

## 2. Development Management

**This information sheet is aimed at anyone involved with or affected by a planning application or related matter.**

**Update:** The Scottish planning system is currently undergoing reform process. In September 2015, the Scottish Government appointed an independent panel to undertake a review of the planning system. Subsequently, a Scottish Government consultation paper was published with a response deadline of 4 April 2017. It is expected that a new planning Bill will go before the Scottish Parliament in late 2018. Full details of the reform process are available at this [link](#). In the meantime the planning system operates as set out below.

### Background Information

#### What is Development Management?

Development Management is the process of regulating new development by granting or refusing applications for planning permission, and of controlling unauthorised development. Most new development requires the permission of your planning authority (i.e. your local Council or National Park Authority) before any work can commence.

#### What needs Planning Permission?

Planning permission is required for carrying out development. The definition of Development is contained within the Town and Country Planning (Scotland) Act 1997 and is extremely wide-ranging. It includes two main categories: *a) the carrying out of building, engineering, mining or other operations in, on, over or under land or b) the making of any material change in the use of any building or other land*. If a proposal falls within any part of this definition it will be classed as development, and will need planning permission.

#### What is Permitted Development?

Some classes of developments are automatically granted permission by a statutory order and do not require a planning application to be submitted. This is known as permitted development. Many smaller householder developments such as fences or extensions are permitted development, but it is essential to check the regulations. There are also numerous categories of non-householder permitted development (the definitions for all categories are set out in the Town and Country Planning (General Permitted Development Order) Scotland Order 1992, as amended). You should contact your planning authority to receive confirmation of whether you need, or do not need planning permission.

#### What is a Material Change of Use?

The [Use Classes Order](#) categorises common land and property uses into 11 different classes such as Shops, Food and Drink, Houses, General Industrial etc. A change of use of any land or existing building from one class to another or, in some cases, to a use that is not included in the Use Classes Order may need planning permission.

## What is the Hierarchy of Development?

Development types are divided into three categories: National Developments, Major Developments and Local Developments:

- **National Developments** are identified in the National Planning Framework and include infrastructure projects of national significance e.g. the replacement Forth Road Crossing; Dundee Waterfront, Central Scotland Green Network, and more.
- **Major Developments** are more common large-scale projects e.g. housing, business, roads and minerals. For example, a development of 50 or more houses is classified as major. See Scottish Government [Circular 5/2009 Hierarchy of Developments](#)
- **Local Developments** – all other (smaller scale) developments not covered above.

A key point is that applicants for National and Major developments must undertake Pre-Application Consultation (see below), prepare Design and Access Statements and may also be required to undertake Environmental Impact Assessment.

Appeal procedures also differ depending on the type of development proposals (see information sheet 4 on Planning Appeals and Local Review Bodies).

## What is Pre-Application Consultation?

Any applicant for a National or Major development proposal is required to submit a Proposal of Application Notice 12 weeks before submitting a planning application. A 12 week (minimum) Pre-Application Consultation process then follows during which the applicant must hold at least one public event at which members of the public can make comments. A notice of the proposal and public event must be published in a local newspaper and every community council whose area is in or borders the proposed site must be consulted. The applicant is free to undertake more than the minimum consultation requirements, and when the application is submitted a report of the consultation undertaken must be submitted.

Comments made at this stage (i.e. letters of objection, support or comment) are not official representations and the applicant is not required to take them on board. Furthermore, it is important to inspect the application documents when submitted and make official representations at this stage.

## What is Planning Enforcement?

Planning authorities also have powers to stop and rectify development which does not have planning permission or has not been carried out in accordance with the terms of a permission. See *information sheet 5: Enforcement for further information*.

## Development Management Process

### How do I apply for planning permission?

If planning permission is required, you will have to make a formal planning application. There are two main types of planning permission:

- **Planning Permission in Principle** - can be used to establish the acceptability of a proposal in principle without the expense of providing detailed plans. A location plan will be required (plus any other plans deemed necessary by the planning authority). If

planning permission in principle is approved with planning conditions (see below), information to meet the conditions must then be submitted. This stage is known as **Approval of Matters Specified in Conditions**.

- **Detailed Planning Permission** – must contain all details of the proposed development e.g. detailed plans, drawings and relevant assessments. Conditions may also be attached to a full planning permission.

Planning applications and various other types of application can be submitted online at the [Scottish Government's ePlanning website](#) - paper forms can also be downloaded or are available from your local planning authority.

To apply for planning permission you will need to complete the appropriate application form, provide a location map and scaled drawings showing the site and what is proposed (in appropriate detail for the application type). Your planning authority should advise what, if any, additional information needs to be submitted. An application fee is payable – the amount will depend on the type of application. The e-planning website will also calculate the fee payable.

Well prepared, accurate applications are essential to avoid delay, misunderstanding and possible refusal of permission, so you should provide plans prepared to the required standard.

### **What happens after a Planning Application is submitted?**

The planning authority will first validate the planning application (i.e. check that the correct information has been submitted) and publicise the application as required (see below). It will then consult as required with statutory consultees (e.g. Historic Scotland, Scottish Water etc) and with other council departments and appropriate organisations for their views. The planning officer will usually visit the site and consider the application against the Development Plan (see *information sheet 1: The Development Plan*), consultation responses, relevant Scottish Government policy and advice, and representations from the public.

### **How long does it take for a Planning Application to be determined?**

After validation, the planning authority has four months to determine National and Major Developments and applications which require Environmental Assessment, and two months for Local Developments and applications for Approval of Matters Specified in Conditions. These time limits are not absolute - complex applications are likely to take longer to determine due to consultation with various statutory or community bodies. In some, generally more complex, cases the applicant may agree an extension with the planning authority.

If the planning authority has not determined the application within the time limit, the applicant can appeal or seek a Local Review (on the basis of non-determination), depending on the type of planning application. See *information sheet 4: Planning Appeals and Local Reviews*.

### **How is a Planning Application determined and what is a Scheme of Delegation?**

The law requires that the decision must be made in accordance with the planning authority's Development Plan **unless material considerations indicate otherwise**. (See *information sheet 3: Material Considerations*.) This decision can be made either by a planning officer or by a committee of Councillors, depending on the size and type of the development, and its significance in relation to the development plan.

All planning authorities have a Scheme of Delegation which governs how their various committees function and which smaller matters can be delegated to appropriate officers. All planning authorities in Scotland also produce a Scheme of Delegation specific to planning applications for Local developments.

Most planning applications will be delegated i.e. determined by a planning officer on behalf of the planning authority. Applications for certain developments e.g. National and Major developments or, depending on the Scheme of Delegation, applications which have received a certain number of objections (other factors can also apply), will be determined by councillors at the relevant committee. Here, it is councillors, not the planning officers, who have responsibility for determining planning applications (although planning officers will make a recommendation for approval or refusal in their report).

For National or Major developments considered significantly contrary to the Development Plan, a Pre-Determination Hearing will be held. This must take place before a committee of the council and means that those who made representations are offered the opportunity to speak. The application is then determined at a full council meeting.

Rarely, Scottish Ministers [call in](#) an application before the planning authority, in order to determine it themselves.

### **What happens after a Planning Application is approved?**

A planning application can be approved with or without conditions. In most cases there will be conditions which control or limit the planning permission. It is important that the applicant meets these conditions, or they may be liable to enforcement action.

Development must begin within 3 years of granting planning permission or it will expire. With Planning Permission in Principle, development should begin within two years of the date of obtaining the last Approval of Matters Specified in Conditions (note - other time restrictions also apply). These statutory time limits can be changed at the planning authority's discretion when granting planning permission. Applications for renewal of an existing permission can be made as long as this is done before the expiry date.)

Sometimes, a planning permission will not be completed until a legal agreement has been signed by the applicant and the planning authority (or until any notification required to Scottish Ministers has taken place). The agreement can refer to any aspect of the development and often covers financial contributions to be made by the applicant to meet the costs to public services created by the development. The permission only legally exists when it is sent to the applicant after completion of the legal agreement.

When the developer starts work, to facilitate monitoring, they must notify the planning authority, and for larger development projects, erect a public information notice at the site. They must also notify the planning authority on completion of the development.

### **What options are available if a planning application is refused?**

The applicant has the right to ask for the decision to be reviewed, but must request this within **three months** of the decision date. If you made a representation to the application you will be informed of any request for appeal or review. *See information sheet 4 on Planning Appeals and Local Review Bodies.*

## **Finding Out About Planning Applications**

## How do I find out about planning applications in my area?

- **Neighbour Notification** - the planning authority must notify you if your property is within 20 metres of a planning application site. You will then have 21 days to make representations.
- **Advertisements** – for certain applications (and when neighbour notification is not possible i.e. there is no property on the land to notify or the land owner is unknown) advertisements are placed by the planning authority in a local newspaper. If a planning application is advertised you have a minimum period of 14 days to make comments.
- **Weekly Lists** – planning authorities are required to produce a weekly list of planning applications received in the past week. This should be available on the planning authority's website and is also sent to Community Councils.
- **Planning Registers** - every planning authority has a register of planning applications for public inspection (an online and/or paper facility). This should include all documentation submitted with live applications, and essential information for those already determined.
- **Planning Authority websites** – these have a search facility to view live planning applications (i.e. drawings, design statements etc.) and track their progress. Older applications are also archived. Representations can usually be submitted online.
- **Planning Authority office** – it is normally possible to visit if you want to inspect the planning register, to speak to a duty planner on general matters, or if an appointment has been arranged to meet with the planning officer dealing with a specific application. There may be a fee to access older application files.
- **Pre-Application Consultation events** – National and Major development proposals require the applicant to undertake Pre-Application Consultation events which are open to the public and important to attend if they affect you.
- **Directorate for Planning and Environmental Appeals (DPEA)** – the [DPEA website](#) has information on live planning appeals and an archive dating from September 2002. Detailed documentation is removed after a year or so.

## Commenting on Planning Applications

### How can I become involved if I think I will be affected by a planning application?

Find out full details about the application as soon as possible - you will only have a limited time to make comments, and deadlines are very strict.

Anybody can make representations on any planning application. Representations must be made in writing to the planning authority, or online. You have a right to make any points you consider relevant, as long as they are material considerations (*see information sheet 3 on Material Considerations*). You should state clearly why planning permission should or should not be granted. If your concerns could be addressed by an amendment to the proposal, or through a planning condition, make this clear.

Your representation will be acknowledged and considered by the planning authority. However, there is no guarantee that they will agree with your views, and they are unlikely to engage in on-going discussion regarding your representation during the decision-making process.

### The application will be determined by Councillors at a committee – can I attend?

By law, you can attend most official meetings of your council and its committees, and may be offered the chance to speak. Where a meeting is closed, you may be able to see meeting notes.

Some applications will have a Pre-Determination Hearing - if you are the applicant, or commented on the planning application, the planning authority must provide you with the opportunity to speak. Hearings may also be held for other types of planning applications at the discretion of the planning authority.

### **How do I obtain more information on committee meetings?**

Committee dates are usually scheduled well in advance but you can ask planning officers to advise you when any application is likely to go to committee. When the committee agenda is published, you can inspect it, plus relevant papers (usually available online) at least three clear working days before the meeting. Minutes (along with agendas, reports and background papers) must remain open for public inspection for six years after the date of the meeting.

### **Once a decision is made, how do I find the outcome?**

If you want know the outcome of a planning application you can check the planning authority's website or contact them directly. Planning authorities must provide reasons for approving or refusing planning applications. At committee, all decisions made and procedures used must be minuted and all decisions recorded in the planning register.

If you commented on a planning application, the planning authority must notify you of the decision and tell you where the decision notice can be viewed.

### **Can I appeal against a planning decision or request a Local Review?**

Only the applicant can appeal against a planning decision or request a Local Review (there is no third party right of appeal under the Scottish planning system).

*See information sheet 4: Appeals and Local Reviews.*

### **Obtaining further information**

- Contact your planning authority

Relevant Scottish Government Publications:

- Scottish Government [Circular 3/2013 Development Management Procedures](#)
- Scottish Government [Circular 3/2009 Call in of Planning Applications](#)
- Scottish Government [Circular 5/2009 Hierarchy of Developments](#)
- Scottish Government [Circular 10/2009 Planning Enforcement](#)
- Scottish Government [Guide to the Planning System in Scotland](#)

Note - This information sheet contains only a brief outline of the Development Management process. More information is contained in the above Scottish Government planning Circulars.

### **How can PAS help?**

If you are still unsure or need independent advice, then PAS may be able to help.

Contact our **planning helpline** on **0300 323 7602\*** (\*calls cost no more than a national call rate).

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