

Advice Note

The Planning System



The Association for the Protection of Rural Scotland

Planning affects everyone, and everyone has a right to have their say about matters that affect their lives. Planning is about making hard choices, balancing the need for appropriate development with the desire to preserve the landscapes that we cherish. Knowing about the planning system can help us all make informed choices about the future of rural Scotland.

The Planning System

The main way to influence development is through the town and country planning system, which is mostly administered by each local Council acting as the 'local planning authority'. The planning system is currently undergoing drastic changes, with the recent Planning (Scotland) Act 2006 intended to support a more inclusive and efficient system. A brief guide to the Act can be found on the Scottish Government website www.scotland.gov.uk - under 'Publications' search by March 2007, keyword 'brief'. As part of the modernisation of the planning system, the Scottish Government has produced a National Planning Framework (NPF) which acts as an overall spatial plan for Scotland, reviewed every four years. This can be seen on the Scottish Government website www.scotland.gov.uk - under 'Publications' search by July 2009, keyword 'framework'. One of the main changes highlighted in the NPF is the recognition of the cities as the key drivers of the economy, providing for jobs and a good quality of life for all. There are two main parts to the planning system: Development Planning and Development Management.



Dunkeld

The Association for the Protection of Rural Scotland (APRS)

Scottish Charity No SC016139. A Scottish Charitable Company limited by guarantee Registered No 154563

Gladstone's Land 3rd Floor, 483 Lawnmarket, Edinburgh EH1 2NT

President : Jimmie Macgregor MBE DA FRZSS

Convenor : Charles Strang BArch (Hons) MSc ARIAS MRTPI IHBC FSA Scot

Director : John Mayhew MA MSc DipTP MRTPI

Tel: 0131 225 7012 e-mail: info@ruralscotland.org web: www.ruralscotland.btik.com

Development Planning

The development plan for any area comprises the combination of the current Structure Plan and Local Plan for that area. The Structure Plan takes a long-term view of the area's development, considering its general scale and broadly where it should be located. Each Council prepares a Structure Plan, either alone or working with neighbouring Councils. After wide consultation with the public and other interested people and organisations, the Council or group of Councils submits the Structure Plan to the Scottish Government for approval.

Local Plans generally cover smaller areas. They set out detailed policies and proposals in text and maps to guide development, showing which land is allocated for housing, industry, recreation, conservation and all other land uses. Again, Councils must consult widely on their content; all citizens have the right to see draft Local Plans and to comment on them to the Council which prepared them. Local Plans are mostly published on Council websites, although it is often easier to study them on paper, particularly the maps, in which case you can normally get a paper copy from your Council or local library. There is usually a charge for this, but Community Councils are entitled to a free copy.

After considering all the views which have been submitted and making appropriate changes, a Council adopts the Local Plan as the basis for its decision-making in the area. The Local Plan must be in line with the approved Structure Plan. If the Local Plan is relatively old and a new one is being brought forward, the emerging Plan can be given more weight than the adopted one. Links to the relevant plans for each local Council area are given on the APRS website www.ruralscotland.org under 'Development Plans'.

The 2006 Planning Act made some significant changes in the way the process works. However, the development plan process is still crucial, so anyone interested in land use in their area needs to be aware of and participate in it. Over the next few years Structure Plans and Local Plans will gradually be replaced by:

- Strategic Development Plans (SDPs)
covering the regions around the four main cities of Glasgow, Edinburgh, Aberdeen and Dundee
- Local Development Plans (LDPs),
covering the whole of Scotland, and which are therefore likely to be of particular interest to those living in rural areas.

The process of producing development plans remains the same: plans need to go through a cycle of review, public consultation, drafts, inquiries and approval, then the whole process starts all over again. SDPs will be approved by Scottish Ministers and LDPs by local Councils.

Development Management

Development Management (formerly known as Development Control) is where most people have their first experience of the planning process – when a neighbour notification drops through their letterbox or they read about a proposed development in the newspaper. Development management is the system by which any development must receive planning permission from the local Council. The process of development management under the modernised planning system has been streamlined to make it speedier and more efficient. For example, the onus is now on the Council rather than the applicant to notify neighbours about proposed developments.



Lamlash, Arran

On receiving a planning application, planning officials consult all relevant interests and prepare a recommendation, which can be for approval with or without conditions or for refusal. Depending upon the scale of the application, the decision is then made either by senior officials under delegated powers, or by the relevant local Planning Committee, made up of elected local Councillors. Anyone wishing to influence this process should contact the planning department of their local Council (please note that planning departments are often called something else such as 'Development Services' or 'Environmental Services') to find out the names of the local planning officers and the local Planning Committee. It is then important to ensure that your views on the planning application are made known particularly to those who will make the final decision. Councillors are elected to represent the views of their constituents, and you should leave your local Councillors in no doubt as to what those views are if you wish to be successful. Community Councils also have a statutory role in planning and are there to represent the views of the community which elects them. It is important to communicate with them to find out how they can support you or how you can support them.

Getting involved in planning is not just about objecting to proposals. Planners actively encourage public participation, but it is important to make representation at the right time in the process, so that views are taken into consideration. This means being aware of deadlines for representations and working within the set timescales. This will result in working with planners to help get what you need and want for your community.

However, the single most crucial point to understand about the planning system is that, under Section 25 of the 2006 Planning Act, the determination of a planning application is to be made in accordance with the development plan unless material considerations (see below) indicate otherwise. The Scottish Government has repeatedly emphasised its determination for Scotland to demonstrate such a 'plan-led system'. This means that if a piece of land is allocated for development in the Local Plan, there is a presumption in favour of its development; but if it is not allocated, there is a presumption against development and this is the most powerful argument against it.

Material Considerations

These include issues such as design, road safety, noise or pollution; also anything contrary to a policy in a development plan. Other issues, such as loss of views or devaluing of property prices, however upsetting they may be, do not count as material considerations. Planners always refer to the policies and proposals in the relevant development plans as a basis for making their decision or recommendation on a planning application. Planning Aid for Scotland has published a useful list of material considerations on its website www.planningaidscotland.org.uk under 'Information'.

Planning in National Parks

The development planning process in the two National Parks (NPs) is similar to that elsewhere; both the Cairngorms National Park Authority (CNPA) and the Loch Lomond and the Trossachs National Park Authority (LLTNPA) produce development plans, in partnership with local Councils. However, the development management system differs between the two NPs.



Lairig Ghru, Cairngorms

CNPA has a planning protocol under which planning applications within the NP are initially dealt with by the relevant local Council. However, the CNPA has the right to 'call in' for its own determination any applications that it considers may impact on the park's purposes. On the other hand, LLTNPA determines all applications within the NP.

National and Major Developments

For the first time, the NPF now identifies 'National Developments'. These are large and important projects with national implications, such as the proposed additional Forth Crossing or airport developments. The principle of such a development is established by its inclusion in the NPF, so any public inquiry into a National Development cannot challenge it in principle but can only consider the detail of what is proposed. Decisions on these projects will be made by Scottish Ministers, although they will still be required to carry out extensive public consultation for each development.

Also, for the first time, applicants for 'major developments' will have to carry out 'pre-application consultations' to demonstrate that the community has been effectively consulted on the new proposals before they are submitted. These 'pre-application consultations' will be scrutinised for effectiveness by the local Council, which will then decide if the application should be accepted. This should give communities a much better opportunity to have their say on large applications.

Permitted Development

A certain amount of development is permitted without the need for planning permission, for example building a minor extension or erecting a small shed. Most agricultural and forestry buildings are exempt from planning permission entirely. If you are unsure about this matter, your local planning officer should be able to give you advice.

Listed Buildings and Conservation Areas

Many rural areas contain Listed Buildings or areas of historic or architectural importance designated as Conservation Areas. Development which would be considered 'permitted' in other areas may need planning permission in a Conservation Area. Some changes to a Listed Building may need Listed Building Consent even if they do not require planning permission.



Hamilton House, East Lothian

Potential Benefits

Any development proposal should be weighed carefully to consider its impact on the local community. There can be positive aspects to development: for example, dwindling school rolls can be bolstered by new houses bringing young families, as can local shops or Post Offices. The need for affordable housing is often a real concern in rural communities. Planning policies on affordable housing can often be found in Structure Plans. Opportunities for affordable housing, shops or other amenities can sometimes be included in a new development proposal. Developments that bring jobs to rural communities can be a real boost to the local economy. Local Plans can provide opportunities to identify locations that could benefit from investment which could bring jobs and support the local economy.

Planning Gain

The local Council is sometimes able to negotiate with developers to make a contribution to the community in return for planning permission. This can cover things such as the provision of a community centre, a new roundabout or a play park. This can be an opportunity to tell the planners what the community needs and wants if the development is to go ahead.

Environmental Assessment

A small number of large planning applications, likely to have a significant effect upon the environment, require the developer to carry out an environmental assessment. This is meant to be a balanced and independent review of the likely environmental impacts of the proposed development, including on landscape, biodiversity, cultural heritage and amenity. The results of this process are set out in a report called an Environmental Statement (ES) which must be submitted along with the actual planning application. The ES is often a complex and lengthy document, so the developer is required to prepare a non-technical summary of it, which is often the most useful starting point for anyone wishing to comment on the proposal. The ES can often be found on the developer's or Council's website; it can sometimes be purchased on a CD or viewed at Council offices or the local library.

Trees

Trees can be protected under the planning system. Tree Preservation Orders (TPOs) can be placed on trees in Conservation Areas or with important wildlife or historic value. Trees protected by TPOs may not be cut down, trimmed, lopped or wilfully damaged without permission of the local Council. There are penalties for cutting down a tree with a TPO. If you are concerned about the welfare of trees in your area,

it is advisable to contact your local planning department to ask about getting a TPO placed on them. It is important to be vigilant if you want to protect the trees in your area from development. It is best to secure a TPO at an early stage rather than to try to stop developers from cutting down trees once the bulldozers have arrived on site.



Beech Trees by the River Tay

Appeals and Hearings

It is possible for a developer to appeal against a decision made on their application. Appeals are considered either by a Local Review Body (usually made up of Councillors) or by Scottish Ministers. However, there is no Third Party Right of Appeal in Scotland, so objectors cannot appeal against a decision once it has been made.

Mediation

Mediation is a form of dispute resolution which can be used if there has been a breakdown in discussions between parties over a planning application. Mediation is conducted by an independent, impartial facilitator who can help negotiate a lasting agreement between all parties. The Scottish Government has recently produced a Guide to the Use of Mediation in the Planning System in Scotland which can be viewed at: www.scotland.gov.uk - under 'Publications' search by March 2009, keyword 'mediation'.

Further Information

The Scottish Government publishes a Guide to the Planning System in Scotland which can be found on its website www.scotland.gov.uk - under 'Publications' search by August 2009, keyword 'guide'.

Other organisations

It is often very helpful to have your views supported by relevant, respected conservation and heritage experts, so it is worth contacting them for advice. Your views may help them form an opinion, and hearing their perspective will help you decide how to make your own representations more effective. We include overleaf a list of organisations you might like to contact.

Government Agencies

Historic Scotland

Longmore House
Salisbury Place
EDINBURGH
EH9 1SH
www.historic-scotland.gov.uk

Scottish Natural Heritage

Great Glen House
Leachkin Road
INVERNESS
IV3 8NW
www.snh.org.uk

Non-Governmental Organisations

Architectural Heritage Society of Scotland

The Glasite Meeting House
33 Barony Street
EDINBURGH
EH3 6NX
www.ahss.org.uk

Association of Scottish Community Councils

PO Box 5099
GLASGOW
G78 9AL
www.ascc.org.uk

Friends of the Earth Scotland

The Melting Pot
5 Rose Street
EDINBURGH
EH2 2PR
www.foe-scotland.org.uk

John Muir Trust

Tower House
Station Road
PITLOCHRY
PH16 5AN
www.jmt.org

Planning Aid for Scotland

11a South Charlotte Street
EDINBURGH
EH2 4AS
www.planningaidscotland.org.uk

RSPB Scotland

Dunedin House
25 Ravelston Terrace
EDINBURGH
EH4 3TP
www.rspb.org.uk/scotland

Royal Town Planning Institute in Scotland

57 Melville Street
EDINBURGH
EH3 7HL
www.rtpi.org.uk/rtpi_in_scotland

Save Britain's Heritage

70 Cowcross Street
LONDON
EC1M 6EJ
www.savebritainsheritage.org

Scottish Civic Trust

24 George Square
GLASGOW
G2 1EF
www.scottishcivictrust.org.uk

Scottish Wildlife Trust

Cramond House
Cramond Glebe Road
EDINBURGH
EH4 6NS
www.swt.org.uk

Society for the Protection of Ancient Buildings in Scotland

The Glasite Meeting House
33 Barony Street
EDINBURGH
EH3 6NX
www.spab.org.uk/scotland

The National Trust for Scotland

Wemyss House
28 Charlotte Square
EDINBURGH
EH2 4ET
www.nts.org.uk

Views of Scotland

PO Box 19119
STRATHAVEN
ML10 6YQ
www.viewsofscotland.org

WWF Scotland

Little Dunkeld
DUNKELD
PH8 0AD
www.wwf.org.uk/core/about/scotland



Lairg, Sutherland

APRS

Scotland's Countryside Champion

This Advice Note has been produced for the benefit of APRS members. If you are not already an APRS member, we strongly encourage you to join. You can join via our website under 'Support Us', or contact the office and ask us to post you a membership form.

APRS is the charity which promotes the care of all of Scotland's rural landscapes.

We aim to

- protect and enhance Scotland's rural landscapes for future generations
- promote effective planning and landscape protection systems in Scotland
- encourage genuinely sustainable development in rural Scotland
- raise awareness of the importance of Scotland's landscapes to its people and economy
- support the activity of land managers who care for Scotland's landscapes

We do this by

- working in partnership with individuals, other charities, local authority, government and public bodies
- active involvement in national policy development and advocacy
- advising members of the public on how to respond to proposals which affect their local landscapes
- publicising our work to our members and beyond through our website, quarterly newsletter *Rural Scotland* and regular email bulletins

The Association for the Protection of Rural Scotland (APRS)
Scottish Charity No SC016139. A Scottish Charitable Company limited by guarantee Registered No 154563
Gladstone's Land 3rd Floor, 483 Lawnmarket, Edinburgh EH1 2NT
President : Jimmie Macgregor MBE DA FRZSS
Convenor : Charles Strang BArch (Hons) MSc ARIAS MRTPI IHBC FSA Scot
Director : John Mayhew MA MSc DipTP MRTPI
Tel: 0131 225 7012 e-mail: info@ruralscotland.org web: www.ruralscotland.btik.com

January 2010