

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

13/0009/LRB

**REFUSAL OF PLANNING APPLICATION FOR THE
VARIATION OF CONDITIONS 4 AND 5 (LAYOUT AND
MATERIAL FINISH) RELATIVE TO PLANNING
PERMISSION REFERENCE 08/00165/COU (CHANGE
OF USE FROM AGRICULTURAL SITE TO CARAVAN
SITE)**

**ELDERBERRY, KIEL CROFTS, BENDERLOCH,
OBAN, ARGYLL, PA37 1QS**

**PLANNING APPLICATION REFERENCE NUMBER
12/02293/PP**

22nd May 2013

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr and Mrs L Strathern ('the appellant').

Planning application 12/02293/PP for the variation of conditions 4 and 5 (layout and material finish) relative to planning application reference 08/00165/COU (change of use from agricultural site to caravan site) at Elderberry, Kiel Crofts, Benderloch, Oban, Argyll, PA37 1QS ('the site') was refused under delegated powers on the 18th February 2013.

The planning decision has been challenged and is subject of review by the Local Review Body.

DESCRIPTION OF SITE

The site is situated on land north west of the existing property at Elderberry, Kiel Crofts, Benderloch and is adjacent to the public road. The character of the area is defined by strips of open croft land, with small nodes of development comprising croft houses and associated outbuildings, in a generally flat open area of countryside. The area has two key environmental features; the open croft ground itself and the woodland adjacent to Kiel Crofts road. There is also a more commercialised area further to the west adjacent to the Tralee Bay Caravan site, which has the benefit of additional tree cover to integrate it with its surroundings.

SITE HISTORY

08/00165/COU

Change of use from agricultural site to caravan site – Recommended for refusal and granted by committee subject to conditions on 15th April 2009

12/02293/PP

Variation of conditions 4 and 5 (layout and material finish) relative to planning permission reference 08/00165/COU (change of use from agricultural site to caravan site) refused under delegated powers on 18th February 2013

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan and determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is the test for this planning application.

STATEMENT OF CASE

The determining issues in relation to the case are as follows:-

- Whether the material considerations asserted by the appellant are sufficient to outweigh the fact that the planning application is contrary to the current adopted development plan; or whether in fact the development plan remains the primary determining factor.

The Report of Handling (Appendix 1) sets out the Council's assessment of the planning application in terms of Development Plan policy and other material considerations.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were covered in the Report of Handling which is contained within Appendix 1. As such it is considered that the Council has all the information required to determine this particular planning application. Given the above and that the proposal is small scale in nature, constitutes a Local Development, has no complex or challenging issues and has not been the subject of any public representation, it is not considered that a Hearing is required.

However, given the disparity between the Planning Service and the appellants views regarding the degree of visual impact, degree of screening afforded by vegetation, and therefore the degree of need for high quality design and finishes to be provided at the site, the Review Body may wish to undertake a site visit prior to determining the review.

COMMENT ON APPELLANT'S SUBMISSION

- It would be prohibitively expensive to install timber chalets in the current economic climate and it would be better for the applicant and the surrounding area to have 12 affordable self catering units.
- The caravan site is not isolated but forms part of the overall visual and landscape setting of both the croft and the Kiel Road.
- The caravans have no greater impact on the surrounding area than the large green metal clad barn.
- There are no other timber clad static caravans or buildings on the north side of Kiel road
- Two other caravans on an adjacent croft are painted off white while five caravans on two sites sit opposite the park to the south
- It is clear from the enclosed photographs that the site has no detrimental effect on the visual amenity of the area and that it integrates well with its surroundings
- As the vegetation matures along the western boundary, along the south and western boundaries, it will integrate/disappear further with the landscape
- The maturing boundary vegetation provides adequate screening and the visual amenity of the area will not be compromised

- 1 timber chalet has been installed, and 2 further timber chalets will be located to the north of the caravan park. As these lodges have premium rate rentals, occupants require to be a) as far from the public road as possible, b) to be located in the part of the site with the most privacy and best views

Comments: The appellant is already prepared to invest in timber chalets. The planning conditions applied by committee require these to be sited at the front of the site to achieve the lowest adverse visual impact from public viewpoints within this area of Sensitive Countryside. The appellant prefers to site the timber chalets at the rear of the site for commercial reasons, but in so doing, creates greater adverse visual impacts and proposes a lower quality of development than approved by committee. The development proceeded on the basis of the planning conditions attached and no appeal was lodged against the conditions when they were applied. The timing of that decision concurred with the recession, so the economic climate has not changed in the intervening period.

The settlement pattern along the 'Kiel Road' area is defined by strips of open croft land, with small nodes of development comprising the croft houses and associated outbuildings in a flat open area of countryside, with two key environmental features, the open croft ground itself and roadside woodland. There is also a more commercialised area further to the west adjacent to the Tralee Bay Caravan site, which has the benefit of additional tree cover to integrate it with its surroundings.

The application site is approximately 0.2ha in size and is situated on the northern side of the 'Kiel Road'. The site is bounded on all sides by low lying agricultural land and is accessed via an existing access north of Elderberry Croft House. The site is generally open to public view from the public road to the west and south-west.

Following an initial recommendation of refusal, application 08/00165/COU was considered at a hearing in October 2008 and then supported by the Area Committee and granted by PPSL on the 18 March 2009 subject to conditions. The site lies in Sensitive Countryside and the appearance of a regimented layout of caravans encroaching on open pasture land was considered inappropriate by the committee. Appropriate conditions requiring the timber chalets to be at the front of the site, all caravans to be timber clad, and for extensive landscaping to be provided to reduce the visual impacts of the development were applied to accord with the enhanced design standards demanded by policy LP ENV 19. The conditions required the replacement of three pre-existing caravans with timber chalets, and the provision of only timber clad caravans or timber chalets throughout the rest of the development. The decision in this case recognised the sensitivities of the area and determined that the development was only acceptable within Sensitive Countryside subject to these safeguards and enhancements being delivered.

There are some caravans located on the Kiel Road, however these are generally well screened by dense natural woodland and are not readily visible from the public road. It must also be noted that the impacts associated with a 12 caravan/chalet development significantly exceed those of nearby single, pairs or trios of caravans.

The appellant has also contended that the landscaping which has been carried out will mature and will be adequate to screen the development and integrate it within its surroundings. It should be noted that the development which has been carried out on the ground is exactly that initially proposed by the applicant and no regard has been

given to the requirements of the planning conditions applied by the committee in this case in terms of achieving a higher quality outcome on the ground. As such this development is the subject of a live enforcement investigation where a Breach of Conditions Notice has been served. The layout of the development is at variance with the conditions and the approved landscaping scheme has not been fully implemented, as required by planning condition 6 of 08/00165/COU. A site visit will highlight why concerns remain regarding the quality, maturity and contribution made by existing planting at the site.

Whilst it is accepted that views into the site from the adjacent public road are screened from some viewpoints, it must be also noted that open views into the site remain from directly in front of the site at the south-west and when approaching the site from the north-west. Over these sections of public road, the caravans remain highly visible on account of the lack of vegetation and they also appear visually intrusive compared to what would be the case if adequate planting existed to break up these views. Nevertheless, the development is located on an open crofting landscape and it was considered during the determination of application 08/00165/COU that landscaping alone would not adequately reduce the negative visual impact of the development. Standard metal caravans were deemed unacceptable for the site and hence the attachment of conditions 4 and 5.

Policy LP ENV 19 states that developments shall be sited and positioned so as to pay regard to the context within which they are located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted. The quality of design requires to be higher in areas of Sensitive Countryside as required by Policy LP ENV19 Part (C), and for this key reason, it was considered that standard metal caravans would not be suited to the open countryside location that exists at this site. The nature of the site remains open and the failure to secure all of the landscaping and planting required by 08/00165/COU does little to help the applicant's case for a relaxation of standards on design finish.

In determining the review against refusal of application 12/02293/PP it is necessary to ask whether there has been any material change in circumstance since application 08/00165/COU was approved with conditions? Planning policy has remained constant and the opportunity to establish stronger containing planting has not been taken up. The only change in circumstances is that the applicant has pressed forward and implemented development at variance with the approved planning conditions. In so doing, the merit of securing compliance with the conditions has only been verified because the site does in fact appear visually intrusive from adjacent public viewing areas. The quality of design and appearance of the standard caravans on site is far lower than intended by the Planning Committee in attaching planning conditions and it is considered that the removal or variation of the conditions as sought by the applicant would result in an unacceptable development. The high quality layout and finish required by the conditions remains necessary to mitigate visual amenity and landscape impacts to comply with Policy LP ENV19 within this generally open area of Sensitive Countryside.

If the conditions were to be varied/deleted as requested the development would have an adverse environmental impact on the surrounding landscape and would cause

injury to visual amenity. Despite some landscaping, the site remains readily visible from various viewpoints, including the public road and from the Hawthorn Restaurant. The landscaping at the site only offers partial and seasonal screening of the site, and even if the approved planting scheme is fully implemented, this is not considered of itself to be sufficient to mitigate the impacts associated with a development of 9 standard caravans alongside three timber chalets at this site. There has been no material change in circumstances since the conditions were attached and it is not considered appropriate to support the applicant's request.

It is not accepted that the impacts of existing buildings or structures near the site justifies the deletion of the conditions applied to this site.

The appellant's statement of case does not conclusively address the reasons for refusal above which are explained fully within the Report of Handling attached within (Appendix 1).

CONCLUSION

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The variation of the conditions as sought would authorise a development which creates an adverse environmental impact on the surrounding landscape and would cause injury to visual amenity. Local Plan Policy ENV 19 requires new developments to incorporate a high standard of design in accordance with the Councils Sustainable Design Guide and Appendix A criteria, namely setting, layout/density and design. Given that the proposal is of poor design quality (where development within Sensitive Countryside requires enhanced design), it fails to satisfy the requirements of Policy LP ENV 19. The planning conditions were attached because they were deemed to be necessary to ensure that the visual and landscape impacts of the development could be successfully mitigated, and thereby render the development proposed under 08/00165/COU acceptable within a Sensitive Countryside location. There has been no material change in circumstances since that permission was granted with conditions and there is no sufficient justification which would warrant a variation of conditions 4 or 5 as requested. Without the higher quality layout and design secured by the conditions, it is considered that the development would generate unacceptable visual and landscape impacts.

APPENDIX 1

Argyll and Bute Council
Development Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 12/02293/PP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs L Strathern

Proposal: Variation of Conditions 4 and 5 (layout and material finish) relative to planning permission reference 08/00165/COU (Change of use from agricultural site to caravan site).

Site Address: Elderberry, Kiel Crofts, Benderloch, Oban, Argyll, PA37 1QS

DECISION ROUTE

(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Variation of Conditions 4 and 5 (layout and material finish) relative to planning permission reference 08/00165/COU (Change of use from agricultural site to caravan site)
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be refused for the reasons outlined within this report.

(C) HISTORY:

08/00165/COU

Change of use from agricultural site to caravan site – granted 15th April 2009.

(D) CONSULTATIONS:

None required

(E) PUBLICITY:

The application was advertised in terms of Regulation 20, closing date 22nd November 2012.

(F) REPRESENTATIONS:

No representations have been received regarding the proposal.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|---|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
-

(H) PLANNING OBLIGATIONS

- | | | |
|-----|-------------------------------------|----|
| (i) | Is a Section 75 agreement required: | No |
|-----|-------------------------------------|----|
-

- | | | |
|-----|--|----|
| (I) | Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: | No |
|-----|--|----|
-

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.

Argyll and Bute Structure Plan 2002

STRAT DC 5 – Development in Sensitive Countryside

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design

Appendix 1 – Sustainable Siting and Design Principles

Full details of the adopted local plan, including proposal maps and full policy wording can be viewed on the Council's website by clicking on the following link <http://www.argyll-bute.gov.uk/planning-and-environment/local-plan>

(ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Argyll and Bute Council Sustainable Design Guidance
Planning history at site

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
------------	---	-----------

(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
------------	--	-----------

(M)	Has a sustainability check list been submitted:	No
------------	--	-----------

(N)	Does the Council have an interest in the site:	No
------------	---	-----------

(O)	Requirement for a hearing:	No
------------	-----------------------------------	-----------

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for the variation of conditions 4 and 5 of planning permission 08/00165/COU which was for the change of use from an agricultural site to a caravan site at Elderberry, 6 Kiel Crofts, Benderloch. This application is a result of an enforcement investigation whereby the development has been implemented and is operational without first complying with several planning conditions attached to the aforementioned planning permission.

Conditions 4 and 5 are reproduced below:

4. Notwithstanding the detailed layout as submitted a further layout shall be submitted within 3 months of the date this approval which

- (i) shall illustrate the provision of the timber chalets on the front row of the development layout as approved.
- (ii) The phasing of the replacement of the existing caravans on the front row with the approved timber chalets. This phasing shall in the first instance demonstrate the replacement of the existing caravans with timber chalets before the expiry of one calendar year from the written approval of the Planning Authority to (i) above, and
- (iii) The development to undertaken in full accordance with (i) and (ii) above.

Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings

- 5 Notwithstanding the details of caravans as submitted, all new and existing caravans shall be finished with an external timber cladding, details of which shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site any such colour as may be agreed shall be dark and recessive, details of the timescale for the implementation of these works shall also be submitted to and approved in writing by the Planning Authority prior to any work starting on site

Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings

The land previously contained three caravans that are understood to have initially been installed on the basis of the 'rule of three', but they were not removed from site over winter periods and as such, they then gained lawfulness on account of their duration on site since the 1960's as stated by the agent in the minute from the Hearing held on 8 October 2008. Those three pre-existing lawful caravans were proposed to be augmented by a further 6 caravans and three timber chalets under the terms of planning application 08/00165/COU. The entire twelve caravan site was shown within the planning application boundary. In developing the site, the applicant precludes the further provision of any caravans under the 'rule of three' which only applies to undeveloped landholdings. The conditions of 08/00165/COU also seek to delete the 'rule of three' rights from the rest of the applicant's croft land.

Following an initial recommendation of refusal, application 08/00165/COU was considered at a hearing in October 2008 and then supported by the Area Committee and granted by PPSL on the 18 March 2009 subject to conditions. The decision notice was issued on 15 April 2009. During the assessment phases, the application was the subject of extensive debate and points contested between planning service and applicant/ agent focused on: compatibility with policy; compatibility with an ACE; the extent of landscape impact and the extent of visual impacts generated by the development. The site lies in Sensitive Countryside. In granting planning permission for the change of use, the PPSL determined that the timber cladding of caravans was necessary to improve the visual aspects of the development and therefore accord with the enhanced design standards demanded by LP ENV 19. The conditions attached to planning permission 08/00165/COU include requirements for extensive planting, the replacement of three pre-existing caravans with timber chalets, and the provision of only timber clad caravans or timber chalets throughout the rest of the development. The decision in this case recognised the sensitivities of the area and determined that the development was only acceptable within Sensitive Countryside subject to these safeguards and enhancements being delivered.

The planning conditions were open to appeal for a period of sixth months, but this right was never taken up by the applicant. Rather, the agent submitted additional details pursuant to the conditions on 13 May 2009. The details pursuant stated that the three existing caravans

would be replaced with timber clad caravans in April 2010 and other phases would be added in 2009, 2010 and 2011 to complete the development.

In the intervening period, the existing caravans have not been replaced; 5 of the 6 caravans in rows 2 and 3 have been installed (neither as chalets nor with timber cladding), and one timber chalet has been installed in row four at the rear of the site. The applicant's approach to implementing the development entirely follows his initial proposed layout and material finish and pays no regard to the conditions attached to planning permission 08/00165/COU. These matters have been the subject of an open enforcement case as breaches of conditions.

The applicant now wishes to vary condition 4 to allow the siting of the 3 approved timber chalets at the rear of the site only, rather than the front row as required by the condition. The applicant's agent has submitted a supporting statement expressing that it is necessary to site the chalets to the rear of the site as they have premium rentals and require the best outlook and most privacy.

The applicant also seeks the variation of condition 5, but in a way that effectively deletes the condition. The case made to avoid cladding the caravans in timber is as follows:

1. There are no other timber clad static caravans or buildings on the north side of Keil Road. Two other caravans on an adjacent croft are painted off white.
2. The boundary vegetation provides adequate screening at all times of the year. Therefore the visual amenity of the area will not be compromised.

It should be noted however that the approved landscaping scheme has not been fully implemented, as required by planning condition 6 of 08/00165/COU. The supporting statement contends that the proposed siting of the caravans and chalets and the omission of the timber cladding will not have a detrimental impact on the visual amenity of the area and in fact integrates well with its surroundings. It is also argued that a mix of static caravans, touring caravans, mobile homes, timber lodges and painted lodges all form part of the local landscape. Photographs of the site have also been submitted in support of these assertions. Whilst it is accepted that views into the site from the adjacent public road are screened from some viewpoints, the submitted photographs are selective and in fairness, it must be noted that open views into the site remain from directly in front of the site and when approaching the site from the north-west. Over these short sections of public road, the caravans remain highly visible on account of the lack of vegetation and they also appear visually intrusive compared to what would be the case if adequate planting was established to break up these views.

Nevertheless, the development is located on an open crofting landscape and it was considered during the determination of application 08/00165/COU that landscaping alone would not adequately reduce the negative visual impact of the development. Standard metal caravans were deemed unacceptable and hence the attachment of conditions 4 and 5. As set out above, the 'rule of three' is no longer applicable to this site and the entire development and all associated impacts are controllable through planning conditions. This sets it apart from any nearby caravans that are located under the 'rule of three'. It must also be noted that the impacts associated with a 12 caravan/chalet development exceed those of nearby pairs or trios of caravans.

Policy LP ENV 19 states that developments shall be sited and positioned so as to pay regard to the context within which they are located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted. The quality of design requires to be higher in areas of Sensitive Countryside as required by Policy LP ENV19 Part (C), and for

this key reason, it was considered that standard metal caravans would not be suited to the open countryside location that exists at this site. The nature of the site remains open and the failure to secure all of the landscaping and planting required by 08/00165/COU does little to help the applicant's case for a relaxation of standards on design finish.

In advising of the need for the higher standard chalets to command the best privacy and outlook because they command premium rentals, the applicant's position is understandable. Unfortunately, it fails to take any account of the Council's express requirement that the entire development was of a higher standard than was being proposed in the initial application. The effect of the development implemented on the ground is exactly that of the development as initially proposed by the applicant and no regard has been given to the requirements of the planning conditions applied in this case. The adverse visual impacts can clearly be understood on site and the wisdom of the Planning Committee in attaching the conditions should not now be overturned simply because the applicant disagrees with their requirements. The applicant had a full opportunity to utilise the appeal process at the time to challenge the validity of the conditions and chose not to do so. This is their responsibility.

In determining this application the question must be asked and answered is has there been a material change in circumstance since application 08/00165/COU was approved with conditions? Planning policy has remained constant and the opportunity to establish stronger containing planting has not been taken up. The only change in circumstances is that the applicant has pressed forward and implemented development at variance with the approved planning conditions. In so doing, the merit of securing compliance with the conditions has only been verified because the site does in fact appear unattractive and visually intrusive from adjacent public viewing areas. The quality of design and appearance of the standard caravans on site is far lower than intended by the Planning Committee in attaching planning conditions and it is considered that the removal or variation of the conditions as sought by the applicant would result in an unacceptable development. The high quality layout and finish required by the conditions remains necessary to mitigate visual amenity and landscape impacts to comply with Policy LP ENV19.

If the conditions were to be varied/deleted as requested the development would have an adverse environmental impact on the surrounding landscape and would cause injury to visual amenity. Despite some landscaping, the site is readily visible from various viewpoints, including the public road and from the Hawthorn Restaurant. The landscaping only offers partial and seasonal screening of the site, and even if the approved planting scheme is fully implemented, this is not considered of itself to be sufficient to mitigate the impacts associated with a development of 9 standard caravans alongside three timber chalets at this site. There has been no material change in circumstances since the conditions were attached and it is not considered appropriate to support the applicant's request.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why planning permission should be refused:

The variation of the conditions as sought would authorise a development which creates an adverse environmental impact on the surrounding landscape and would cause injury to visual amenity. Local Plan Policy ENV 19 requires new developments to incorporate a high standard of design in accordance with the Councils Sustainable Design Guide and Appendix A criteria, namely setting, layout/density and design. Given that the proposal is of poor design quality (where development within Sensitive Countryside requires enhanced design), it fails to satisfy the requirements of Policy ENV 19. The planning conditions were attached because they were deemed to be necessary to ensure that the visual and landscape impacts

of the development could be successfully mitigated, and thereby render the development proposed under 08/00165/COU acceptable. There has been no material change in circumstance since that permission was granted with the conditions and there is no sufficient justification which would warrant a variation of conditions 4 or 5 as requested. Without the higher quality layout and design secured by the conditions, it is considered that the development would generate unacceptable visual and landscape impacts.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A – the proposal is being recommended for refusal due to the reason outlined within Sections (P) and (R) above.

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Andrew Barrie

Date: 19th December 2012

Reviewing Officer: Stephen Fair

Date: 18/02/13

**Angus Gilmour
Head of Planning**

GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION 12/02293/PP:

1. The variation of the conditions as sought would authorise a development which creates an adverse environmental impact on the surrounding landscape and would cause injury to visual amenity. Local Plan Policy ENV 19 requires new developments to incorporate a high standard of design in accordance with the Councils Sustainable Design Guide and Appendix A criteria, namely setting, layout/density and design. Given that the proposal is of poor design quality (where development within Sensitive Countryside requires enhanced design), it fails to satisfy the requirements of Policy ENV 19. The planning conditions were attached because they were deemed to be necessary to ensure that the visual and landscape impacts of the development could be successfully mitigated, and thereby render the development proposed under 08/00165/COU acceptable. There has been no material change in circumstance since that permission was granted with the conditions and there is no sufficient justification which would warrant a variation of conditions 4 or 5 as requested. Without the higher quality layout and design secured by the conditions, it is considered that the development would generate unacceptable visual and landscape impacts.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **12/02293/PP**

- (A)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended by the Town and Country Planning Etc. (Scotland) Act 2006) to the initial submitted plans during its processing.

No

- (B)** The reasons why planning permission has been refused.

1. The variation of the conditions as sought would authorise a development which creates an adverse environmental impact on the surrounding landscape and would cause injury to visual amenity. Local Plan Policy ENV 19 requires new developments to incorporate a high standard of design in accordance with the Councils Sustainable Design Guide and Appendix A criteria, namely setting, layout/density and design. Given that the proposal is of poor design quality (where development within Sensitive Countryside requires enhanced design), it fails to satisfy the requirements of Policy ENV 19. The planning conditions were attached because they were deemed to be necessary to ensure that the visual and landscape impacts of the development could be successfully mitigated, and thereby render the development proposed under 08/00165/COU acceptable. There has been no material change in circumstance since that permission was granted with the conditions and there is no sufficient justification which would warrant a variation of conditions 4 or 5 as requested. Without the higher quality layout and design secured by the conditions, it is considered that the development would generate unacceptable visual and landscape impacts.