	77	83	160		
UNLADEN WEIGHT (EJECTOR RETRACTED)	4845	10860	15705	30.8	69.2
UNLADEN WEIGHT (EJECTOR EXTENDED)	4534	11171	15705	28.9	71.1
PLATED WEIGHT	8000	19000	26000		
BASED ON PAYLOAD DENSITY OF:	600 kg/cu.m				
RCV PAYLOAD	582	7213	7795		
POD PAYLOAD	1755	745	2500		
TOTAL AXLE LOAD	7182	18818	26000	27.6	72.4
BASED ON MAX REAR AXLE LOAD					
RCV PAYLOAD	597	7395	7991		
POD PAYLOAD	1755	745	2500		
TOTAL AXLE LOAD	7196	19000	26196	27.5	72.5
BASED ON GROSS VEHICLE WEIGHT					
RCV PAYLOAD	582	7213	7795		
POD PAYLOAD	1755	745	2500		
TOTAL AXLE LOAD	7182	18818	26000	27.6	72.4

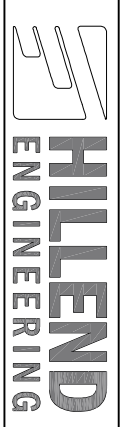




CHASSIS: MERCEDES-BENZ
MODEL: ECONIC 2630LL EURO 6 6X2 REAR-STEER
CAB: 4 MAN CREW
WHEELBASE: 4500mm + 1350mm
RCV BODY: POWERLINK 16M
RCV HOIST: TERBERG OMNIDEL
POD: 5M W/O PANNIER

OVERALL WIDTH: 2530mm
OVERALL LENGTH: x
OVERALL HEIGHT: x
TURNING CIRCLE (WALL TO WALL): x
PACKING CYCLE TIME: x
HOIST CYCLE TIME: x

TOLERANCES UNLESS OTHERWISE SPECIFIED: LINEAR (mm) X = ± 1 X.X = ± 0.1 LINEAR (Inches) .XX = ± .06 .XXX = ± .030 ANGULAR = ± 1'		NOTICE This print is the property of FARID HILLEND ENGINEERING LTD and is recyclable at any time. It must not be copied or used detrimentally to the interests of FARID HILLEND ENGINEERING LTD		DIVISION E	UNITS
MATERIAL:		DATE: 11/09/2018	SCALE: NTS	CODE —	TITLE: POWERLINK 16M & 5M POD ECONIC EURO 6 6X2RS 4500mm W/B
0	FIRST ISSUE	11/09/18	JD		
REV.	WAS	DATE	ECO No.		
				DRAWN BY: JD	PART No. H1M2C605



Mercedes-Benz Econic

Turning Circles

all dimensions in m (tolerance +0.5m)

1830L 4x2 ** extra cost		
Front Steering Axle to:	kerb to kerb	wall to wall
Second Axle	13	15.1
	14.2	16.3
	15	17.2
	15.9	18
	19.2	21.3

2630L 26t 6x4		2630L 26t 6x2 mid-steer ** extra cost		2630L 26t 6x2 rear-steer	
Front Steering Axle to:	kerb to kerb	kerb to kerb	wall to wall	kerb to kerb	wall to wall
Second Axle	4.8	18	20.1	13	15.1
	16.1			14.2	16.3
	16.9			15	17.2
	19			15.9	18
	18.2			16.7	18.8

3235LL 8x4 mid-steer		3235LL 8x4 rear-steer	
Front Steering Axle to:	kerb to kerb	kerb to kerb	wall to wall
Second Axle	19.4	15.7	18
Third Axle	1.35		
Fourth Axle	1.35		

Notice of Review: LRB 604 - Planning Application No. APP/2022/1845 (Rothnick Croft, Netherley)

27 February 2024 09:43

Subject	Notice of Review: LRB 604 - Planning Application No. APP/2022/1845 (Rothnick Croft, Netherley)
From	Dave Pascoe
To	Local Review Body Submissions
Sent	20 February 2024 18:57

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FAO Local Review Body,

Notice of Review: LRB 604 - Planning Application No. APP/2022/1845 (Rothnick Croft, Netherley)

I welcomed the refusal of this flawed application and hope to see this appeal dismissed. This is not a rural outdoor nursery, it is a nursery building. It is not outdoor learning and such a justification can not be relied upon. The land is there already to provide outdoor learning, there is no need for such a large building. The applicant has an existing nursery nearby in Chapelton, this would be the same function but in a remote and unsustainable location which will rely on private car use, posing a road safety impact in terms of increased traffic and increased pollution. There is no drainage solution for the development either, whilst the applicant's house has a right to drain via adjoining land they have no right to increase this. Whilst a civil matter to a degree, it is a planning matter to ensure that all technical requirements of any development are and can be met – in this case there is no drainage solution so the proposal can not be supported.

Regards,

David Pascoe

Planning Permission

27 February 2024 09:41

Subject	Planning Permission
From	Sarah Walters
To	Local Review Body Submissions
Sent	21 February 2024 10:26

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Dear Sir / Madam,

I would like to make the following comments in relation to reference LRB 604 (Notice of Review - APP/2022/1845) which is due to be considered at a Local Review Body meeting on the 26th of April 2024. The appellants drainage has been failing for a considerable time. For them to point blame in their statement on the neighbouring land owner is clutching at straws in a desperate attempt to force this issue. They do not have any drainage solution to serve this development, and the existing drainage is failing as evidenced by the waterlogged and saturated conditions in the areas along their outflow. This has caused flooding of adjoining land, to the detriment of horses that graze in the adjacent field. The site in general remains unsustainable for a high-traffic generating use which will impact on road safety and air pollution. A nursery should be in a town location. An outdoor learning space does not require a large purpose built environment, merely a cabin to shelter in extreme weather conditions. There is no justification for a house alongside any nursery provision, small class pets do not require a 24 hour presence on site. Please reject this appeal.

Yours Faithfully,
Sarah Walters

LRB 604 - New Notice of Review - APP/2018/1279 - Comments

27 February 2024 09:44

Subject	LRB 604 - New Notice of Review - APP/2018/1279 - Comments
From	Calum MACPHERSON
To	Local Review Body Submissions
Sent	21 February 2024 14:55

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Good Afternoon,

I recently received a Notice of Review in relation to Planning Application No. APP/2018/1279 (APP/2022/1845 being the renewal) Land Adjacent to Rothnick Croft, Netherley, Stonehaven and respond as follows:


Without a drainage solution no development should be approved. This poses a danger to adjacent land in terms of flood risk and general health & safety. Whilst there are some "civil matters" surrounding the case in terms of land access, the simple fact remains that the appellant has not provided any comfort that they can deliver a drainage solution to serve the proposed development. This is a clear policy failing and a planning application cannot be approved without resolving such a matter. The original approval was procedurally flawed in terms of the Committee not giving due consideration to the drainage issues, and this was quite rightly rectified through the recent refusal. Until a separate, different and deliverable drainage solution is provided, and as I understand that could only be in a new location requiring a change to the planning application site boundary which cannot be captured under this proposal, then this application cannot be supported. Even with a drainage solution I have reservation over the appropriateness of the site for a nursery – it is unsustainable, will rely on private car use which will increase carbon emissions and create a road safety issue on local rural roads. There is no justification for a house even if the nursery finds support. Please dismiss this appeal.

Regards,

Calum MacPherson

RE: LRB 604 - New Notice of Review - APP/2018/1279

27 February 2024 09:33

Subject	RE: LRB 604 - New Notice of Review - APP/2018/1279
From	Daniel Harrington
To	Local Review Body Submissions
Sent	26 February 2024 14:37
Attachments	 APP_2022_ 1845 Com...

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Dear michael,

I have been requested to make comment on behalf of Mr Forbes to the Local Review Case. Do I send this to you, see attached?

Kind regards,

Daniel P Harrington

MA (Hons) MRTPI

Director

m 07557 238719

e daniel.harrington@THE-ap.co.uk

w www.THE-ap.co.uk



Thain Harrington Edward
Chartered Architects and Town Planning Consultancy Limited
24 North Silver Street, Aberdeen AB10 1RL

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From: Michal Cieslewicz <michal.cieslewicz@aberdeenshire.gov.uk> **On Behalf Of** Local Review Body Submissions

Sent: Wednesday, February 14, 2024 4:26 PM

Subject: LRB 604 - New Notice of Review - APP/2018/1279

Dear Sir/Madam,

Please find attached a letter, which provides you with details of a Notice of Review, which has been submitted to the Local Review Body, which seeks a review, of the Appointed Officers decision to

Refuse Planning Permission.

As you made representations during the consultation period for this planning action, you are now afforded the opportunity to make any additional comments, in response to the Notice of Review. Please ensure that all comments/submissions are submitted by the date indicated on the letter. If you have any queries, please contact Alison Mcleod directly, or the Local Review Body email address,

localreviewbodysubmissions@aberdeenshire.gov.uk

Regards,
Michal.

Michal Cieslewicz
Assistant Committee Officer
Legal & People
Aberdeenshire Council

Tel: 01467 534344

E-mail: Michal.cieslewicz@aberdeenshire.gov.uk

The Legal Service is operating a new case management system. If you follow this [AskLegal](#) link you will be taken to the AskLegal Portal where you can submit a request for help from Committee Services. Using the portal will automatically create a new matter in the system and will allow the work to be allocated quickly.

This e-mail may contain privileged information intended solely for the use of the individual to whom it is addressed. If you have received this e-mail in error, please accept our apologies and notify the sender, deleting the e-mail afterwards. Any views or opinions presented are solely those of the e-mail's author and do not necessarily represent those of Aberdeenshire Council.

Dh'fhaodadh fiosrachadh sochaire, a tha a-mhàin airson an neach gu bheil am post-dealain air a chur, a bhith an seo. Ma tha thu air am post-dealain fhaighinn mar mhearachd, gabh ar leisgeul agus cuir fios chun an neach a chuir am post-dealain agus dubh às am post-dealain an dèidh sin. 'S e beachdan an neach a chuir am post-dealain a tha ann an gin sam bith a thèid a chur an cèill agus chan eil e a' ciallachadh gu bheil iad a' riochdachadh beachdan Chomhairle Shiorrachd Obar Dheathain.

www.aberdeenshire.gov.uk

February 26, 2024

Aberdeenshire Council
ePlanning Team

Sent by email to planning@aberdeenshire.gov.uk

Dear Sir / Madam

**Re: Response to Notice of Review APP/2022/1845 Land Adjacent To Rothnick Croft
Netherley Stonehaven**

This representation has been prepared on behalf of Mr Deryck Forbes of Sunnybrae, Drumoak, Banchory, Aberdeenshire, AB31 5AD. The response is in addition to the comments made on the planning application.

In summary the circumstances have changed since permission for development was previously granted contrary to recommendation and the Development Plan is more strongly opposed to development such as this, in locations that are not accessible by sustainable modes of travel. The Appellant has submitted insufficient detail as a part of this application to justify such a departure from the Development Plan. Of particular concern to Mr Forbes is the lack of suitable drainage for the following reasons:

- The Appellant does not have the right to use or provide new infrastructure to the north on land owned by Mr Forbes.
- There has not been any suitable drainage design or details submitted with the application to allow the relevant consultees to be satisfied
- The Appellant has provided no details of the connection to a water course.
- The existing dwelling is discharging both foul water and surface water to the same pipe on Mr Forbes' land, which is currently overwhelming the existing field drain. This would not be adequate for additional drainage.

This Review must be determined on the basis of the information submitted with the application and the details related to drainage are insufficient to demonstrate compliance with the Aberdeenshire Local Development Plan. More detailed comment is made below following the Appellant's format in reference to the three reasons for refusal.

Reason 1 – Location of Nursery

The Appeal Site is located within the countryside in a rural location which is not on any bus route, not on an A or B class road which can accommodate much traffic and lies distant from any settlement which prevents any realistic connectivity by sustainable means due to the rural road network not being safe for pedestrian or cycle access to the site. The newly adopted Aberdeenshire Local Development Plan (2023) Policy R2 would restrict employment proposals to brownfield sites only and would not support development in this location.

The Appellant proposes a nursery building of 408sqm GIA. The play spaces total 248sqm and the Scottish Government standard of space (Early learning, childcare and out of school care

services: design guidance¹) indicates that play space should equal 3.7sqm per child under 2; 2.8sqm for 2-3 year olds; and 2.3sqm for 3+ years. Using the 2.3sqm figure would provide a capacity of at least 67 children. Within previous documentation the applicant has made reference to expectation for 50 children. This is not a small nursery catering to a rural area given the scale and nature of the proposal.

The Appellant's case is principally, that permission should be granted as it was previously granted for the same proposal 5 years ago. The original decision on Application APP/2018/1279 was made in 06 February 2019 and expired two years ago on 06 February 2022. There is a need to assess the proposal against the Development Plan, which has changed entirely since 2019 with the introduction of National Planning Framework 4 (NPF4) in 2023 and a new Aberdeenshire Local Development Plan (LDP) in 2023.

The new Development Plan, particularly NPF4, puts much greater emphasis on sustainability and development being located in the right location, with particular focus on supporting local living and reducing the need to travel. NPF4 Policy 13 States "Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area" NPF4 Policy 15 states "Development proposals will contribute to local living including, where relevant, 20 minute neighbourhoods."

LDP section on Shaping Development in the Countryside states that "We need to recognise the effect that rural living can have on wider aims shared with stakeholders on reducing the need to travel and on the issues of climate change and sustainable development." The LDP identifies that Aberdeenshire is an area that "promotes sustainable development that reduces the need to travel, reduces reliance on private cars and promotes safe and convenient active travel opportunities". This is in response to climate change and balancing economic growth and development with the need to protect and improve the environment.

The proposed development is designed around the use of private car for transport and has no access to more sustainable modes of travel. The Local Development Plan seeks to balance the need for rural development and its sustainability. All aspects of this proposal fail to meet these policy expectations and are significantly contrary to the aims and objectives of the LDP.

Information published by Aberdeenshire Council² lists all of the nurseries available in the Portlethen cluster. There is no evidence presented to suggest that there is insufficient capacity within these nurseries or that there is an unmet demand. Lairhilllock Nursery located at the school is located within 1.5km of the application site and would be accessible to residents in the area surrounding the site. It is understood that there is capacity within this nursery.

The only supporting reason offered for the location of the nursery is the benefits that children will gain from outdoor learning experiences and a questionable claim that a nursery in the countryside will assist efforts to reduce carbon emissions and adapt to climate change. Nursery Provision that meets guidance quoted does not require an out of town location. For

¹ [Section Two: Environment - Early learning, childcare and out of school care services: design guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/06/Section-Two-Environment-Early-learning-childcare-and-out-of-school-care-services-design-guidance-gov.scot)

² [ELC Admission Booklet \(aberdeenshire.gov.uk\)](https://www.aberdeenshire.gov.uk/your-council/education-and-childcare/early-learning-childcare-and-out-of-school-care-services/).

example, the Great Western Nurseries³ in Portlethen provide outdoor facilities within an accessible location through the design and use of secure garden ground.

Lairhillock Primary School (which has a nursery) meets the rural need, and they have access to outdoor learning. All schools have early years provision and there are private nurseries in all towns nearby – which are sustainably located. There is no demonstrated need for this facility to meet an educational need in this location.

The previous approval now made 5 years ago was approved on the basis of two justification reports. No such information has been submitted with the Application or Appeal. The Appellant has offered limited evidence to justify why a departure is appropriate. This would be a nursery located with no access to sustainable modes of travel and the weight against a proposal such as this has shifted significantly towards refusal.

it would not be possible for the planning authority to reach the same conclusion as in 2019 based on the current Development Plan and lack of justification to support departure from the LDP.

Reason 2 Need for Dwellinghouse

Multiple schools across the country have small animals for learning purposes, they survive without a member of staff living in the school or on school grounds. Animals get tended to during the day, fed, then left overnight. To care for "pets" is not justification for a house. A Nursery is not a primary industry, if the house was associated with agriculture or forestry there would be a need to justify an additional on-site presence. There is already an associated presence on site with the applicant residing at Rothnick Croft which would be within 100m or so of the nursery building and meet any need for out of hours attendance to the nursery. There are also several houses being built close by at Whiteside, Stripeside and Lairhillock which offer accommodation, or in the major allocated site at Chapelton.

The justification for the dwellinghouse in the previous application 5 years ago relied on a comparison of existing properties available within close proximity and the costs to build a new dwelling house on the site. The evidence presented was from May 2018 and is no longer of any relevance to this application. Given the departure from policy and the lack of supporting justification for the dwelling there is no justification presented to consider departure from LDP Policy R2 for supporting a dwelling at this location.

Reason 3 Drainage Solution

The Appellant raises questions as to why the condition previously applied on drainage cannot be used for this application. The drainage layout submitted with the Application shows installation of an overflow outlet pipe from the detention pond to join an installed drain located within land owned by Forbes Homes. The Applicant has no right or title to use, for the drainage or sewerage of the proposed nursery development (or any other proposed development on that land), any watercourses, pipes, connections, drains and sewers in and under any part of Mr Forbes' Land (whether directly or via Rothnick Croft). There is therefore no legal basis on which the proposed nursery development or the land on which it is situated can be drained as proposed.

It is not only the lack of rights for connection which are of concern for the Appeal. There is also a lack of detail as to how compliance with the Development Plan can be achieved

³ [Portlethen 1 Details \(greatwesternps.co.uk\)](http://greatwesternps.co.uk)

through condition. The condition used previously on application APP/2018/1279 required details that the existing pipe to the watercourse is functioning without fault. This condition was based on a 100mm piped system to a suitable watercourse. What exists is a clay field drain that is outwith the application site and to a connection point to a watercourse that is unknown and not identified on plans. The information enclosed with this response (Appendix 1) provides further information on the technical failings of the proposal. Access for additional properties will not be permitted as there is no available capacity for any more properties to discharge to this watercourse with a nearby development at Stripeside already discharging into this watercourse under a CAR licence. Appendix 2 identifies the current situation at the drainage connection with the house currently overwhelming the existing field drain.

Policy RD1 states that "Surface water drainage must be dealt with in a sustainable manner, in ways that promote its biodiversity value, and in ways that avoid pollution and flooding, through the use of an integrated Sustainable Drainage System." (RD1.13). The drain is already being overwhelmed by surface and sewage from the existing dwellinghouse and causing pollution and flooding.

Given the lack of detail submitted with the application on where surface water will be directed to, and how it will be suitably managed, the Planning Authority is not able to ensure that the drainage will not result in flooding on neighbouring land. Flooding have objected to the application and the Council's Report of Handling states that "inability to provide updated drainage information or offer an alternative drainage solution under cover of this application, leaves the development site with no functional or deliverable drainage solution".

Faithfully,



Daniel Harrington
Director

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Enc –

Appendix 1 Letter from S.A. McGregor

Appendix 2 Flooding Issues

Appendix 1 Letter from S.A. McGregor



Mr Deryck Forbes



Our Ref: SAM 2193

Date: 23 February 2024

RE: Proposed New development on Land at Rothnick Croft, Netherley, APP/2018/1279

S.A M^cGregor Geotechnical & Environmental On-Site Services provide engineering services including assessment of and design of drainage solutions. Designs previously submitted for drainage were prepared by our company and this note has been prepared to summarise the drainage matters as they relate to the above application.

2013

S. A. M^cGregor was first involved in developments at Rothnick Croft in 2013.

The first development was for a replacement house comprising the demolition of the former cottage and erection of the new existing dwellinghouse.

The former cottage was served by a septic tank with existing discharge to the drain at the rear/north of the site.

The Netherley area is renowned for variable and often poor drainage properties of the underlying sub-soils and a generally high groundwater table.

At this time the existing foul water discharge, which served the original cottage, was upheld for the new dwellinghouse, with the recommendation that the septic tank was replaced by a more modern Package Sewage Treatment Plant (PSTP) in line with requirements of SEPA for the provision of secondary treatment prior to discharge to a waterbody.

The surface waters from the new house development were also directed to the existing discharge point.

S. A. M^cGregor were assured at the time that the applicants/homeowners had permission/servitude to continue to utilise this discharge into and through the neighboring land on property they did not own.

2018

In 2018 S. A. M^cGregor was again involved at Rothnick Croft for the new planning application on land at Rothnick Croft for the New Nursery and Dwellinghouse.

Site investigations and ground assessment were undertaken, and drainage recommendations made.

The proposed drainage is quite extensive with a very large foul water soakaway associated with a new PSTP and a large surface water pond/wetland.

The pond was designed with an overflow outlet which would join the existing dwellinghouse discharge drain.

Again, S. A. M^cGregor were assured that full rights to this discharge were in place.

2022

The 2018 application was recommended for refusal due to significant concerns and policy failings outlined by planning, and objection by flooding due to the lack of drainage solution. The approval contained a condition in relation to drainage which could not be met having not being implemented.

A renewal application was applied for, and therefore S. A. M^cGregor were asked to comment on the proposed drainage recommendations.

Since the original 2018 report there have been changes to the requirements of SEPA, Building Standards and Scottish Water for the provision of surface water disposal.

These changes include for the increase in both the frequency and the amount of rainfall which has been very evident with recent flooding events causing overtopping of watercourses, waterlogging of land and overwhelming existing drainage systems.

The applicant continues to maintain a right to use the existing discharge for the new development, however, the rights to the discharge were in place for the replacement house only and do not extend to any additional waters from the new application site.

2023

A brief walkover was undertaken by S. A. M^cGregor in early November 2023 after storm Babet to view the area of the existing discharge in the landowner's field to the north of Rothnick Croft.

The area was very waterlogged and the waterbody at the discharge was very grey indicating a failure of the drainage system because it had been overwhelmed by the combined drain from the dwellinghouse.

It also appeared some excavations had been undertaken which may also have compromised the system causing it to fail with blockages, adding in new pipework or misaligning the original pipework within the boundary of Rothnick Croft.

The pipework within the boundary of Rothnick Croft is 110mm diameter PVC but is connected to what is believed to be unglazed fireclay porous pipes (traditional field drains) which are in sections 380mm long with an internal diameter of 90-95mm.

These types of porous sectional pipes are used for field drainage only, for gathering surface waters allowing natural seepage into the sub-soils and only small amounts of overflow to a nearby watercourses if available.

These drains are not considered suitable for transporting large concentrations of surface waters which the applicant is proposing to do from his property across the neighbouring land and potentially to a watercourse.

Currently the main field drain, approximately 300m in length, is likely to be collecting from smaller diameter porous drains formed in a traditional herringbone style used in farmland across Scotland.

This style of drainage has no form of inspection nor sampling chambers generally required for domestic/commercial drainage use.

The foul water currently discharging from the treatment plant of Rothnick Croft is via a 110mm PVC pipe into a fireclay porous pipe, a fireclay porous pipe is not suitable and should be a solid sealed pipe.

The natural field drainage coupled with the drainage from the new dwellinghouse at Rothnick Croft connected via a slightly larger 110mm diameter drain is already causing the field drain system to become overwhelmed. This is causing silting up, blockages, backing up and leaking through the butted drain joints causing the adjacent field to flood.

The nature of the field drains buried in the ground makes it difficult to clear blockages and repair burst sections without digging up large areas of the field causing problems for the landowner.

It is evident that the existing drainage system does not appear to be coping well with the existing loading on it and therefore extremely unlikely to cope with additional loading from the proposed development for which it was not designed and installed to cope with.

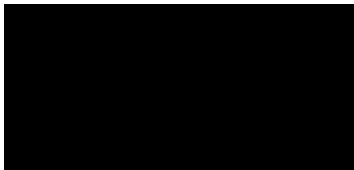
Additional surface waters from the proposed development may therefore have a detrimental impact on the neighboring land and the wider water environment.

S. A. M^cGregor have since been informed that the applicants only have limited servitude rights in relation to the original cottage.

The proposed continued use of the existing discharge drain through the adjacent land for the new development at Rothnick Croft has not been detailed to show how surface water will be appropriately managed from the development. There is no detail on upgrades required to existing drains out with the application site and therefore the proposed drainage design cannot be fully implemented.

Without Prejudice

Yours sincerely,

A solid black rectangular box used to redact the signature of S. A. M^cGregor.

S. A. M^cGregor
Geotechnical & Environmental On-Site Services

Appendix 2 Flooding Issues

Surface Water run-off from Rothnick Croft increased when the new dwelling house was constructed in place of the old croft (APP/2013/1809) with significant land raising undertaken and increased rainwater run-off from the house and garage roof areas along with the drive, significantly increasing and exceeding the capacity of the existing drainage arrangement within the field to the North, leading to flooding and water logging on the land

The applicant has investigated drainage solutions at Rothnick Croft and has installed a gully arrangement and pipes on the north boundary of the property. This has created blockages within the existing field drainage. Figure 1 provides an outline of the existing drainage installed at this location.

At times of higher rainfall the water run-off flows down the public road and into Forbes Homes' fields as shown in Figure 2 and 3.



Figure 2 Aerial view of ponding at drainage outfall



Figure 3 View of ponding at drainage outfall

The fields to the north of the application site are used for keeping horses and Forbes Homes' tenant has suffered harm to the horses resulting from flooding. The tenant (Karina Yule) has experienced increased costs from her local vet due to issues with several of the horse's feet (as a result of the wet conditions) including issues such as abscesses and bacterial infections and suffered the loss of 5 horses.

Rothnick Croft, LRB 604 representation

27 February 2024 13:47

Subject	Rothnick Croft, LRB 604 representation
From	Cameron Forbes
To	Local Review Body Submissions
Sent	27 February 2024 13:43

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Dear Sir / Madam,

The appellant appears to not understand the material change since their original application. There has been new local and national planning policy documents, which allow for a fresh appraisal of an application to ensure continued compliance (if it existed in the first place). Whilst weight is given to the planning history, that does not permit an automatic renewal. All material considerations must be taken into account, and primarily includes the Aberdeenshire Local Development Plan 2023, National Planning Framework 4, and the previous planning application. The policy context is firmer now than it was at the time of the original decision, and this proposal fails to comply. In terms of the planning history, the decision making process, content of that application and consideration by the Committee are all material. The drainage information was inaccurate and is now out of date and can't be relied upon, hence requests to update and provide certainty that a solution exists. There is no solution so that is a clear material consideration. The decision making process is also material, the Committee did not give any consideration to the technical failing and lack of drainage solution. The application, whilst a "renewal" is still seeking consent for a nursery and dwelling. It must be assessed against current planning policy and take account of material considerations.

I draw your attention to our representation, sent in by Burness Paull, to this application. The appellant has no drainage solution to serve this proposal. Nobody is disputing their existing house has drainage rights across neighbouring land, but they have no rights to increase the burden, ie connect additional development, to that drainage infrastructure. I appreciate this is a civil matter to a degree, but it very much informs the fact the appellant can not provide drainage for their development which is a very simple and basic planning policy failing.

The original drainage reports in the 2018 application were flawed. Revisions during that application raised some questions, and when the Committee failed to adequately consider the matter problems arose with the Council's flooding team expressing great concern due to the lack of any deliverable or functional drainage solution. The planners, seemingly stuck between a rock and a hard place, attempt to facilitate a solution through a questionable planning condition. Since then the condition has not been met, and the revised application offered a chance for further scrutiny to firm up on a deliverable and functional drainage solution which has not been forthcoming. This technical failing has quite rightly contributed to the refusal of the application, and beyond any subjective support for the principle of a nursery, the drainage failing can not be set aside or dismissed. The appeal must be dismissed on this basis – there is no drainage solution that can be delivered by the appellant that lies within the application site boundary for this proposal. They need to look elsewhere and discharge by different means, in a different direction, on land that they could actually have control/rights to drain over. That can only be done by a completely new application due to the necessary change in application red line site.

Beyond the significant technical failing and inability to provide a drainage solution, the proposal remains flawed in terms of the unsustainable location and large scale nursery proposed. The justification on the basis of outdoor learning is in conflict with what is proposed – a large building with indoor learning space. Outdoor learning would use the land/trees as the education space, perhaps with a small cabin for shelter. The portacabin toilets approved on the site adhere to that function, but this large nursery building is not outdoor learning, it is simply a large Class 10 unit which as per planning policy should be in town centre locations; Policy P6 states *Proposals for Use Classes 10 and 11 (Non-residential institutions and Leisure uses) will only be allowed outwith a town*

centre where a sequential approach has failed to identify a town centre location, otherwise Policy B1 Town Centre Development will apply. There is no sequential test in the original application, and the applicant does already own a nursery nearby in Chapelton, which is very much in a suitable location. The same locational and sustainable focus is prevalent throughout NPF4. The proposed nursery fails to meet any policy of local and national policy.

Yours Faithfully,
Cameron Forbes
(on behalf of Forbes Homes Ltd)

LRB 604 - Land Adjacent to Rothnick Croft, Netherley, Stonehaven

27 February 2024 13:51

Subject	LRB 604 - Land Adjacent to Rothnick Croft, Netherley, Stonehaven
From	Jill Thomson
To	Local Review Body Submissions
Sent	26 February 2024 22:42

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Dear Sir / Madam,

APP/2022/1845 (renewal application for APP/2018/1279) is remote and isolated, therefore reliant on the private car which flies in the face of local and national policy, and does nothing for the global climate emergency. If this was to be a proper outdoor nursery, as exists elsewhere in the region, there would be no building required – the kids arrive and explore and learn in the outdoor setting. The original case for the proposal was not justified in terms of the case for a nursery, the justification for a house alongside was incredibly weak, and the application contained no drainage solution. When approved by the Kincardine and Mearns Committee they saw merit in the nursery, did not seem to scrutinise the weak case for a house which is very concerning, and paid no attention to the lack of a drainage solution which is of significant concern. With this repeat application the planning service were allowed to review the proposal and address the failings through the new local and national planning policies, which are materially different to what was in place during the original application. The case against a nursery in a remote location is strengthened by new policy seeking accessible developments, with class 10 uses specifically directed to town centres. There is no scope whatsoever for a house on this site. A further material consideration goes back to the questionable condition attached to the original approval, with the planning service quite rightly seeking comfort on the drainage before any permission could be granted. The failing to meet that condition is not about access rights to inspect an already failing drainage pipe, it is quite simply that Rothnick Croft has drainage rights but nothing else beyond that does. The applicant must provide a proper up to date drainage report to demonstrate a separate deliverable drainage system can be provided for the house and nursery, but they can't. Without this, the application can not be supported.

It has been brought to my attention that the original consulting engineer the applicant used in their previous application has since confirmed that they were misled and that their drainage report was based on false information, and that the pipe in the ground is not what they were told it was – a field drain to gather water rather than proper pipes to transport water away from a property. As such, not only is the drainage report in the previous application well out of date, it was never accurate or suitable in the first instance. Regardless of legal rights to put any further drainage down that pipe, it is clear the drainage is failing at present and not fit for current purposes and not capable of taking any additional burden. The only option is to refuse this application.

Yours Faithfully,
Jill Thomson

LRB 604 (Notice of Review - APP/2022/1845)

27 February 2024 13:52

Subject	LRB 604 (Notice of Review - APP/2022/1845)
From	TAMMY STEVENSON
To	Local Review Body Submissions
Sent	26 February 2024 21:32

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Good Evening,

The following response is in relation to the above Notice of Review which I received details of from the Local Review Body. The planner quite rightly refused this application, which is what should have happened in the original. The Councillors did not fully consider the proposal, neglecting the drainage failings. Policy has evolved now too, which despite the appellant claiming there is no material change – the new local development plan and national planning framework are clearly material changes and put greater emphasis on sustainable development, development being in the right location, reducing carbon emissions, prioritising tackling the climate crisis, adhering to 20 minute neighbourhood. All key themes in planning which this proposal completely fails to meet. The principle of development is incorrect, this is not a good location for a nursery – such a use should be in a town. If it is to be an outdoor nursery then there's no need for such a large building. And there is no need whatsoever for a house. Beyond those failings, the applicant hasn't provided any drainage to serve the development.

The emails from the Council's Flooding team in APP/2018/1279 (dated 16th August 2018, 25th September 2018 and 1st November 2018) highlight the drainage problem. The Committee did not give this due consideration in their original determination and put the problem onto Council officers through their simple desire to approve the development without ensuring it is technically competent. The consent was then granted with a questionable condition, which has not been met and can't be met. Quite rightly the planner has tried to ensure a proper drainage solution is provided in this repeat application, and it hasn't been hence the justified refusal. It would not be appropriate to simply "renew" the previous consent due to the questionable condition which clearly can't be met, and it would not be competent in terms of the 6 tests of a planning condition to attach it again given the applicant can't comply with the condition.

Quite simply there is not a deliverable drainage solution to serve this development. The existing house at Rothnick Croft has drainage rights over adjoining land FOR THAT HOUSE ONLY. The applicant can't add to that drainage from additional development, ie this proposed nursery and house. Furthermore the pipe is not fit for purpose to serve the existing house in any case. Finally the drainage report submitted in the original application is significantly incorrect due to the inaccurate and misleading

information given to the consultant, and it is now well out of date. Any grant of consent for this development must be backed by a proper and up to date drainage report that identifies a deliverable drainage solution. Quite simply there is no solution and the development doesn't comply with Policy RD1 of the Aberdeenshire Local Development Plan or Policy 22 of National Planning Framework 4. Please do not ignore this major technical consideration like the Kincardine and Mearns Committee did when considering the original application.

Beyond the significant failing to identify a drainage solution, to repeat - the proposed nursery remains non-compliant with policy due to the isolated and unsustainable location. Even if the nursery was justified there is no scope for a house, the original case of "needing to look after class pets" is ridiculous and would set a dangerous precedent for any other weak justification to push for a house in a remote and unsustainable location. In terms of outdoor education facilities, the referenced documents are not planning policies and can't be given much weight. Furthermore the applicant already has a nearby nursery at Chapelton and I believe uses this space for outdoor learning already, hence their application for portacabin toilets to meet that need. The land is there to be used for outdoor learning, and if it is genuinely an outdoor nursery there is no need for a building on site, and certainly no need for a house. Please reject this appeal.

Regards,
Tammy Stevenson