

Dear Ms Innis,

The Applicant wishes to respond to the case officer's statement as follows.

1. When local reviews were introduced Scottish Ministers stated that they should be considered in the same way as planning appeals and should adopt the *de novo* approach. *De novo* is a Latin expression used in English to mean 'from the beginning', 'anew'. This was confirmed as the correct approach in the case of *Sally Carroll v Scottish Borders Council* (copy attached). This means that the decision maker must take into account all material considerations and that can include information/documents that emerge after the original delegated or committee decision. This happens all the time at appeal and the situation should be no different here. It is therefore entirely legally competent for the councillors to consider the Proposed LDP and decide what weight to give it.
2. It is also entirely proper for councillors to ask their officers what comments have been received on the Proposed LDP, and I am sure that officers already know in general terms how many comments have been received on the policy at issue here. It would be entirely wrong for councillors to determine this local review in the way advocated by the case officer simply because a bit of time will be required to sift through relevant responses; if indeed there are any.
3. The Applicant could have waited to submit applications that is true, but wanted to take advantage of the free go that was available and that period ran out before the consultation on the Proposed LDP closed.
4. A hearing would be entirely appropriate and would allow time for the case officer to ascertain and exhibit any responses on the relevant policy in the Proposed LDP. It would also allow me to explain why the *de novo* approach is relevant, and why weight can be attributed to the Proposed LDP, which is the current 'settled view' of the Council and thus carries significant weight in the determination of these applications in my opinion.

Regards

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