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Date: 15<sup>th</sup> March 2024

**Subject: 193-2017 - 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 LRB 604 – Notice of Review – Further Representations Response**

Dear Sirs,

Thank you for writing to us regarding further representations received by yourselves during the Notice of Review LRB 604, relating to the above application.

We note that there are 8 representations received which primarily raise the following topics:

1. Waste management and collection requirements,
2. Drainage design concerns,
3. Location of the nursery,
4. Suitability of existing roads infrastructure and sustainable travel,
5. Need for nursery building,
6. Need for the house,

Each point raised will now be reviewed and responded to individually.

### **Waste Management**

We note that Waste Management do not object to the proposals Nevertheless, we take on board their requirements and the applicant commits to meeting their conditions during the implementation of the proposals, either prior to commencement or occupanct, whichever may be agreed.

### **Drainage Concerns**

The rights to drain from the site and Rothnick Croft are written in Title. There is an ongoing civil dispute since interference with the drains, the applicant intends to demonstrate in court that there is a full and unconditional right to access and use the pipes beneath the neighbours land for drainage of both titles. The Local Review Body are reminded that **“any dispute about individual access rights is a civil matter between the parties and not an issue material to the decision”** as indicated by the Planning and Environmental Appeals Division, Planning Appeal Reference PPA-110-2450 dated 29th February 2024.

Comments from others regarding the legalities of these rights appears to be out with their expertise and should be discounted.

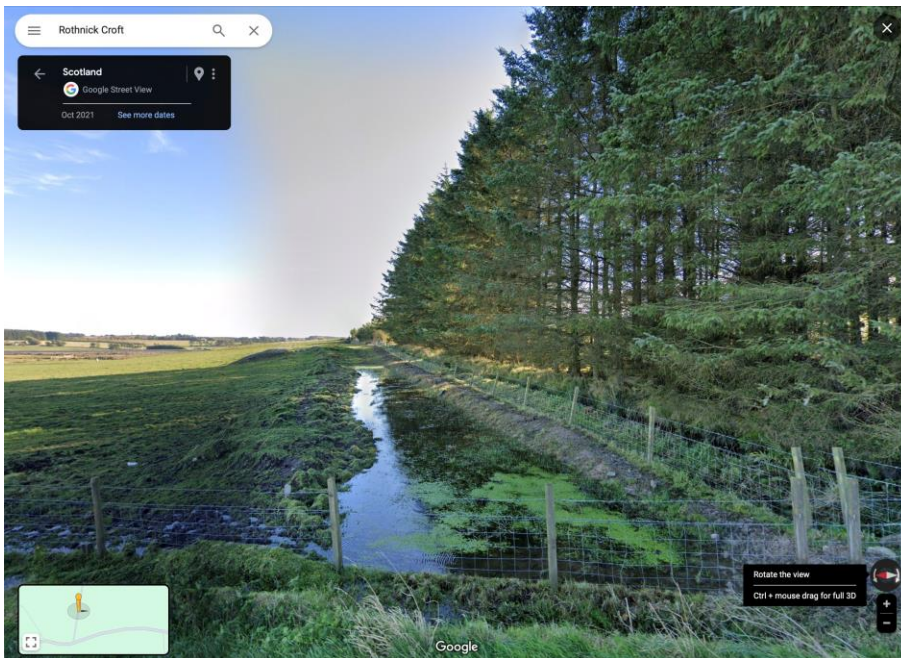
Drainage was designed by S.A McGregor during the original application and is deliverable. Post approval of application APP/2018/1279 water build up has occurred. Such works appear to have blocked the applicants drain, as S.A. McGregor was not witness to these works or the damage caused to the drains first hand, any comment implying flooding appear to be unjustified. Comments made by S.A McGregor, via a representative of the neighbouring landowner, should therefore be discounted as we consider them a conflict of interest.



Figure 1 - Field pre-2019 not presenting signs of flooding.



Figure 2 - Works being undertaken very early hours of the morning in September 2018. The applicant advises that these works were carried out by Forbes Homes Ltd, after the committee granted planning. Works included digging a deep trench severing and removing parts of all drains leaving Rothnick Croft.



**Figure 3 – Water build up field post interference, showing the partial trench left to retain any water flowing naturally downhill.**

It is the applicants position that rights of drainage exist and it is not for the council to consider the ongoing litigation. Their role, as outlined in PPA-110-2450, is to consider the planning application and either grant or not. It is then for the court to determine whether the rights of drainage are sufficient to facilitate the drainage from the site.

### **Location of Nursery**

Local development plan (Policy B1.1) seeks nurseries in 'accessible locations' which are 'accessible by modes of transport other than private car'. Such locations may include town centres.

The local and national policy relating to the location of facilities such as nurseries and education facilities, appears not to be fit for purpose in Aberdeenshire. It is not safe nor practical for rural communities to travel to 'accessible' locations within town centres by any means other than private car. The local authority has not invested in a suitable public transport system not created safe walk, wheel and cycle routes. Furthermore, students attending a nursery, from the age of 0, should not be expected to walk, wheel and cycle along rural roads to attend nursery.

The Care Inspectorates' Coalition Position Statement outlines how outdoor play equips children with the essential skills to live a healthy and active life, whilst recommending that every child has a right to a local, easily accessible learning environment. Rural communities, such as Netherley, do not currently have a nursery which offers full time Early Learning and Childcare and the reality is that there is no viable alternative to a private car.

We refer to the Local Review Body to the Rural Childcare Provision, Innovative Models and the Needs of Agricultural Families: Research publicised by Scottish Government.

<https://www.gov.scot/publications/challenges-rural-childcare-provision-innovative-models-needs-agricultural-families/>

This research finds and recommends:

- Most children are driven to rural childcare services, with journeys varying from 15 minutes to an hour. In many cases, public transport was not seen as adequate, although a small number of children and staff were lift-sharing.
- This report highlights the need for both standard and innovative models of childcare provision in rural areas in order to improve sustainability and better meet the needs of families with a range of working patterns and childcare requirements.
- Outdoor providers were also limited in their hours due to practical concerns, such as bad weather and shorter days in the winter.
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- The 2020-21 Programme for Government (PfG) sets out a range of commitments in this area, from the delivery of 1140 hours of free early learning and childcare, to increasing service provision and supporting repopulation in rural and remote communities. The PfG also sets out a commitment to look at wraparound care options that will give families more choice, greater opportunities to work, and greater financial freedom. This has the potential to benefit rural parents, and to positively affect women's employment opportunities and household incomes.
- The PfG 2023-24 further sets out a commitment to support the childcare expansion.
- We will empower parents, carers and children in those communities by designing and delivering childcare services around their needs, including testing how families can use their funded hours more flexibly, and widening access to a greater variety of provision, be it a childminder, a family centre, a nursery or an after school club.
- From next year, we will begin work to phase in an expanded national offer for families with two-year-olds, focused on those who will benefit most. This will build on the foundations of the existing 1140 programme, which already makes high quality early learning and childcare available to around a quarter of families with two-year olds on the lowest incomes.
- Taken together, we will expand access to funded childcare for 13,000 more children and families by the end of this Parliament. These are the next key steps in our long term programme of expansion and improvement to the childcare system in Scotland.”

It is apparent the national and local planning policies do not align with Scottish Government recommendations regarding rural Early Learning and Childcare.

The nursery aims to address the issues identified by the research and will provide a local facility and rural environment for rural children to attend Early Learning and Childcare. Whilst it is acknowledged that some travel may be required there are many pockets of family homes in the Netherley area, such as the sizeable Forbes Homes Ltd development at Stripeside, where a short travel distance to Rothnick Kindergarten would be more appropriate than longer travel distances to settlements such as Portlethen and Stonehaven; the facility may even make the development more appealing to prospective purchasers. It should be considered that traveling by private car to Rothnick Kindergarten has no additional impact than travel to such settlements.

The government seeks to encourage and expand the workforce, encouraging parents back to work is essential to boost local economies. The Early Learning and Childcare expansion initiatives by government support the expansion of Early learning and Childcare to ensure that rural areas like Netherley are fully supported too, through viable projects that deliver quality full day, all year round childcare being supported and encouraged within local areas.

Rothnick Kindergarten offers families in Netherley and the surrounding countryside a local nursery where travel to towns is reduced. Many families now work from home, travel to a

nearby nursery and return home, having a local nursery is better for environment than travelling long distances unnecessarily, just for childcare. Even if working in the office, Rothnick Kindergarten offers the rural population around Netherley a facility nearby, reducing travel distances and reducing their environmental impact whilst ensuring that local children have access to a local facility that meets the needs of working parents and supports children to meet with the peers, prior to school attendance.

Other nurseries in the area include:

1. Larhillock  
Age from 3 years, term time only 09:00 to 15:00.  
Max attendance 30 hours per week.  
No out of school care available for primary school aged children.  
No baby or toddler provision.  
Small nursery outdoor play area.
2. Hillside Primary School Nursery  
Limited 2 year old provision, 3 – 5 years 8am – 6pm.  
Max attendance 30 hours per week term time or 25 hours per week for 48 weeks.  
No additional wrap around hours for nursery children.  
No baby or toddler provision.  
Small nursery outdoor play area.
3. Mucky Boots outdoor nursery  
3 years and over 08:30 to 16:30, term time only.  
Fully outdoor except in adverse weather when short term let of a nearby hall is sought. No full day care provision.  
No additional wrap around care.  
No toddler or baby provision.  
Outdoors in public woodland.
4. Croft Nursery (Chapelton)  
Children 0 – 12 years 07:30 to 18:00  
Children can attend up to 5 full days per week all year.  
A small number of out of school care places for P1 – P7 children.  
Caters for babies and toddlers.  
Access to a small outdoor play area.
5. Great Western Early Years (Portlethen)  
Children 0 – 12 years 07:30 m to 18:00  
Children can attend up to 5 full days per week all year  
Provides small number of out of school care places for children attending P1-P7 at Portlethen schools.  
They have access to small outdoor play areas.

The LRB's support to recognise Rothnick Kindergarten as an innovative and sector leading nursery should be fully supported to meet the needs of the rural area of Netherley to support families and young children who require access to full day care.

There is no Forest Kindergarten offering rural and outdoor learning opportunities to rural families in the area, all day and year round. It would not be appropriate to locate a forest kindergarten in a town centre due to the restrictive nature and impact of the setting, and its impact on the learning environment. The most appropriate location for such a nursery is in a rural setting.

The Scottish Government have issued various documents supporting the expansion of Early Learning and Childcare settings across all of Scotland. Out to Play - creating outdoor play experiences for children: practical guidance considers appropriate locations for such a nursery, a key part being land ownership. Land which is under the control of the applicant has more flexibility in terms of the control they have to operate from the land, whilst also being more commercially viable in that it can be rent free. The most appropriate location for such nurseries is on land under the applicant's control, there appears to be no reasonable ground to deviate from this guidance in this case.

It is also well known that Aberdeenshire Council have made further funding cuts forcing out-of-school care providers to close, <https://www.bbc.co.uk/news/uk-scotland-north-east-orkney-shetland-68169124>, which is not conducive to a stronger, more efficient workforce. Parents in the area will have even more limited options for out of school care, thus making it more essential that a local facility such as Forest Kindergarten at Rothnick that would support out of school care as well as Early Learning and Childcare is encouraged and supported to reduce the detrimental impact of current cuts on local families.

#### Suitability of existing roads infrastructure and sustainable travel

We reiterate that families traveling from rural areas to attend any nursery will have no viable alternative other than private car. It is not safe to travel by foot or wheel on rural roads, nor would it appropriate to expect that they do so, especially when considering that children attending Rothnick Kindergarten may be from 0 years upwards.

No matter the location, a rural road must be used for rural families to attend any nursery. To prevent families from doing so is preventing their access to essential education facilities; contrary to the aims and objectives of Scottish Government, Care Inspectorate, NPF4 and Local Development Plan 2023.

The Aberdeenshire Council Interactive Maps also identifies the road leading to Rothnick as part of the national cycle route (shown in green dots below). This suggests that should any older children wish to travel by bicycle, under the car of the parental figures, they'd be able to do so.

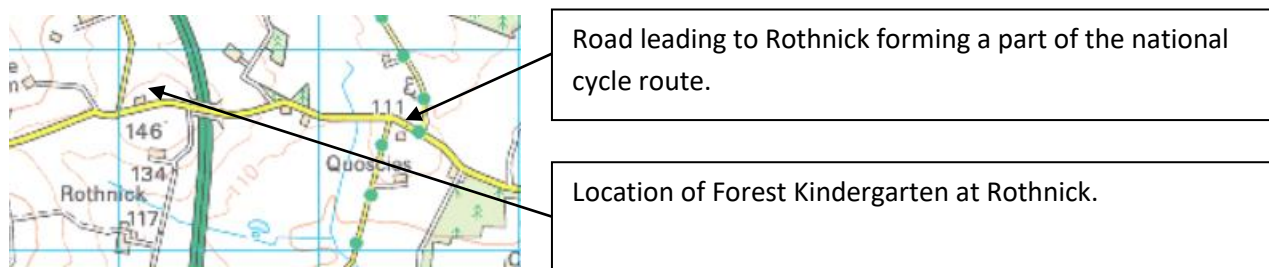


Figure 4 – Extract of national cycle route.

The Local Review Body are asked to consider that the roads are suitable for rural travel, by rural families to this rural facility.

#### **Need for Nursery Building**

In response to questions regarding the need for the nursery building, we can confirm that the Out to Play guidance indicates that a building will enhance and improve the learning environment and in doing so boost the learning and development of children. A building is particular necessary where a service requires to operate all year round with all age groups of children particularly babies and toddlers. Care Inspectorate fully support an integrated system whereby the service has access to its own indoor facilities as opposed to sharing a building with any other public service.

A building ensures that the service can operate a high quality service in all weathers and support continuity of childcare all day every day for children and families.

The guidance suggests that having a building allowing children to go indoors when they wish not only results in better skills in later life, but also allows them to use essential facilities such as toilets, changing rooms, warmth, drinking water, hand washing, hot meals and appropriate shelter, particularly necessary for babies and toddlers. The building also offers advantages to the nursery management giving them space for an office, staff room, training room and kitchen.

Rothnick Kindergarten is an innovative and sector leading opportunity for the local community. There are no other local nurseries with the opportunity for local families to have their children in Early Learning and Childcare in a wholly outdoor environment throughout the whole day, every day all year round supported by an on site building. The building supports provision of exceptionally high quality care, and ensures that siblings of all ages including babies and toddlers can be cared for together. A building ensures access to appropriate areas for changing, sleeping, providing hot meals and to have adequate space for indoor activities when severe weather hampers full day access to outdoors. As well as providing play space for all ages, the building will also facilitate a kitchen to prepare hot meals and areas for rest and warmth.

Forest Kindergarten at Rothnick would be operated in such a manner that the large doors to the indoor play room would remain open to offer benefits of the outdoor environment whilst under shelter. Representatives' assessment of the area of the building is wholly flawed. The care inspectorate do not agree a capacity on an assessment of Gross Internal floor area, as the plans demonstrate, this area includes essential services and amenities. The care inspectorate agrees a capacity not only on size but also operational capacity, initial discussion with the care inspectorate indicates a capacity of 50 children.

It should also be noted that the applicant, as well as delivering training in SVQ's Level 2, 3 and 4, is the only training provider for the Forest Kindergarten SCQF Level 7 qualification in the area. The building offers staff space to carry out essential training whilst studying for qualifications.

As a training provider working with Skills Development Scotland the applicant would be creating employment and training opportunities for local people to develop a highly skilled workforce to support the service.

### **Need for the House**

We reiterate that the house is essential to the operation of the business. Forest Kindergarten at Rothnick has small animals such as hens, lambs (which require 24 hour care) and other small animals, as well as their horticultural activities such as growing their own fruit and vegetables. With animals as a core part of the Early Learning and Childcare experience, which is designed to develop children's experiences and more develop for the future effective rural and environmental contributors it is essential for animal husbandry purposes, the safety and well-being of the animals, that the manager of the facility is required to live on site. The determination of the original planning application recognised and accounted for this, determining that "having a member of staff living on-site was seen as important to care for the small animals".

The applicant is a business owner and is responsible for running the business whilst the management of Rothnick Kindergarten, and the round the clock care, is the responsibility of the manager. The applicants dwelling is irrelevant to the proposals.

We trust that the information contained above answers the further representation. We welcome any further feedback from the Local Review Body and can be contacted on 01569 764183 should they have any queries.

Yours sincerely



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For and on behalf of Inspired Design & Development Ltd

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