

MORAY COUNCIL



THE PLANNING SYSTEM IN SCOTLAND

AN INTRODUCTION AND GUIDE FOR COMMUNITY COUNCILS



CONTENTS

Introduction	1
Planning - Purpose and Significance	2
The Planning Process - Summary	4
Development Management	7
Appeals and Reviews	15
Enforcement	20
Glossary	21
Source of Information	23
Contacts	23

INTRODUCTION

Community Councillors have a formal role in the planning system and many take a proactive role in planning matters to ensure that the community they represent is consulted on issues that could have an impact on the area and that their views are communicated to the planning authority.

The planning system is concerned with the future development and use of land and buildings. It is about where development should happen, where it should not and how it interacts with its surroundings. The system is undergoing a process of review to strengthen its capacity to nurture our places, our environment and our communities and guide future change so that it benefits everyone.

The planning system raises conflicts of interest and code of conduct for Community Councillors, and initially can be confusing and complex.

This guide aims to help you understand what the planning system seeks to achieve and introduces the processes involved in decision-making. It is not intended to turn you into a planning expert, but rather to provide information that will help you deal with planning matters and see the planning system's contribution to delivering great places and in achieving council policy goals.

The guide also provides you with links to other sources of information on the planning system. These should give you greater insights into aspects of planning that may be of particular interest to you.

PLANNING - PURPOSE AND SIGNIFICANCE

The planning system is established through legislation, which sets out certain actions and activities that planning authorities in Scotland are responsible for. The legislation gives the context for delivering new development in the right places.

As such, planning can enable great places though managing change that impacts upon our environment, our communities and our health and wellbeing.

A recent independent review of the planning system, 'Empowering Planning to Deliver Great Places', found that legislation alone cannot enable planning to realise its potential to deliver great places but requires behavioural change from all those with a role and interest in the system.

In response to the review recommendations, at the beginning of this year Scottish Ministers consulted on the future of the planning system in 'Places, People and Planning'. The changes proposed confirm the unique contribution the planning system can make to shaping the future of places and communities. Planning can be central to the delivery of great places and homes, enable economic growth and a force for positive, collaborative change in achieving better outcomes for communities.



PLANNING - PURPOSE AND SIGNIFICANCE

The consultation contained 20 proposals linked to four key areas for planning change:

- Making plans for the future; a system to lead and inspire change by making clear plans for the future.
- People make the system work; a system to empower people to decide the future of their places.
- Building more homes and delivering infrastructure; a system to help deliver more high quality homes and create better places where people can live healthy lives and developers are inspired to invest.
- Stronger leadership and smarter resourcing; to reduce bureaucracy and improve resources so Scotland's planning system can focus on creating great places.

The new Planning Bill in late which was to target legislative changes to review the system is still under preparation. The change required beyond legislation is being brought forward in a programme of planning reform and successful change requires involvement from all who have an interest, expertise or experience in the system and its outcomes.

There are 34 planning authorities in Scotland – the 32 councils and two national park authorities – and they are responsible for the main elements of the system: preparing development plans, deciding applications for planning permission and enforcing planning controls.

It is through the planning system that decisions are made, in the public interest, on how best to meet the needs and requirements for housing, offices and other business premises, retail and leisure opportunities, education and other social facilities and transportation. The aim is to achieve the right development in the right place, protecting valued urban and rural areas and the environment from inappropriate forms of development or use of land.

It is through the planning system that councils and others should facilitate development through the management of growth, land use and places whilst protecting and enhancing the natural and built environment in which we live, work and spend our leisure time. Actions taken through the planning system can therefore make a major contribution to councils' corporate objectives.

THE PLANNING PROCESS - SUMMARY

Public perception of planning is often based on contact with the system through a planning application but the scope of the planning system is much wider. To understand the various individual components it helps to appreciate how those relate to each other.

The two major elements of the planning process in Scotland are development plans and development management.

The law requires that decisions on planning applications are made in accordance with the development plan unless material considerations indicate otherwise. This means that decisions should be made in line with the development plan, but if there are material considerations (considerations which are related to planning and relevant to the application) a different decision may be appropriate. This emphasises the importance of the development plan and maintain an up to date development plan.

Development management is the process of deciding planning applications and various other associated activities including enforcement of planning controls.

For the purposes of planning applications, development in Scotland is put into one of three categories – local, major or national. The different categories mean that applications are treated in a way which is suited to the size and complexity of the proposed development and the issues they are likely to raise.

Most applications will be for local developments. Major developments include applications for 50 or more homes, certain waste, water, transport and energy- related developments, and larger retail developments. National developments are specific projects which have been identified in the National Planning Framework because of their national importance.

Planning authorities have many statutory powers and other responsibilities linked to the planning system covering diverse topics such as enforcement of planning controls

The work of the council's planning service also contributes to community planning and regeneration initiatives, and can promote improvements to the local environment and encourage more environmentally sustainable forms of development. Council services such as corporate policy, legal, financial, education, housing, transport, environmental and economic development all have important interactions with planning.

Role of Scottish Government

The Scottish Government maintains the legislative framework of the system, sets out the strategy for Scotland's future development and policies on key planning issues, and promotes good practice across the planning system.

THE PLANNING PROCESS - SUMMARY

Public bodies and agencies

A wide range of other public bodies and agencies participate in the planning process and decision making. These organisations often have statutory responsibilities for specific topic areas, with implications for planning decisions. They offer specialist advice to the planning authorities. Such bodies include:

- **Scottish Natural Heritage (SNH) – www.snh.org.uk**
SNH is responsible for the conservation and enhancement of natural heritage - the wildlife, the habitats and the landscapes.
- **Historic Environment Scotland – www.historic-scotland.gov.uk**
Historic Environment Scotland safeguards the historic environment and promotes its understanding and enjoyment.
- **Scottish Environment Protection Agency (SEPA) – www.sepa.org.uk**
SEPA is Scotland's environmental regulator and adviser. In addition to its role in controlling pollution, it works with others to protect and improve our environment.
- **Health and Safety Executive (HSE) – www.hse.gov.uk**
HSE protects people's health and safety by ensuring that risks in the workplace are properly controlled and controls substances that are hazardous to health.
- **Scottish Water – www.scottishwater.co.uk**
Scottish Water provides water and waste water services throughout Scotland.
- **Transport Scotland – www.transportscotland.gov.uk**
Transport Scotland is responsible for delivering the Scottish Government's transport capital investment programme and overseeing the safe and efficient operation of trunk roads and rail networks.
- **Architecture and Design Scotland (A+DS) – www.ads.org.uk**
A+DS is a non departmental public body, which acts as a national champion for good architecture, design and planning in the built environment.
- **Scottish Cities Alliance - www.scottishcities.org.uk**
The Scottish Cities Alliance is a partnership of Scotland's seven cities and the Scottish Government, the purpose of which is to attract investment and jobs into cities.

THE PLANNING PROCESS - SUMMARY

A number of voluntary or private organisations, which are often national campaigning bodies, regularly interact with planning authorities. Examples of these include:

- The Royal Society for the Protection of Birds (RSPB) (www.rspb.org.uk)
- Friends of the Earth (www.foe.co.uk)
- The Architectural Heritage Society of Scotland (www.ahss.org.uk)
- Local branches of the Scottish Civic Trust (www.scottishcivictrust.org.uk)
- Homes for Scotland (www.homesforscotland.com)

Planning Aid for Scotland (PAS)

PAS is a voluntary organisation at which 20% of planning professionals in Scotland volunteer. It offers an independent, free and professional advice service on planning applications and the planning process. It also runs training and education programmes designed to raise awareness and capacity on planning matters with elected members, community groups, seldom heard groups, children and young people (www.pas.org.uk).

Agency involvement

Certain public bodies are designated as key agencies in planning legislation. These bodies include Scottish Natural Heritage (SNH), Scottish Environment Protection Agency (SEPA), Scottish Water, Scottish Enterprise, Highlands and Islands Enterprise, Regional Transport Partnerships, Crofters Commission and local Health Boards.

The agencies are also involved in the development management process when they are consulted by the planning authority on relevant applications.

DEVELOPMENT MANAGEMENT

As a Community Councillor development management is the part of the planning system that you are likely to encounter most regularly.

There are three main elements to a planning authority's development management responsibilities:

- applications for planning permission and other related consents;
- appeals and reviews;
- enforcement.



DEVELOPMENT MANAGEMENT

When is planning permission needed?

Planning legislation defines what development activities require planning permission. Development is defined in the legislation as “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”. This means that anyone wanting to carry out an activity which is covered by the definition will need to obtain planning permission prior to work beginning.

It is important to note that in addition to the more obvious requirement to obtain planning permission for the construction of new buildings such as houses, shops, offices and similar, the second half of the definition refers to changes of use which may not involve physical building work. The major exception to this is that ‘permitted development rights’ have been created to remove the need to apply for planning permission for certain developments.

Where an application for planning permission is required, legislation divides development into three categories. This is known as the hierarchy of development. The three categories are national, major and local. There are different procedures in place for determining applications for the different categories of development.

National developments are large scale developments which are identified in the National Planning Framework. Whilst national development status establishes the need for a project, it does not grant development consent.

Major developments are defined in the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009. There are nine classes of major development including developments of 50 or more houses, business space over 10,000m² and wind farms with a generating capacity of more than 50MW.

Local developments are all types of development which do not fall into the national or major categories.



DEVELOPMENT MANAGEMENT

Different types of consent

There are two types of planning permission – planning permission in principle and full planning permission. There are also other types of consent related to development including listed building consent, conservation area consent, advertisement consent and hazardous substances consent.

Planning permission in principle (PPP) establishes the acceptability of a particular type of development on a site without requiring a significant level of detail about the proposed development. This is usually used where the likelihood of planning permission being granted is uncertain or in the case of major development proposals to avoid the initial high costs of detailed design work. Planning permission in principle will have conditions attached which require the submission of further details of the proposal to the planning authority for their approval. This type of application is referred to as an application for approval of matters specified in conditions (AMSC).

Applications for full planning permission relate to the full details of the proposed development. Planning permission can be granted, granted subject to conditions or refused.

Planning applications

The majority of planning applications are now made through the edevelopment portal.

If the proposal is for a major or national development the applicant will need to submit a Proposal of Application Notice to the local authority 12 weeks prior to the submission of any planning application. This involves:

- carry out pre-application consultation with the community – this includes developers sending details of the proposal to the council and to local community councils and consulting the wider community using at least one locally advertised public event;
- prepare a design and access statement (where required) setting out information about the design of the proposal and how the needs of disabled people have been considered.

In addition, applications for national and major development proposals may also be accompanied by more extensive documentation including Planning Statements, Environmental Statements, Retail Impact Assessments for large retail projects, Transport Impact Assessments and, increasingly, Education Impact Assessments.

DEVELOPMENT MANAGEMENT

These all provide additional information to facilitate better informed decision-making. Certain European obligations, for example a requirement to undertake an Environmental Impact Assessment or Habitats Regulations Appraisal, may also apply to individual applications. These are legal requirements and may apply to local, major or national applications, depending on the likely environmental impact of the proposed development.

The decision-making process

The way in which a decision is made depends on the type of application.

All authorities have a Scheme of Delegation in place which determines the decision route for the application whether it will be determined by officers or by elected members. The Scheme of Delegation differs between authorities.

The statutory period for deciding valid planning applications is two months for local developments and four months for national and major developments unless the applicant agrees to an extension of that time. An application will only be considered valid if it is accompanied by all the legally required documents and the fee charged for that category of development.



DEVELOPMENT MANAGEMENT

At the time of registration, the application will appear on a list of planning applications which is widely distributed and published in local newspapers and on council websites and the public information notices for Scotland website, www.tellmescotland.gov.uk. Further publicity for planning applications may be given for certain types of development through public notices published in local newspapers and neighbours are notified directly by the council about applications adjacent to their property.

Information on planning applications is available from the council and all key documents and plans or drawings are available online.

Members of the public may make written representations to the planning authority outlining their views on proposed developments. Normally these should be made within 21 days (28 days for EIA developments) of an application being registered by the council. In the case of objections, the reasons for objection must be clearly stated. Anonymous letters of objections or support will not be taken into account.

The planning authority undertakes consultations on planning applications with other departments of the council and external bodies known as statutory consultees. The range of bodies consulted varies according to the nature of the development proposals. The statutory consultees are primarily those bodies listed within the planning process section above.

Consultations with other departments of the council can include Transportation, Building Standards, Environmental Health, Housing, Education, Flood Risk Management, and Development Plans depending on the nature of the development proposed

For national developments and for major developments which are 'significantly contrary to the development plan', the applicant and people who have made comments must get the opportunity to attend a hearing before a council committee, then a meeting of the full council will decide on the application.



DEVELOPMENT MANAGEMENT

Material considerations

There is no statutory definition of what constitutes a material consideration but there are two main tests for deciding whether a consideration is material and relevant:

- it should serve or be related to the purpose of planning. It should therefore be related to the development and use of land; and
- it should fairly and reasonably relate to the particular application.

Generally a material consideration is a planning issue which is relevant to the application and can include national, European and council policies, comments by the public and by organisations the council has consulted, the design of the proposed development, and the effect of the plan on the environment.

In many respects it is easier to identify what is not a material consideration or is not relevant to planning, and therefore what should not form the basis of a decision on a planning application. The matters below are not considered to be material considerations:

- the protection of private interests, e.g. loss of views or competition between businesses;
- the personal circumstances of the applicant;

- moral considerations, e.g. sex shops, betting offices or religious objections to licensed premises;
- political considerations or ideological dislikes, e.g. construction of private schools or hospitals;
- the cost of the development;
- the applicant's lack of ownership of the site (note that planning permission relates to the land and not to the person seeking planning permission);
- issues covered by other legislation, e.g. building safety which is the responsibility of building standards.

Valid planning matters that should be taken into account include:

- the Development Plan;
- national planning policy;
- emerging policies in a development plan that is not yet approved or adopted;
- the planning history of the site, particularly any recent appeal decisions relating to the same land;

DEVELOPMENT MANAGEMENT

- the suitability of the site for the proposed development;
- the suitability of the type of development proposed in terms of compatibility with neighbouring property and the locality;
- design issues including the use of materials, the height, scale, bulk and layout of the development;
- potential loss of privacy or overshadowing of adjoining properties;
- the potential adverse impacts on adjoining property from noise, odours, fumes, etc;
- the economic benefits of the development through the creation of new jobs or possibly loss of local employment;
- meeting identified local needs such as affordable housing, or the creation of leisure facilities;
- the adequacy of the service infrastructure to accommodate the development, including the access arrangements to the site and level of parking provision;

- the impact of the development on the built or natural heritage of an area;
- the creation of a precedent, which might make it difficult to resist similar proposals elsewhere.

This list is not exhaustive but it does represent the considerations taken into account in most planning decisions. The relative weighting given to these various considerations is a matter for judgement in each case. Arguably, the most difficult planning decisions are those where the planning merits of the case are in favour of granting permission, but there are large numbers of local public objections to the proposed development. It is for you as an elected member to decide how important these material considerations are, bearing in mind the provisions of your development plan.

DEVELOPMENT MANAGEMENT

Conditions

Many applications are granted permission subject to conditions. Conditions enable developments to proceed where it would otherwise have been necessary to refuse planning permission. While the power to impose planning conditions is very wide, it needs to be exercised in a manner which is fair, reasonable and practicable and meet the terms of the use of Conditions Circular. Planning conditions should only be imposed where they are:

- necessary;
- relevant to planning;
- relevant to the development to be permitted;
- enforceable;
- precise;
- reasonable in all other respects.

Application of these criteria creates an effective basis for the control and regulation of development, which does not place unreasonable or unjustified burdens on applicants and the current or future owners of application sites. The sensitive use of conditions can also improve the effectiveness of development management and enhance public confidence in the planning system. Planning officers and your council's legal advisors will assist you in the effective use of planning conditions.

Further information can be found in Circular 4/1998 The Use of Conditions in Planning Permissions on the Scottish Government website ([www.scotland.gov.uk/ Publications/1998/02/circular-4-1998/circular-4-1998-](http://www.scotland.gov.uk/Publications/1998/02/circular-4-1998/circular-4-1998-)).

Developer obligations

Developer obligations are, on some occasions, important within the decision-making process. The rationale for seeking such contributions from developers is that they should contribute to mitigating the impacts of their development on infrastructure and other public services (schools, for example).

The subject of developer obligations requires to be approached with extreme caution as the potential borderline between seeking reasonable contributions and the "sale" of a planning permission can be very fine. The potential impacts on the viability of the development and consistency between developments are also important considerations. Contributions are usually secured through legal mechanisms such as a legally binding agreement (Section 75 agreement) between the developer and the planning authority or Section 69 agreement. There is a formal process whereby a party to a planning agreement can seek to have it modified or discharged should it not meet the relevant criteria and be reasonable and proportionate to the development. There is an associated right of appeal to Scottish Ministers.

Further information can be found in Circular 3/2012 Planning Obligations and Good Neighbour Agreements on the Scottish Government website (www.gov.scot/publications/circular-3-2012-planning-obligations-good-neighbour-agreements/)

APPEALS AND REVIEWS

Officer recommendations

Council planning officials prepare a report with a recommended decision for each planning application that appears on a planning committee agenda. Committees do not always accept the advice being offered by the planning officers. On these occasions it is essential that the committee clearly states the reasons for its course of action and that these are explained in the decision notice which is issued to the applicant.

Example of a Planning Application Scenario

The following example sets out what might happen if the council refuses a planning application against officer recommendation:

- The existing Local Plan is several years old, making its policies for a particular site outdated and the new Local Development Plan has not reached the examination stage.
- An important local employer (a large golf course) has submitted a planning application to develop a hotel on an existing informal car park within the complex, claiming the development is needed to support business survival and growth.
- Planning officers recommend approval of the application because, although it does not directly meet existing Local Plan policies, there are policies in the emerging Local Development Plan which support this type of project.

- Objectors bring your attention to issues with the proposed development such as potential for noise, increased traffic, loss of open space, etc. which you consider outweigh your officer's recommendations. You and your colleagues on the committee vote to refuse planning permission.
- The applicant appeals the decision. Council planning officers cannot support your position, and you as a councillor have to defend your decision at the appeal.



APPEALS AND REVIEWS

There are two routes for appealing a planning application.

Where a planning application is decided at the planning committee or by the full council, applicants have the right to appeal against a refusal or conditions attached to a planning consent. These appeals are made to the Scottish Government and dealt with by the Directorate for Planning and Environmental Appeals (DPEA). This route of appeal also applies where an authority has not made a decision on a planning application within the statutory period or if a Local Review Body fails to give a decision on a review against the non-determination of a planning application by officers.

Where a planning application for a local development is decided by officers under delegated powers, applicants have the right to have the decision to refuse permission or impose conditions on a consent reviewed by the Local Review Body or where the application is not determined within the statutory time period.

Local Review Bodies

Key features of Local Review Bodies are:

- It will consist of at least three elected council members. There will also be a planning advisor (either internal or external) and the LRB may request advice from experts on particular subjects when and if needed.
- Meetings must be in public.

- Method of determination (i.e. written submissions or hearing) is at the discretion of the LRB.
- There is no automatic right for the applicant or others to be make oral representation.
- The process must be fair and transparent.
- Where an application has not been determined within two months and a 'Notice of Review' is served by the applicant, but the review is not carried out within two months, the applicant may then appeal to the Scottish Ministers.

Key features of the review process:

- A 'Notice of Review' must be served by the applicant on the planning authority within three months of the delegated decision, or the date of expiry of period allowed for determining application (two months unless period for determination has been extended by agreement).
- Applicants must include their reasons for requiring review, their preferred method of review, the matters to be raised and documents to be used.
- The LRB will make interested parties aware – statutory consultees and objectors.

APPEALS AND REVIEWS

- Fourteen days is the period for further representations. The applicant may see these and make further comment after that period.
- LRB may then determine the review or hold a pre-examination public meeting – giving notice to interested parties as they consider reasonable.
- At the pre-examination meeting, the LRB may request further information by way of written submissions or hearings and/or a site visit, decide matters to be discussed and which procedure to follow. Regulations cover these matters and how to deal with new evidence.
- The decision notice must include the issues considered and the reasons for the decision including any planning conditions.
- If the applicant wishes to question the validity of the decision, an application may be made to the Court of Session within six weeks.



APPEALS AND REVIEWS

Appeals to Scottish Ministers

The Directorate for Planning and Environmental Appeals (DPEA) handles all planning appeals that are submitted to Scottish Ministers. Appeals must be submitted within three months of the planning authority's decision or, in the case of non-determination, within three months of the date by which the decision should have been made under the statutory timescales.

The decisions on most appeals are made by a Reporter from the DPEA. In a small number of cases Scottish Ministers make the final decision following the submission of the report and recommendation from a Reporter. The decision by the Reporter or Scottish Ministers is final, subject only to challenge in the Court of Session by an aggrieved party.



Detailed provisions are made in the legislation in relation to how the different types of appeal processes are to be conducted. The decision on the format of the appeal is made by the Reporter. Appeals can be determined using one of three main types of procedure:

- **Written representations** - in which the arguments of all parties are submitted to the DPEA in writing and the decision is made by the Reporter solely on the basis of these submissions. This is the most commonly used method.
- **Hearing** – This combines many of the advantages such as speed and relative informality of written representations but with the benefit of a hearing conducted by the reporter prior to any decision being taken. This provides an opportunity for the appellant, the council and objectors to discuss the issues raised in the appeal in more detail than will be the case with written submissions. It takes the form of a meeting chaired by the Reporter.
- **Public inquiry** – This is the most formal method of determining an appeal and is normally used for complex or relatively large scale developments as it is expensive for both the appellant and the planning authority. The format of a public inquiry allows each party to present evidence using witnesses with cross-examination of those witnesses' evidence by other parties. Solicitors or barristers often represent appellants and councils at public inquiries.

APPEALS AND REVIEWS

Awards of expenses

Normally all parties meet their own costs. Expenses can sometimes be awarded against a party taking part in the appeal if they have behaved unreasonably, and this unreasonable behaviour has resulted in unnecessary expenditure. Expenses are not awarded simply because an appeal has been 'won' or 'lost'. If another party has behaved unreasonably, be it the applicant or the council, a claim can be made against them for certain expenses. You can find further guidance on this in SEDD Circular 6/1990.

Elected members on planning committees and Local Review Bodies should always bear in mind the possibility of an appeal or legal challenge when considering planning applications and reviews, especially because the costs of an appeal can be awarded against any of the parties who are shown to have acted unreasonably. Particularly where a public inquiry is involved, the potential cost of a "frivolous" decision by a council could be very expensive for the public purse. In the case of a legal challenge, costs are normally awarded.



ENFORCEMENT

Planning authorities have an extensive range of discretionary powers to deal with circumstances where planning regulations have not been followed, planning conditions have not been fulfilled or where there is a suspicion that this may have occurred.

Members of the public may often bring breaches of planning control to the attention of councillors or the planning service. However, it is important to appreciate that many such cases are not straightforward and are often based on genuine misunderstandings, particularly relating to conditions attached to planning permissions.

In considering whether to take enforcement action the council has to decide if a breach of planning control would have an unacceptable impact on public amenity. Enforcement is intended to achieve acceptable development and not as a punishment for the person responsible for the breach. Given that it is not always apparent if a breach of planning control has been deliberate or based on a misunderstanding, the use of enforcement powers is regarded as a last resort. An owner/developer may be given the opportunity to rectify the breach through “retrospective” application for planning permission. If a “retrospective” application is made, it will then be decided in the same way as all other planning applications. If the council grants planning permission, there may be conditions attached.

Councils also have powers to serve notices asking for more information about a development. They can stop development that does not have permission or where the development does not follow the conditions attached to the permission which was granted.

The council can issue a fixed penalty or prosecute the responsible people if the development continues. Only when all other mechanisms have been exhausted the final option available to councils may be to demolish the illegal development and to recover the cost of this from the developer.

All councils publish a planning enforcement charter setting out how the enforcement system works, the council’s role in enforcement and the standards it has set itself and this is updated every two years.

Further information can be found in Circular 10/2009 Planning Enforcement on the Scottish Government website (www.scotland.gov.uk/Publications/2009/09/16092848/0).

There are some rights of appeal to Scottish Ministers against an enforcement notice served by a planning authority. An appeal can be made where the notice is incorrectly served or where the action required by the notice is considered excessive in relation to the breach. Appeals must be submitted before the date on which the notice takes effect.

In common with many local government services, the overall performance of each planning authority is monitored annually by Audit Scotland. Quarterly performance statistics are provided to the Scottish Government. In addition, it is each planning authorities’ responsibility to improve their own performance and this is evidenced in their annual Planning Performance Framework. Scottish Government continues to pursue an improved planning service particularly to accompany proposals to increase planning fees.

GLOSSARY

Adoption

Bringing a Local Development Plan into force.

Appeals and local reviews

Where applications for major or national development are determined and the planning authority refuses consent or grants consent subject to conditions, the applicant has the right of appeal to the Scottish Ministers. Where applications for local development are determined by council members rather than delegated for decision to officers, the applicant will have a similar right of appeal. Where applications for local development are delegated for decision to an appointed officer, and he or she refuses or grants consent subject to conditions, the applicant has the right to require a local review of the decision by a local review body made up of council members.

Environmental Impact Assessment (EIA)

An important statutory procedure for ensuring that the likely effects of new development on the environment are fully understood and taken into account before planning permission is granted.

Local Review Body

Made up of local councillors, a Local Review Body determines reviews of applications for local developments refused or approved subject to conditions under delegated authority by a planning officer. Reviews are requested by the applicant, and should be determined within two months. A review can also be requested where officers have not determined an application for local development within the statutory time period.

Major development

Developments not considered to be of national strategic importance but nonetheless are of a size and scale to be considered of major importance. Examples might be a retail unit of over 10,000m², a business park or a large scale housing development of 50 or more dwellings.

Material considerations

A planning matter which is relevant to a planning application can include national policies, comments by the public and other people the planning authority has consulted, and issues such as the design of a proposal or its effect on the environment. Details of what constitutes a material consideration can be found in Appendix A of Circular 4/2009 Development Management Procedures.

National Park Authority

There are currently two designated National Park Authorities in Scotland - Loch Lomond and the Trossachs and the Cairngorms.

Neighbour notification

A means by which people with an interest in neighbouring land or property in the immediate physical proximity to development proposals are informed by the planning authority that a development plan identifies that site or that a planning application has been submitted, allowing neighbours to make comments.

GLOSSARY

Planning agreement

An agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 between a planning authority and an applicant to regulate or restrict development.

Planning committee

A group of elected members, councillors, in a local authority who have the responsibility of taking decisions on planning applications or planning policy, including development plans.

Policies

Statements by planning authorities or Scottish Ministers of their attitudes or intentions towards existing or future situations which require action. Land use planning policies relate solely to physical land use development, for example, the location of housing or the improvement of the environment. They are limited to those which can be applied by the planning authority itself, or by other public bodies after full consultation and agreement.

Representations

A comment made on a planning issue by a member of the public, statutory consultee or other stakeholder. Representations include objections and letters of support.

Scottish Government Directorate of Planning and Environmental Appeals (DPEA)

A department of the Scottish Government, whose reporters will assess objections to development plans and take decisions on most planning appeals on behalf of Scottish Ministers.

Strategic Development Planning Authorities

A group of planning authorities acting jointly to prepare a strategic development plan (SDP). The SDPs which will be created by the new Planning Act will not cover the whole country, only the four main cities and their surrounding areas, i.e. Aberdeen, Dundee, Edinburgh and Glasgow.

Strategic Environmental Assessment (SEA)

A process for identifying and assessing the significant environmental effects of a strategy, plan or programme so that they may be taken into account before the plan is approved or adopted. All development plans must meet the requirements for SEA.

SOURCES OF INFORMATION

PAS (Planning Aid Scotland)

www.pas.org.uk PAS is a national charity that delivers free and independent advice, information, support and training on planning and environmental matters to members of the general public and community organisations. Advice and training is given through qualified and experienced town planners and trainers.

Scottish Government

www.scotland.gov.uk/topics/built-environment/planning
The Scottish Government has overall responsibility for the law on planning. It provides advice and establishes national planning policy and advice on best practice.

Town and Country Planning Act 1997

<https://www.legislation.gov.uk/ukpga/1997/8/contents>

Town and Country Planning Act 2006

<https://www.legislation.gov.uk/asp/2006/17/contents>

Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

https://www.legislation.gov.uk/sdsi/2009/9780111001714/pdfs/sdsi_9780111001714_en.pdf

Planning (Scotland) Bill

<https://www.gov.scot/policies/planning-architecture/reforming-planning-system/>

Planning Circular 3/2013: Development Management Procedures

<https://www.gov.scot/publications/planning-series-circular-3-2013-development-management-procedures/>

Planning Advice Note 47: Community Councils and Planning

<https://www.gov.scot/publications/community-councils-planning-review-town-country-planning-system-scotland-planning/>

Moray Council Planning & Building Standards Website

http://www.moray.gov.uk/moray_section/section_88557.html

Delegation Scheme

<http://www.moray.gov.uk/downloads/file60539.pdf>

Planning Appeals

Local Review Board

http://www.moray.gov.uk/moray_standard/page_82196.html

Scottish Ministers

<https://www.dpea.scotland.gov.uk/>

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