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## 1. Development Management

This is a guide for applicants and others affected by planning applications.

### What is Development Management?

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

### What needs permission?

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

### What is Permitted Development?

Some minor developments, such as house extensions and garden sheds, are automatically granted permission by a statutory order and do not require you to submit a planning application. This is known as “permitted development”. 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 change in the use of any land or existing building may need planning permission. The [“Use Classes Order”](#) categorises many common uses into groups. Generally, if the change falls within the same group, e.g. from one kind of shop to another, permission is not required. However, this may depend on the circumstances and especially on the change in any impact on the wider environment. You should consult with your planning authority over the need for permission for a change of use.

## What is Planning Enforcement?

Planning authorities also have powers to enforce planning control and stop development which does not have planning permission or has not been carried out correctly in accordance with the terms of a permission. Our information sheet on Enforcement explains the principles of enforcement, and your rights if action is taken against you.

## How has Development Management in Scotland changed in 2009?

The Planning etc. (Scotland) Act 2006 resulted in a number of changes to Development Management in 2009, including the way planning applications are categorised and determined. These changes have been brought about to ensure that Development Management is more efficient, effective and inclusive.

Planning applications now fall within one of three categories: National Developments, Major Developments or Local Developments. These three types of development, and their thresholds, are defined under the “Hierarchy of Developments”.

- National Developments are identified in the National Planning Framework and include large scale projects such as the replacement Forth Road Crossing.
- Major Developments include large-scale developments for applications such as housing, business, roads and minerals. For example, applications for 50 or more houses are classified as major.
- Local Developments – include smaller scale developments such as small-scale housing applications and individual house applications.

The category of a planning application will determine how the application is determined and whether additional information needs to be submitted. For example, applicants for National and Major applications are now required to undertake “**Pre-application Consultation**”, prepare “Design and Access Statements” and may also be required to undertake “Environmental Impact Assessment”. See separate information sheet How to get Involved in Planning Applications for more information about pre-application consultation.

Contact Planning Aid for Scotland’s Advice Service if you require more information on these important changes.

## How do I apply for planning permission?

If planning permission is required, you will have to make a formal application. Planning permission can take one of two main forms, the choice of which depends on the nature of the development proposed:

- **Full Planning Permission** – must contain all details of the proposed development. For example, detailed plans, drawings and assessments.

- **Planning Permission in Principle** - can be used to establish the acceptability of a proposal in principle and can only be used in certain circumstances. If planning permission in principle is approved a further application must be made for “Approval of Matters Specified in Conditions”.

To apply for planning permission you will need to complete the appropriate application form, pay a fee, provide a location map, and (in the case of Full Planning Permission) scaled drawings showing the site and what is proposed.

As you may also be required to submit additional information and assessments/reports alongside the application, you should contact your planning authority who will be able to inform you of the exact requirements. You should consider how to get the plans and information prepared to the standard required by the planning authority. Well prepared and accurate applications are essential to avoid delay, misunderstanding, and possible refusal of permission.

Planning applications can be submitted by completing paper forms which are available from your planning authority (or downloaded from the [Scottish Government's ePlanning website](#)). You can now also submit planning applications at this website.

### **What happens after a planning application is submitted?**

The planning authority will publicise the application and consult with other council departments and appropriate organisations for their views. The planning officer will visit the site and consider the application alongside information from consultation responses, objections or comments from the public, and relevant Scottish Government policy and advice. When considering the application the decision must be made in accordance with the planning authority's Development Plan unless “material considerations” indicate otherwise.

### **How long does it take for a planning application to be determined?**

Once a planning application is validated (i.e. all the correct information is received), a planning authority has four months to determine National and Major Developments and applications which require Environmental Assessment. For Local Developments and applications for Approval of Matters Specified in Conditions the planning authority has two months to determine the application.

If the planning authority has not determined the application within this time limit, the applicant has the right to appeal or seek a local review, depending upon the type of planning application. Be aware that complex applications are likely to take longer to determine due to consultation with various statutory or community bodies.

### **How is a planning application determined?**

This way in which a planning application is determined (i.e. either by a planning officer or a committee of the council) will depend upon the size and type of the planning application, the extent to which it complies with the policies and proposals of the current development plan and the

representations (comments, objections and support) received from consultees and the public over material considerations.

In some situations, Scottish Ministers may “call in” an application before the planning authority has made a decision, in order to determine it themselves.

### **What is a Scheme of Delegation?**

The Planning etc. (Scotland) Act 2006 requires all planning authorities in Scotland to have a “Scheme of Delegation”. This sets out their own procedures for determining planning applications which are categorised as Local developments.

Whilst the majority of planning applications will be determined by a planning officer on behalf of the council, applications for certain developments will need to be determined by the councillors who sit on the planning committee of the council or by an Area Committee of councillors where the local authority area covers a large geographic area. Examples include applications for National and Major developments, or, depending on the scheme of delegation, applications which have received a significant number of objections. It is important to be aware that in such cases it is councillors, not the planning officers, who retain the ultimate responsibility in determining a planning application.

The Planning etc. (Scotland) Act 2006 requires additional scrutiny for applications for national developments and for major developments which are significantly contrary to the Development Plan. Those who made representations have the opportunity to be heard at a “Pre-Determination Hearing” which must take place before a committee of the council and be determined by the full council.

### **What happens after a planning application is approved?**

A planning application can be approved with or without conditions. In the majority of 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.

Once an application is approved, development must begin within 3 years of the granting of planning permission or it will be deemed to have expired. With planning permission in principle, development should begin within 2 years of the date the last “Approval of Matters Specified in Conditions” is obtained (there are other time restrictions in this regard). These statutory time limits specifying when development must begin can be changed by direction of the planning authority when planning permission or planning permission in principle is granted.

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

For Local developments which are (or were) to be decided by a planning officer, any refusal of permission or conditions imposed on the permission, or if the officer fails to determine the application within the two month time limit (known as “non-determination”), the applicant can appeal to a “Local Review Body”. All planning authorities are required to have a Local Review Body, which is made up of at least 3 councillors. The Local Review Body will determine the format

of the review. This may, or may not, include methods such as written submissions, hearings and site visits.

Where applications for Local developments are not delegated for decision to officers, e.g. applications which are determined by a planning committee, then the right of appeal is to Scottish Ministers

For National and Major developments, applicants have a right of appeal to the Scottish Ministers against a refusal of permission, any conditions imposed on a planning permission or the non-determination of the application within the statutory time limit. This appeal must be lodged within three months of a refusal date. The Scottish Ministers will appoint an independent Planning Reporter who will determine the format of the appeal, which may be a public inquiry, hearing or written submissions.

If you intend to appeal to Scottish Ministers or request a local review, you must do so within three months of the refusal date. Forms for appeals can be obtained from the [Directorate for Planning and Environmental Appeals](#). Forms for local reviews can be obtained from your planning authority. Note that there is no further appeal to Scottish Ministers after a Local Review.

For more information on planning appeals and Local Review Bodies, refer to our separate information sheet on Planning Appeals and Development Plan Examinations.

### **How can I become involved if I think I will be affected by a Planning Application?**

First of all, find out about the application as soon as possible as you only have a limited time to make any representations. Information is available to the public on all applications at the planning office, on the authority's website or, in some cases, by newspaper advertisement. If you are a neighbour, you will receive direct notification from the authority (known as "Neighbour Notification").

You have a right to this information, to make any representations you feel appropriate and to have them acknowledged and considered. This right does not extend to a continued dialogue over your representations, or to having your personal view prevail. Any representations you make must be "material" from a planning point of view. For more information refer to our information sheet on Material Considerations.

Remember that you can support planning applications as well as objecting to them. If you wish to make representation, you should state clearly why you think the council should or should not grant planning permission.

The above is a summary only - refer to the following information sheets for more guidance on how to comment on and access planning applications: How to get Involved in Planning, Material Considerations and Development Plans.

### **Where can I obtain further information?**

- Contact your planning authority

Relevant Scottish Government Publications:

- Scottish Government [Guide to the Planning System in Scotland](#)
- Scottish Government [Circular 4 2009 Development Management Procedures](#)
- Scottish Government [Circular 5 2009 Hierarchy of Developments](#)

Note - This information sheet contains only a brief outline of the Development Management process. More detailed information is contained within the above Circulars.

**How can Planning Aid for Scotland help?**

If you are still unsure or need independent advice, then Planning Aid for Scotland may be able to help. Contact our **Advice Service**, which is **free of charge** to individuals and community groups, on **0845 603 7602**, or refer to our information leaflet which is available on our website at [www.planningaidscotland.org.uk](http://www.planningaidscotland.org.uk).