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## THE PLANNING SYSTEM IN SCOTLAND: AN INTRODUCTION FOR ELECTED MEMBERS

Report by Head of Communities and Economy

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### 1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide an introduction to the planning system for elected members.

### 2 BACKGROUND

- 2.1 Elected members have an important role to play in the planning system through their duties as ward members and through their position on the Planning Committee and Local Review Body.
- 2.2 The Improvement Service has prepared new advice for elected members *'The planning system in Scotland: an introduction for elected members'*, a copy of which is attached to this report.

### 3 THE PLANNING SYSTEM IN SCOTLAND

- 3.1 The attached publication provides guidance with regard:
- Planning – purpose and significance;
  - The planning process – summary;
  - Development plans;
  - Development management;
  - Appeals and reviews;
  - Enforcement;
  - Code of Conduct; and
  - Planning a councillor's perspective

### 4 RECOMMENDATION

- 4.1 It is recommended that the Committee notes the contents of the report.

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# The planning system in Scotland: an introduction for elected members

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# Introduction



Elected members have an important role to play in the planning system through their general duties as a ward member, but also through positions on the Local Review Body, Executive Board or full council.



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. This paper references the change that lies ahead and will be updated as it is implemented.



The planning system raises issues of probity, conflicts of interest and conduct for elected members, and initially can be confusing and complex. It is an area of decision-making in which elected members must be impartial and be seen to be acting impartially.



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.



In addition to these sources of information and help, your authority's planning officers will be pleased to answer queries that you may have.





# 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.

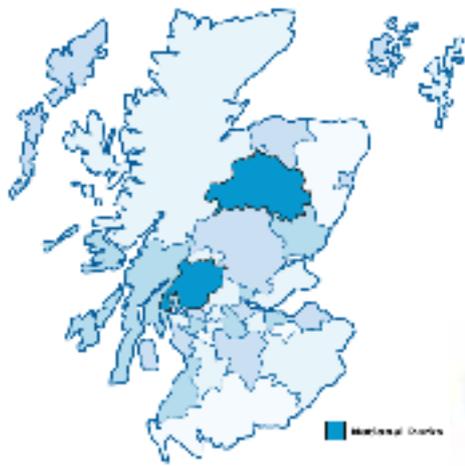
In response to the review recommendations, at the beginning of this year Scottish Ministers consulted on the future of the planning system in '[Places, People and Planning](#)'. The changes proposed confirm the unique contribution the planning system can make to shaping the future of places and communities. 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.

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 [responses](#) to this consultation will now inform a new Planning Bill in late 2017 targeting the legislative changes to review the system. 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.



Scottish Planning Authorities



These are the Strategic Development Plan Areas which cover Scotland's four largest city-regions, around Aberdeen, Dundee, Edinburgh and Glasgow, covering approximately 32% of the land area of Scotland.

The changes in the system look to strengthen the influence and perception of planning to place it central in the coordination required to deliver great places. At the same time, they look to streamline procedures and reduce bureaucracy.

*“Our people need a planning system that helps to improve their lives by making better places and supporting the delivery of good quality homes.”*

Places, People and Planning: A consultation on the future of the Scottish planning system

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.

Consequently the planning system has a significant impact on our quality of life, by shaping the environment in which we live, work, shop, learn, travel and spend our leisure time.

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.



Development and land use change inevitably creates conflicts between competing interests. Councils, and therefore elected members, must represent the wider public interest and help mediate such conflicts through the planning system. Partnership working, community involvement, co-ordination of activities and meaningful negotiations with developers are essential components of a successful planning system.

For further information about the purpose of the planning system see [www.gov.scot/Topics/Planning](http://www.gov.scot/Topics/Planning).





# 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.

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*“We want Scotland’s planning system to lead and inspire change by making clear plans for the future.”*

Places, People and Planning: A consultation on the future of the Scottish planning system

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**Development plans** guide the future use of land and the appearance of cities, towns and rural areas. They indicate where development should happen and where it should not. All planning authorities are legally required to prepare a Local Development Plan (LDP) for their area, which must be updated every five years. The LDP will usually be accompanied by supplementary guidance on topics like green network provision, developer contributions, residential development standards etc.

In the four largest city regions (Aberdeen, Dundee, Edinburgh and Glasgow) authorities must also work together to prepare a Strategic Development Plan. Authorities work together through Strategic Development Planning Authorities (SDPAs).

- **Aberdeen City and Shire SDPA**  
– Aberdeen City Council and Aberdeenshire Council
- **TAYplan SDPA** – Angus Council, Dundee City Council, Fife Council and Perth and Kinross Council
- **SESplan SDPA** – City of Edinburgh Council, East Lothian Council, Fife Council, Midlothian Council, Scottish Borders Council, West Lothian Council





- **Glasgow and Clyde Valley SDPA** – East Dunbartonshire Council, East Renfrewshire Council, Glasgow City Council, Inverclyde Council, North Lanarkshire Council, Renfrewshire Council, South Lanarkshire Council, West Dunbartonshire Council.



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.



## Other planning activities



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



- enforcement of planning controls
- Tree Preservation Orders
- identification of public rights of way and
- designation of conservation areas.



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 Government is also responsible for approving Strategic Development Plans and making decisions on appeals and some other planning applications. It is also involved in promoting the reform of the planning system through the consultation document on the future of the planning system '*Places, People and Planning*'.



## 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](http://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](http://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](http://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](http://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](http://www.scottishwater.co.uk)**

Scottish Water provides water and waste water services throughout Scotland.



### **Transport Scotland – [www.transportscotland.gov.uk](http://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](http://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.



### **Regional Transport Partnerships - [www.transport.gov.scot/our-approach/strategy/regional-transport-partnerships/](http://www.transport.gov.scot/our-approach/strategy/regional-transport-partnerships/)**

Regional Transport Partnerships bring together local authorities, elected members and other key regional stakeholders to take a strategic approach to the planning and delivery of regional transport so that it better serves the needs of people and businesses.

### **City Region Deals - [www.gov.scot/Topics/Built-Environment/Cities](http://www.gov.scot/Topics/Built-Environment/Cities)**

City Region Deals offer the potential for new collaborative regional partnerships, focused on long-term strategic approaches to improving regional



economies.



### Scottish Cities Alliance - [www.scottishcities.org.uk](http://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.



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](http://www.rspb.org.uk))



- Friends of the Earth ([www.foe.co.uk](http://www.foe.co.uk))



- The Architectural Heritage Society of Scotland ([www.ahss.org.uk](http://www.ahss.org.uk))



- Local branches of the Scottish Civic Trust ([www.scottishcivictrust.org.uk](http://www.scottishcivictrust.org.uk))



- Homes for Scotland ([www.homesforscotland.com](http://www.homesforscotland.com))

## Community Councils

Community councils are also consultees, and legislation requires that they be invited to comment on planning applications in or affecting their area. They also have the right to comment on the preparation of development plans.



You are likely to have contact with the community councils as well as with members of the public, applicants and objectors to planning applications. If you attend meetings at which particular planning applications are being discussed it is important to avoid being drawn into discussions that could compromise your involvement in subsequent decision-making by the council. Further advice on this subject is given in the following sections.



## 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](http://www.pas.org.uk)).







# Development plans



The development plan process is central to the planning system. If you are a member of the planning committee you should have a high level of involvement in the preparation of the Local Development Plan for your area and, where relevant, the Strategic Development Plan.



Development plans set out how places should change and what they could be like in the future. They set out the preferred locations for new homes, businesses and other land uses and protecting places of value to people or wildlife. Plans may also describe how any new or improved facilities such as roads, schools and parks will be provided. Local authorities can enter into legal agreements with developers about this type of development. The policies in the development plan help to set out what kind of development is acceptable. Your authority's response to a planning application should be based on the plan.



Councils and national park authorities must prepare a development plan for their area at least every five years.



All parts of Scotland have to be covered by a Local Development Plan (LDP) which sets out where most new developments are proposed and the policies that guide decision making on planning applications.



For the four largest city regions (Aberdeen, Dundee, Edinburgh, Glasgow) there will also be a Strategic Development Plan (SDP). The SDP sets out the vision for the long term development of the city region and deals with region wide issues such as housing and transport.



Where there is a Strategic Development Plan, the Local Development Plans in the area must conform to it.



Authorities can also prepare supplementary guidance. This guidance can take a wide variety of forms but the most common types are:



- development briefs or master plans which provide a detailed explanation of how the authority would like to see particular sites or small areas develop;
- strategies or frameworks on specific issues, such as guidance on the location of large wind farms;
- detailed policies, for example on the design of new development or the delivery of affordable housing.



Development plans are not prepared in isolation. Plans are bound by European obligations and national strategies such as the National Planning Framework. The National Planning Framework sets the context for development planning across Scotland and provides a framework for the spatial development of Scotland as a whole. It sets the Scottish Government's development priorities and identifies national developments which support their development strategy.



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## Aligning with Community Planning

Planning authorities have a duty to align spatial planning with Community Planning priorities. The Community Empowerment Act 2015 makes them a statutory community planning partner required to take account of Local Outcome Improvement Plans and locality plans within their development plan.

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Also, under the Environmental Assessment (Scotland) Act 2005, development plans must be subjected to a strategic environmental assessment. When preparing a development plan, authorities must have regard to matters including the resources available to implement the plan, the plans of neighbouring authorities, the regional transport strategy, river basin management plan and local housing strategy, the national waste management plan and issues linked to the Control of Major Accident Hazards regulations, Flood Risk Management (Scotland) Act 2009, Climate Change (Scotland) Act 2009.

Every year your authority will prepare a Development Plan Scheme which sets out the timetable for plan preparation and for how and when people can get involved in plan preparation.

## Plan preparation

Strategic Development Plans and Local Development Plans go through similar preparation processes. The key stages are:

- Main Issues Report;
- Proposed Plan;
- modifications;
- submission to Scottish Ministers;
- examination;
- approval/refusal (Strategic Development Plans) or adoption (Local Development Plans).

## Main Issues Report

The Main Issues Report is the first formal stage in plan preparation. It sets out the authority's general proposals for development in the area and in particular proposals as to where development should and should not occur. It must contain one or more reasonable alternative sets of proposals and it must draw attention to the ways in which the favoured and alternative proposals differ from the current development plan. Main Issues Reports are not draft versions of the plan, but should concentrate on the key changes that have occurred since the previous plan and on the authority's big ideas for future development.



The report must be made publicly available for comment for a minimum six week period. During that time, the council is expected to engage with local communities and other key stakeholders such as the development industry and other public sector organisations to discuss the issues. It is important to recognise that councils are expected to engage in meaningful discussions at this stage of the plan preparation process in order to produce plans that reflect the aspirations of local communities.



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*“Co-ordinated working and including planners as key community planning partners will be essential.”*

Places, People and Planning: A consultation on the future of the Scottish planning system

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Development plans should be fully coordinated with other important strategies from the earliest stage, with key infrastructure providers such as the authority’s roads service, Transport Scotland and Scottish Water signed up to the delivery of the emerging proposals.



### **Proposed Plan**

Having taken into account the representations received on the Main Issues Report, authorities then prepare and publish a Proposed Plan. This shows the authority’s settled view as to what the final adopted content of the plan should be.



The public consultation on the Proposed Plan must run for at least six weeks. The authority will also notify the owners, lessees and occupiers of sites with premises on where development is proposed in the Proposed Plan, and the owners, lessees and occupiers of neighbouring sites.



### **Modifications**

Following the consultation on the Proposed Plan authorities may make modifications to it to take account of representations, consultation responses and minor drafting or technical matters.



Where an authority makes significant modifications, the public must be given a further opportunity to comment. Significant modifications should only occur in exceptional circumstances.



### **Submission to Scottish Ministers**

Authorities must submit their plan to Scottish Ministers, along with the proposed action programme, a report on public participation and, if there are unresolved representations, a request that Scottish Ministers appoint a person to examine the Proposed Plan.



### **Examination**

The purpose of the examination is to independently test the issues arising from



representations on Proposed Plans. The person appointed to examine the plan will be a Reporter or Reporters from the Scottish Government’s Directorate for Planning and Environmental Appeals (DPEA). The examination will only look at issues raised in representations and the authority’s response to these issues. The Reporter will decide if further information is required, who will be asked to provide this information and the method through which the information should be provided. It can be through written submissions, hearing sessions, inquiry sessions or a combination of these.



The outcome of the examination is a report which sets out and gives reasons for conclusions and recommendations. This report will be sent to the planning authority where it relates to a Local Development Plan or to Scottish Ministers where it relates to a Strategic Development Plan. The Reporter’s recommendations are binding on the planning authority, except in a limited number of circumstances.



The cost of the examination of a Local Development Plan is paid by the planning authority. The cost of the examination of a Strategic Development Plan is split between the Scottish Government and the Strategic Development Planning Authority.



### Approval or rejection of a Strategic Development Plan



When they have received the proposed Strategic Development Plan from the SDPA and the examination report, Scottish Ministers will either approve the plan, approve it with modifications or reject it. Proposed modifications will be published and consulted on prior to the final approval of the plan.



### Adoption of a Local Development Plan



Examination reports are largely binding on planning authorities. This means that authorities must follow the Reporter’s recommendations except in a limited number of situations. The authority then publishes the modifications and the plans as they propose to adopt it, and send a copy to Scottish Ministers. This must be done within three months of receiving the examination report.



### Role of elected members in development plan preparation



If you are a member of the planning committee, you will be involved in the approval of Main Issues Reports, Proposed Plans and the final version of Strategic and/ or Local Development Plans prior to their formal adoption by the council. Indeed, even if you are not a member of the council’s planning committee, in some local authorities you will also be involved as these plans are regarded as so important that they will often be presented to the full council for final decision. It is important that development plans are brought forward quickly and that decisions are not delayed except where absolutely necessary.



The real significance of the development plan is that it forms the policy basis for planning decisions on planning applications. The allocation of land for development in local development plans is effectively committing the council to the principle of future development on particular sites. For example, if the Local Development Plan has allocated a site for housing, the council will not be in a position to refuse planning permission in the future for a housing development on



the grounds that it is an inappropriate location for housing. In this type of situation, debate on planning applications should focus on matters such as the design of the development, its layout, phasing and infrastructure like roads and drainage.



As an elected member, key decisions on the content of the development plan will probably arise during the life of a council, and they will rank as some of the most important decisions you will make during your time on the council. The content of the development plan may have a profound effect on the future quality of life for the communities that you represent.

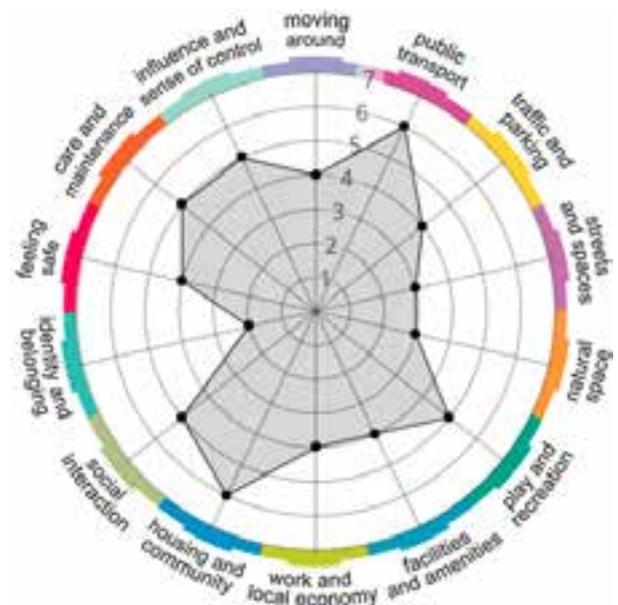


## Community engagement during plan preparation

There are minimum legal requirements for engaging people in the preparation of development plans, but authorities are encouraged to go beyond these to promote wider public awareness and engagement.



The Place Standard, a simple tool that is available for anyone to use, provides an excellent opportunity to involve all people in a structured conversation about the quality and future of a place.



Every year authorities must publish a development plan scheme. This includes a participation statement which sets out how and when people can get involved in plan preparation. Community groups should be encouraged to look at the development plan scheme and provide feedback on proposals for engagement.

The main formal opportunities for public engagement and plan preparation are:

- undertaking widespread consultation, including with community councils, following the publication of the Main Issues Report;
- publicising the publication of the Proposed Plan and the opportunity to make representations on it. Occupiers and neighbours of some specific proposal sites will be notified about the publication of proposed Local Development Plans.



## 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.



These key agencies have a duty to cooperate with planning authorities when development plans are being prepared. Historic Environment Scotland, Transport Scotland and the Forestry Commission Scotland are expected to engage with authorities in the same way (but are not legally obliged because they are part of the Scottish Government).



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



## Action programmes



Development plans are most directly implemented through the development management process. However, they should also have a significant influence on many decisions affecting the places in your authority area.



Legislation requires authorities to prepare an Action Programme which sets out how the authority proposes to implement the plan. . The actions are not limited to those that will be carried out by the planning authority. When preparing their action programme, authorities must consult the key agencies, Scottish Ministers and anyone the authority proposed to specify by name in the Action Programme.



An Action Programme must be prepared within three months of plan approval or adoption and must be kept under review at least every two years.







# Development management

As an elected member, 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.

## 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.

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*“We want to simplify, streamline and clarify procedures so that planners can focus on activities that add most value.”*

Places, People and Planning: A consultation on the future of the Scottish planning system

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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. There are currently 14 national developments including projects such as the Former Ravenscraig steelwork, National Long Distance Cycling and Walking Network and the Central Scotland Green Network Partnership.



Pre-application consultation plus a Design and Access Statement for national and major developments. Design statement for some local developments.

**Submission of an application**

**Validation by the planning authority**

Publicity

Neighbour Notification

**Consultation**

**Consideration and the preparation of a Report of Handling**

Enhanced scrutiny  
(national and some major developments)

**Determination and issue of Decision Notice**

Notice of Initiation of Development

Review/Appeal



**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 10,000m<sup>2</sup> 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.



## 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 (PPiP) 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.



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 — elected members' role

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.



At the time of registration, the application will appear on a list of planning applications and pre-application consultations received during that week, which is widely distributed and published in local newspapers and on council websites and the public information notices for Scotland website, [www.tellmesScotland.gov.uk](http://www.tellmesScotland.gov.uk). Most authorities send a copy of the weekly list to elected members. 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, either online or in person at council offices.



Members of the public may make written representations to the planning authority outlining their views on proposed developments. Normally these should be made within 14 to 21 days 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/Roads, Environmental Health, Housing, Education, Social Work and Leisure and Recreation, depending on the nature of the development proposed. Such consultations have an important role within the authority in bringing together various functions or services to provide a single response. This helps achieve the



objectives of your council's corporate agenda in a consistent and coherent way.



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.



## 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;



- 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.

## 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 contributions



Developer contributions (sometimes referred to as planning gain) 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 contributions 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 1/2010 Planning Agreements* on the Scottish Government website ([www.gov.scot/Publications/2010/01/27103054/0](http://www.gov.scot/Publications/2010/01/27103054/0))



## 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.

In the event of an appeal against a refusal of planning permission, the members who proposed and seconded a motion to refuse consent contrary to officer recommendation may be called as council’s witnesses. In this situation it is important to appreciate that assistance from your planning officials will not always be available. They are normally subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct that precludes further involvement in cases



where their professional opinion has not been accepted. In such circumstances, assistance and advice will normally be available from council lawyers, and/or through the engagement of private planning consultants. In some authorities planning officials prepare the case for written submission appeals based on the committee's decision even if it is against their recommendation.



## 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

Each authority will have different arrangements for their Local Review Body (LRB). If you are selected as a member of the LRB you will receive specific training prior to your involvement in the determination of any case.



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.
- 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 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.



## 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.



## Examples of unreasonable behaviour



Unreasonable behaviour on the part of the planning authority may include:



- failing to give complete, precise, and relevant reasons for refusal of an application;
- reaching their decision, without reasonable planning grounds for doing so;
- refusing an application for planning permission solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations;
- refusing an application because of local opposition, where that opposition is not founded upon valid planning reasons;
- refusing an application if an earlier appeal against the refusal of a similar application in respect of the site has been dismissed, where it is clear from the decision on that appeal that no objection would be seen to a revised application in the form submitted;
- failing to take account of relevant statements of government policy or of relevant precedents of which the planning authority were aware;
- imposing conditions on a grant of planning permission which clearly fail to meet the criteria set out in Circular 4/1998 or which so limit an appellant's freedom to dispose of his property as to amount to an unreasonable restriction;
- serving an enforcement notice without undertaking reasonable investigations to establish whether there has been a breach of planning control or without taking account of case law and of policy and advice set out in Circulars.





Unreasonable behaviour on the part of either party may include:

- introducing a new matter (e.g. a new reason for refusal or new ground of appeal) at a late stage in the proceedings;
- refusing to supply adequate grounds of appeal or to co-operate in settling agreed facts or supplying relevant information which unnecessarily prolongs the proceedings;
- refusing to co-operate in setting a date for an inquiry or accompanied site inspection;
- failing to comply with the requirements of any statutory procedural rules;
- failure to comply with procedural requirements to the serious prejudice of the other party and leading to the adjournment of the inquiry.







# 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](http://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.





# Code of Conduct



The Councillors' Code of Conduct explains the responsibilities of elected members ([www.standardscommissionscotland.org.uk/codes-of-conduct/councillors-code-of-conduct](http://www.standardscommissionscotland.org.uk/codes-of-conduct/councillors-code-of-conduct)). It provides a positive framework for your decision making as a councillor, helping you to navigate a maze of potential conflicts of interest. The Standards Commission was established under the terms of the Ethical Standards in Public Life etc (Scotland) Act 2000 and it publishes the Code.



The Code of Conduct is particularly relevant to planning, as consideration of planning matters can generate pressures for you from many directions, which will be much stronger than those you will encounter on most other council business. This section deals directly with issues, concerns and conflicts that you may encounter dealing with planning matters.



## Key issues



Public perception and its relationship to probity, openness and accountability is the most important factor for you to be aware of constantly. The Code of Conduct highlights the “objective test” which is *whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision-making in your role as a councillor*. In other words, it’s up to you to assess how your decisions may be interpreted and to ensure that you do not create an adverse public perception of your behaviour or engage in inappropriate or illegal actions.



Whether you are a member of the planning committee, Local Review Body or full council considering applications or a local member putting forward an opinion about a particular application, it is essential that your conduct is directed by the Code. The Code is realistic however, and recognises that some decisions that you take may prove unpopular with the public.



When you attend a planning committee, Local Review Body or full council meeting, the considerations will be:



- Do you need to declare an interest - yours or any other party’s?
- If you do declare an interest, should that interest prevent you from taking part in the discussion and/or the decision-making?
- Have you pre-empted your involvement in the debate over a planning application by stating your position in support of/against a particular application or a Local Development Plan proposal in advance of formal consideration of that application or proposal?



This third point is also relevant to councillors who have publicly declared their support for, or opposition to, a particular project during their election campaign that may subsequently come before them at committee as a planning application or Local Development Plan proposal.



When deciding whether you should declare an interest and take part in a committee discussion or the wider consideration of a particular planning application or Local Development Plan proposal bear in mind that interests are not just financial or business. They can also be personal or social.



Consequently a conflict of interest could be as obvious as you and a relative owning land that is the subject of a planning application or, less clear cut, one of your close friends being a leading objector to a controversial proposal. It is important therefore to recognise that potential conflicts might arise in circumstances that are not explicitly dealt with by the Code.







# Planning - a councillor's perspective

A wide range of individuals, groups and businesses will lobby you on planning matters. Each representation should be considered carefully. Weigh them in terms of relevance to the issues involved and use this information alongside the impartial advice from council planning officers. You must be seen to reach your decisions in an open, objective manner.

Developers will sometimes subject you to a sustained campaign, feeding you information and attempting to persuade you of the merits of their case. This lobbying may be highly professional. This can also be true of objector's groups.

The often competing interests of the different groups and individuals that may contact you must also be considered in terms the overall aims of the council as well as planning policy, as the planning function does not exist in isolation from the wider corporate agenda of the local authority. This does not, however, override the legal requirement to make decisions based on the development plan. For example, a planning application for a new superstore may be part of a wider economic regeneration effort, led by the council with other partners; or a housing development that includes a higher than normal percentage of social housing may form the lynchpin for a localised housing strategy to enable young families and key workers to afford a home.

Planning applications should be decided on their planning merits but the context can be shaped by many dynamic factors. Indeed, the development plan, against which applications are judged, is the result of you and your colleagues' or predecessors' previous consideration of these factors, ranging from social inclusion to sustainability. It is important to consider applications in this context and not simply to only judge it against the often fixed provisions of a Local Development Plan.

Inevitably, people will have many different expectations of you in your role as an elected member. A community council from your ward may expect you to support whatever position they have taken on big or controversial applications, or even to defend their stance on a small, but to them significant, application for a house extension. Commercial interests might expect you to promote development generally as a 'good thing for your area'. Individual interest groups, such as local conservation societies, will assume that you share their concern about existing buildings or places.

The responsibility for your actions, for the positions you take, for your decisions lies entirely with you. Negotiating this complex array of interests and pressures can be a daunting task, especially when dealing with planning issues and the possibility of conflicts of interest. The Code is an invaluable tool for determining the parameters of your involvement in the decision- making process.



Planning is a large and dynamic local government responsibility. You should work with planning officers in a positive partnership to make your council's planning service the best it can be. Ask officers for advice when you have queries or problems, give them support when they are under pressure from angry objectors or planning applicants, and keep them informed of what is happening in your ward that might be relevant to their work. You will find this relationship mutually rewarding and that it will help generate benefits for your ward.

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. As an elected member, you have shared responsibility for the performance of your council. This means you should be aware of the potential impact of your influence on meeting these targets. If, for example, you might wish to put a motion to the planning committee to postpone a decision on a planning application to allow you longer to think about it, this could result in a failure to meet the performance target for deciding that application. The changes being made to the planning system are intended to enhance the effectiveness of the system, and as such, particular attention will be focussed on performance issues over the next few years.

## Public involvement and councillor probity

The following scenario illustrates the potential pitfalls and complex issues that may confront councillors in their interaction with the public, the planning system and wider council policies.



A major new road may improve access to jobs for the residents of a community that was previously isolated by poor road links and where unemployment is high. The same road might have to be partly built in an Area of Great Landscape Value and involve the compulsory purchase and demolition of several houses and small business premises. The council and your party support this project for the greater good and to reduce social exclusion but there are hundreds of objections from your constituents and some from environmental pressure groups who don't like the loss of landscape and are opposed to new roads. Planning policies support the road and a vociferous part of the public oppose it. Council policies make regeneration of this isolated community a priority.

The Councillor Code of Conduct does not prohibit a councillor, either as a member of a planning committee, Local Review Body or as a local elected member, from discussing the details of any planning application with anyone. Applicants, their agents (planning consultants, architects, engineers, etc.), neighbours, local community groups and campaigners all have a legitimate voice that should be heard by councillors.



The Code is clear that councillors can discuss the merits of, or concerns about, an application with anyone but you must be seen to be acting with due propriety at all times. It may be advisable to have a council officer in attendance when discussing a planning application with interested parties. At all times the role of campaigning councillor and committee member must be separated. If you want to express an opinion prior to a planning issue coming before committee then the Code offers the following advice:

*“A councillor should not organise support or opposition, lobby other councillors or act as an advocate to promote a particular recommendation on a planning application, where the councillor has a responsibility for dealing with the planning application. If the councillor does so, then s/he should declare an interest and not take part in the debate and withdraw from the meeting room.”*

Each council has its own process for dealing with public engagement, some offer an opportunity for objectors and supporters to address the planning committee directly, others operate a hearing system, and committee site visits can also be used for listening to alternative viewpoints. The common thread is that you must not be seen to prejudge a planning application or development plan matter if you sit on the planning committee.



Credit: Architecture and Design Scotland

# Glossary of planning terms



## 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 10,000m<sup>2</sup>, 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.



**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



## Scottish Planning Law 3/ed, Raymond McMaster, Alan Prior and John Watchman, Bloomsbury

Summary: The new edition has been updated throughout to take full account of all significant developments in recent planning law and a wealth of new case law. It is an ideal reference book for practitioners in the disciplines of planning, surveying and law



**Planning** - the official journal for the Royal Town Planning Institute (RTPI) and is widely regarded as the number one magazine serving the natural and built environment.



## Royal Town Planning Institute (RTPI)

[www.rtpi.org.uk](http://www.rtpi.org.uk)

- *The Role of Planning in Local Government*, Robert Cowan, 1999
- *RTPI Code of Professional Conduct*, 2016 ([www.rtpi.org.uk/media/1736907/rtpi\\_code\\_of\\_professional\\_conduct\\_-\\_feb\\_2016.pdf](http://www.rtpi.org.uk/media/1736907/rtpi_code_of_professional_conduct_-_feb_2016.pdf))
- *Professional Practice and Maladministration*, RTPI Practice Advice Note No. 7
- *Personal Safety at Work: risk assessment, avoiding conflict and carrying out safer site visits and meetings*, RTPI, Good Practice Note 3 Nov 2006
- *Guidelines on Effective Community Involvement and Consultation*, RTPI, Good Practice Note 1 (November 2005)



## Royal Town Planning Institute in Scotland

[www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland/](http://www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland/)

*The Scottish Planner* is the bi-monthly journal of the Institute in Scotland and is distributed to all RTPI members in Scotland free of charge, as well as a number of relevant organisations, the media and members of the Scottish Parliament.



## PAS (Planning Aid Scotland)

[www.pas.org.uk](http://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.



## Architecture and Design Scotland (A+DS)

[www.ads.org.uk](http://www.ads.org.uk)

Architecture and Design Scotland (A+DS) is a non departmental public body, established by the Scottish Government in April 2005 as the national champion for good architecture, design and planning in the built environment.



## Scottish Government [www.scotland.gov.uk/topics/built-environment/planning](http://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.



### Scottish Parliament [www.scottish.parliament.uk/business/research/index.htm](http://www.scottish.parliament.uk/business/research/index.htm)

The Scottish Parliament produces research briefings and fact sheets for use by MSPs in support of parliamentary business. These are prepared by the Scottish Parliament Research Centre (SPICe) and offer an impartial insight into a range of planning and related matters.



### Local authority websites

These will all have links to the planning service for the authority and usually contain copies of the development plan, development briefs, supplementary planning guidance and other relevant council planning policy and guidance. Planning committee agendas and reports are also available online.





Improvement Service

iHub

Quarrywood Court

Livingston EH54 6AX

T. 01506 282012

E. [planningskills@improvementservice.org.uk](mailto:planningskills@improvementservice.org.uk)

[www.improvementservice.org.uk/planning-skills.html](http://www.improvementservice.org.uk/planning-skills.html)