

Perth and Kinross Council  
Development Management Committee – 18 March 2015  
Report of Handling by Development Quality Manager

Alterations and extension to nursery at 46 Balhousie Street, Perth, PH1 5HW

Ref: No: 14/01113/FLL  
Ward No: 12 Perth City Centre

**Summary**

This report recommends approval of the application for alterations and extension to nursery as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 This application was previously considered by this Committee at its meeting on 15 October 2014 when the decision was taken to defer consideration. A copy of the previous Committee Report is appended to this report for information.
- 2 The deferral was to enable further information to be provided by the applicant regarding the projected increase in noise attributable to the alteration, extension and intensification of use and the potential for, and the intended mitigation measures.
- 3 All other issues in relation to the application remain the same.

**CONSULTATIONS**

- 4 The applicants submitted a further Noise Impact Assessment on which Environmental Health were re-consulted.

**REPRESENTATIONS**

- 5 As no re-notification has been carried out there have been no further valid representations received as a result of the deferral. All representations associated with the original application are as detailed in the previous Committee Report.

**APPRAISAL**

- 6 Following the meeting of this Committee at which the application was deferred, the agents for the applicant were advised of the concerns raised by Committee and the need to provide further information to address these concerns.
- 7 The application relates to an existing children's nursery which operates from the ground floor of one half of a pair of 2 storey semi-detached villas within a residential area and the concerns raised by Committee related specifically to the potential for noise disturbance to the adjoining residential property.

- 8 The applicant's agent was accordingly requested to provide additional information. This has now been submitted and Environmental Health re-consulted.
- 9 Noise measurements were carried out to assess noise levels associated with nursery activities on the neighbouring/adjoining residential property's amenity. Noise monitoring equipment was installed within the kitchen of Apple Tree Nursery and the living room of the adjoining residential property in the presence of Environmental Health Officers on 17 February 2015 at approximately 09.30hrs. A number of 5 minute surveys were undertaken whilst the children were having a snack and carrying out group activities within the kitchen area of the nursery to allow representative noise levels (daytime) to be achieved.
- 10 The data recorded within the living room of 48 Balhousie Street illustrated a range of 28.8dB, this is attributable to the noise meter recording continuously for the duration of the visit, therefore capturing other un-associated noise sources including discussions between the complainant and Environmental Health and passing traffic on Balhousie Street.
- 11 The consultant's results illustrated that at all frequencies, the levels fall below the NR 35 curve (the level that would be deemed acceptable for this location given the time of day). This assessment methodology is typically used for assessing noise complaints associated with plant equipment and other noise sources that are more continuous / tonal in nature.
- 12 If the source of the noise affecting residential amenity at 48 Balhousie Street was from another residential property the permitted daytime noise level criterion of the Antisocial Behaviour etc. (Scotland) Act 2004 could be applied. However in this case the noise source is a commercial business therefore this assessment methodology is not relevant.
- 13 In addition to the noise monitoring, a subjective assessment was carried out by Environmental Health in the living room of 48 Balhousie Street, both officers agree that the noise levels witnessed at this time were not excessive and were comparable to normal living noise from a residential property.
- 14 In view of the above information I do not believe that this proposal will result in unacceptable increased noise levels for neighbouring residential properties however to increase confidence that the proposal will not give rise to nuisance complaints Environmental Health have recommended that conditions be included in any given consent, relating to noise levels, sound proofing and full implementation of the measures in the Noise Management Plan. However, if consent is granted and the development takes place, should the Council receive noise complaints then these would be investigated accordingly in line with the Statutory Nuisance Provisions of the Environmental protection Act, 1990.

## **LEGAL AGREEMENTS**

- 15 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 16 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 32, there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 17 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In respect of the above assessment, I am satisfied that the development would not have a significant adverse impact on the residential amenity of the neighbouring property and accordingly the proposal is considered to comply with the overriding aims and policy objectives of the approved TAYplan 2012 and the adopted Local Development Plan 2014.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.

Reason - To ensure that the development is carried out in accordance with the plans approved.

- 2 The operating hours of this childcare business shall be from 8am to 6pm, Monday to Friday only.

Reason – In the interests of residential amenity.

- 3 The number of children which the childcare business caters for shall be a maximum of 40.

Reason – In the interests of residential amenity

- 4 All plant or equipment, including any ventilation system, associated with operation of the commercial areas shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring noise-sensitive premises, with all windows slightly open, when measured and/ or calculated and plotted on a Noise Rating curve chart

Reason - In the interests of residential amenity

- 5 Further sound proofing as recommended in Section 5.0 of the Noise Measurements and Management Plan (R15.8443/3/AF) shall be installed on the adjoining wall with the neighbouring dwelling to the satisfaction of the Planning Authority and prior to the development being brought in to use.

Reason - In the interests of residential amenity

- 6 All measures in Section 8.0 of the Noise Measurements and Management Plan (R15.8443/3/AF) shall be fully implemented in full to the satisfaction of the Planning Authority and prior to the development being brought in to use.

Reason - In the interests of residential amenity

- 7 No part of the extended facility shall be used until a Travel Plan, aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

Reason - To encourage sustainable travel.

## **B JUSTIFICATION**

The proposal is considered to be in accordance with the Development Plan and there are no overriding material reasons which justify departing from the Plan.

## **C PROCEDURAL NOTES**

None.

## **D INFORMATIVES**

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.
- 4 An application for Building Warrant will be required.

Background Papers: 10 letters of objection  
Contact Officer: Nick Brian  
Date: 4 March 2015

**Nick Brian**  
**Development Quality Manager**

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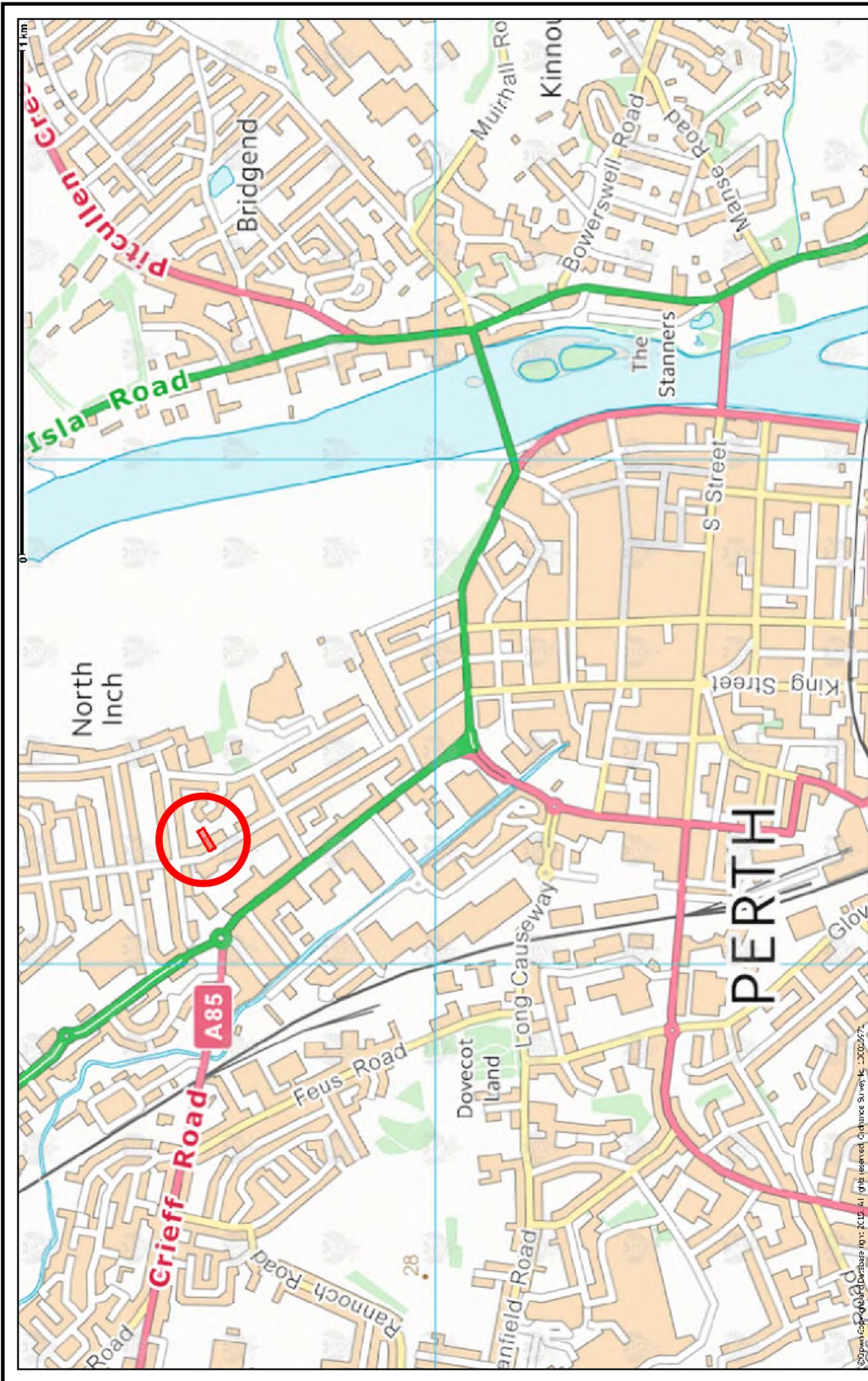


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14/01113/111

Alterations and extension to nursery at 46  
Balhousie Street, Perth





14/01113/fll

Alterations and extension to nursery at 46 Balhousie Street,  
Perth



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Perth and Kinross Council  
Development Management Committee – 15 October 2014  
Report of Handling by Development Quality Manager

**Alterations and extension to nursery at 46 Balhousie Street, Perth, PH1 5HW**

Ref: No: 14/01113/FLL  
Ward No: 12 Perth City Centre

**Summary**

This report recommends approval of the application for alterations and extension to nursery as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which would outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION**

- 1 The application relates to an existing children's nursery which operates from the ground floor of one half of a pair of 2 storey semi-detached villas within a residential area to the north of Perth City Centre.
- 2 The property was granted permission in 2010 for change of use from residential to a childcare business for 12 – 15 children operating 8am – 6pm, Monday to Friday. In 2012 the condition limiting the number of children was amended through an application to the then Development Control Committee to increase the number of children from 15 to 23.
- 3 This application includes a single storey extension on the southeast corner of the building. The proposed extension has a flat roof with pitched natural slate wrap around. The external finishes are white wet dash render and larch cladding. The extension will accommodate an increase in numbers from 23 to 40 spaces.
- 4 Off street parking for parents is provided to the front of the building and no changes to the current parking arrangements are proposed.

**NATIONAL POLICY AND GUIDANCE**

- 5 The Scottish Government expresses its planning policies through the National Planning Frameworks, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN). Of relevance to this application is,

**Scottish Planning Policy 2014**

- 6 The Scottish Planning Policy (SPP) was published on June 23 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

7 Of relevance to this application are:

- Paragraphs 92 – 108 : Supporting Business and Employment
- Paragraphs 269 –291 : Promoting Sustainable Transport and Active Travel

## **DEVELOPMENT PLAN**

8 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2012-2032 and the Perth and Kinross Local Development Plan 2014.

### **TAYplan Strategic Development Plan 2012**

9 Whilst there are no specific strategies or policies directly relevant to this proposal the overall vision of the Tay Plan should be noted. The vision states *“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”*

## **PERTH AND KINROSS LOCAL DEVELOPMENT PLAN 2014**

10 The Local Development Plan was adopted by Perth and Kinross Council on 3 February 2014. It is the most recent statement of Council policy and is augmented by Supplementary Guidance.

11 Within the Local Development Plan, the site lies within the settlement boundary of Perth within an area zoned for residential areas where the following policies are directly applicable.

### **Policy RD1 - Residential Areas**

12 In identified areas, residential amenity will be protected and, where possible, improved. Changes of use away from ancillary uses such as employment land, local shops and community facilities will be resisted unless supported by market evidence that the existing use is non-viable. Proposals will be encouraged where they satisfy the criteria set out and are compatible with the amenity and character of an area.

### **Policy PM1A - Placemaking**

13 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place.

## **Policy PM1B – Placemaking**

14 All proposals should meet all eight of the placemaking criteria.

### **OTHER POLICIES**

15 None specific to this scale of development.

### **SITE HISTORY**

16 10/01484/FLL Change of use from dwelling house to childcare business (Operating hours 8am-6pm, Monday to Friday) – approved by the Development Control Committee on 14 December 2010

17 12/00297/FLL Amend Condition No 4 of planning consent 10/01484/FLL to increase number of children from 15 to 23 – approved by the Development Control Committee on 19 April 2012

### **CONSULTATIONS**

18 **Environmental Health** No objection to the proposal on noise grounds and no conditions required

### **REPRESENTATIONS**

19 There have been ten letters of representation relating to the application, which can be summarised as follows:

- Traffic Safety related to parking and driving habits
- Traffic Generation from development
- Noise and Disturbance from the use
- Direct Effect on residential amenity related to use
- Overlooking from development
- External finishes related to choice of materials

20 These issues are all raised in the Appraisal section of this report.

### **ADDITIONAL STATEMENTS**

21

Environment Statement	Not required
Screening Opinion	Not required
Environmental Impact Assessment	Not required
Appropriate Assessment	Not required
Design Statement / Design and Access Statement	None submitted
Report on Impact or Potential Impact	None submitted

## **APPRAISAL**

### **Policy**

- 22 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The determining issues here are whether the proposals comply with Development Plan policy or if there are other material considerations, which justify a departure from policy.
- 23 The proposals continue to accord with the Development Plan, specifically policies, RD1, PM1A and PM1B, provided that they do not cause harm to local amenity.
- 24 Policies PM1A and B outline the general criteria which development should meet and the proposal does not raise any specific issues in relation to this criteria but is addressed in more detail within the Design and Layout section of this report.
- 25 Policy RD1 gives general encouragement for development which is compatible with the amenity and character of the area. It is considered that a nursery in principle is compatible within a residential area and indeed this was established by the original permission and an extension to that use would not conflict with this policy and this is addressed under the Appraisal section of the report related to the impact of that use on residential amenity and road safety.

### **Design and Layout**

- 26 The application is for a single storey extension and decking on the east elevation involving the removal of an existing conservatory and decking. The extension will have blank walls to the southeast and northwest which face other residential properties with windows and doors on the northeast/southwest elevations. The extension will have a flat roof with small pitched slate return. The proposed materials are timber cladding and white wet dash render which would complement the existing traditional stone building.
- 27 The extension in terms of the design, location and proportions is therefore considered to be acceptable and in keeping with the character of the area.

### **Use**

- 28 The use of the property as a nursery to accommodate 23 children has been established through the previous permissions, the extension which is acceptable in planning terms will facilitate an increase in numbers from 23 to 40 children. This increase will be spread throughout the existing groups 0-5 years and will also provide 7 spaces for access to before and after school care for 5-10 year olds.

- 29 As the principle of the use has been fully established by the earlier permissions the further addition of additional capacity for pupils is acceptable in use terms.

### **Residential Amenity**

- 30 The application site forms one half of a pair of semi-detached villas. The use of the building as a nursery has been established and it must therefore be considered whether the increase in numbers of children and the erection of the extension would be detrimental to the residential amenity of neighbouring residential properties and the area generally.
- 31 The extension in terms of its location and design would not overshadow or overlook neighbouring properties due to the distance from neighbouring property and comparative orientation. The new decking does provide a slightly elevated platform within the rear garden but this does replace an existing decking structure. I therefore do not consider the physical works to be detrimental to residential amenity. It must be considered whether the intensification of use would merit refusal of the application.
- 32 Environmental Health has confirmed that since the nursery has been in operation they have not received any complaints regarding noise from the premises. The hours of operation of the nursery are limited to 08.00hrs to 18.00hrs Monday to Friday and the activity rooms are located to the far side of the building away from the adjoining villa wall. The rear garden is currently used by the children for outdoor play so the increase in numbers will add to the existing use however this is spread amongst the age groups and dependant on the occupancy of the nursery on each day.
- 33 The intensification of the use is in accommodating an additional 17 spaces. These spaces would be spread out over the age groups that they cater for which is currently 0 – 5 years but also included within this number are 7 places which would be for 5 – 10 year olds before and after school provision. Therefore 7 of the additional 17 spaces would not be allocated to the under 5s for day time care which would reduce noise implications raised with regards to outdoor play.
- 34 I am therefore satisfied that the proposals would not have a significant impact on neighbouring residential amenity.

### **Economic Development**

- 35 The development in the construction phase will provide employment for local trades and services. On completion the operation of the extended facility will provide additional income for the business and opportunities for families to access childcare.

## **Traffic Safety/Access**

- 36 The business is located in a residential area within walking distance of the town centre on a main arterial route which is served by a number of bus routes. Directly outside the building there are double yellow lines however just a few metres down on street parking is available and further free on-street parking is available in the streets further north.
- 37 The agent has confirmed that parents currently use a variety of travel modes from public transport, walking and car drop off/pick up. The drop off and pick up of children is also staggered and varied between the operation of afternoon and morning sessions and full days which means that during the day, drop offs and pick-ups are varied involving lunchtime, morning and evening traffic movements. These drop offs and pick ups also occur over longer time periods for example between when the nursery opens at 8am and 9.30am, over lunchtime and then again between 3.30pm and 5.45pm. This means a staggered movement of traffic for those who choose to use their car.
- 38 Parents have the 4 spaces at the nursery for drop off and are advised to park legally and safely elsewhere if these spaces are occupied. Also witnessed from a site visit are notices advising parents not to park on the double yellow lines outside the nursery. The nursery also works in partnership with Asda in using their car park and supporting the Park and Stride scheme. The staff travel to the nursery by public transport or utilise free on-street spaces away from the premises.
- 39 Concerns have been raised related to illegal parking and driving habits which are out with the control of the planning system.
- 40 Transport Planning do not have any objection to the proposal on road safety grounds. The existing access is acceptable and the parking provided combined with the existing practices the nursery operate (as stated above) mean that the increase can be accommodated within these arrangements. It is considered that the existing users of the nursery are adequately advised of parking availability and sustainable options of travel to the nursery however through the inclusion of a condition requiring a Travel Plan to be submitted it can be ensured that new users are aware of the travel options.

## **LEGAL AGREEMENTS**

- 41 None required.

## **DIRECTION BY SCOTTISH MINISTERS**

- 42 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32, there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

## **CONCLUSION AND REASONS FOR RECOMMENDATION**

- 43 In conclusion, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In respect of the above assessment, the proposal is considered to comply with the overriding aims and policy objectives of the approved TAYplan 2012 and the adopted Local Development Plan 2014.

## **RECOMMENDATION**

### **A Approve the application subject to the following conditions:**

- 1 The proposed development must be carried out in accordance with the approved plans, unless otherwise provided for by conditions imposed on the planning consent.
- 2 The operating hours of this childcare business shall be from 8am to 6pm, Monday to Friday only.
- 3 The number of children which the childcare business caters for shall be a maximum of 40.
- 4 No part of the extended facility shall be used until a Travel Plan, aimed to encourage more sustainable means of travel, has been submitted and approved in writing by the Council. The Travel Plan will have particular regard to provision for walking, cycling and public transport access to and within the site and will identify the measures to be provided, the system of management, monitoring, review, reporting and the duration of the plan.

### **Reasons:**

- 1 To ensure that the development is carried out in accordance with the plans approved.
- 2-3 In order to safeguard the residential amenity of the area.
- 4 To encourage sustainable travel.

### **B JUSTIFICATION**

- 44 The proposal is considered to be in accordance with the Development Plan and there are no overriding material reasons which justify departing from the Plan.

### **C PROCEDURAL NOTES**

- 45 None.

## D INFORMATIVES

- 1 The development shall be begun within a period of three years from the date of this consent.
- 2 Under Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
- 3 As soon as practicable after the development is complete, the person who completes the development is obliged by Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
- 4 An application for Building Warrant will be required.

Background Papers: 10 letters of objection  
Contact Officer: Joanne Ferguson  
Date: 23<sup>rd</sup> September 2014

**Nick Brian**  
**Development Quality Manager**

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