



## Transportation Service

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Our Ref: RJG/LB - 754404  
Your Ref:

12 March 2010

Chief Legal Officer  
Per Mr R Ritchie  
Committee Services  
The Moray Council  
Council Office  
High Street  
Elgin  
IV30 1BX

CENTRAL SERVICES			
12 MAR 2010			
CTTEE	ESTATES	LEGAL	PERSONNEL
COMMENTS			



Dear Sir

### LOCAL REVIEW: PLANNING APPLICATION 09/00963/OUT WALKERS CRESCENT, LHANBRYDE

I refer to your letter dated 08 March 2010.

I respond on behalf of the Transportation Manager to the two questions raised in the letter:-

1. Circumstances which would preclude the applicant from meeting the statutory test.

I note the following key dates in respect of this Review Case:

16 December 2009 Notice of Review submitted

21 December 2009 Letter to Consultees seeking observations on the application or grounds  
for seeking review ('new evidence' attached)

25 February 2010 LRB Meeting

I refer to page 3/4 of the Notice of Review and to the Statement of Reasons for Seeking Review section. To the question - have you raised any matter which were not before the appointed officer at the time of the determination on your application was made - the agent has declared 'No'.



ISO 9001 : 2008  
FS 33734

12 March 2010

Chief Legal Officer  
Per Mr R Ritchie

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The note in this section of the Notice of Review states that "you should not raise any new matter which was not before the planning authority at the time it decided the application".

The 'Transportation Statement', confirmed as 'new evidence', invalidates the original statement in the Notice of Review.

The submission of the 'Transportation Statement' (Dougall Baillie Associates Consulting Engineers) appears to be at variance to regulation 9 (5) of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

The applicant has been aware of the position of Transportation through the previous response to planning applications (06/00426/OUT and 08/00388/OUT).

There is no barrier to prevent any applicant submitting policy, technical and detailed information to support a planning application.

Transportation (and Planning) already had experience with previous planning applications at this site.

I consider that the 'new evidence' should be precluded for two reasons:-

- The 'Transportation Statement' could have been submitted in support of the original planning application;
- No exceptional circumstances apply to this review case during the 'process period'

## 2. Views on the substance of the document.

Following receipt of your letter dated 21 December 2009 we submitted a response making observations, on the grounds submitted by the applicant including The Transportation Statement (Dougall Baillie Consulting Engineers), by e-mail on 12 January 2010.

In that response we have highlighted the planning history for the site. In particular the two applications that Transportation recommended refusal (06/00426/OUT and 08/00388/OUT).

The above information has been uploaded on to the 'public access online' web pages.

I do not intend to repeat or expand on that earlier response.

In accordance with regulation 15 (3) we will send a copy of this response to the applicant and the interested parties.

Yours faithfully



**Richard Gerring**  
**SENIOR ENGINEER (TRANSPORT DEVELOPMENT)**

Cc: Applicant and Interested Parties 09/00963/OUT

