

COMMUNITY COUNCIL ADVICE NOTE: Community Councils and Planning Overview

Revised June 2014

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Introduction

The planning system can often seem complex and confusing, and this guidance note is intended to help community councils understand how the system works and their role within it.

Since 1996, community councils have had the statutory right to be consulted on applications for planning permission. PAN 47 (1996) sets out the roles and responsibilities of community councils and is available on the Scottish Government's website at www.scotland.gov.uk

Community Councils should read the following Scottish Government key documents:

[PAN47 - Community Councils and Planning](#)

[PAN81 - Community Engagement - Planning with People](#)



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Finding out about proposals

The Weekly List

The [on-line Weekly List](#) of applications is updated daily during the working week, and will contain a statement as to how further information on an application may be obtained.

A weekly list of all applications received and decided the previous week, including proposal of application notices, is published every week. This is emailed to community councils as required by PAN47.

On viewing the Weekly List, a community council's appointed planning spokesperson should assess whether any of the planning applications listed in its area raises issues of local interest. They should then decide whether to be a formal consultee or simply make a representation. The date to comment by is included in the List. More details about whether to make representations or be a consultee can be found below.

Community Councils may also wish to check planning applications in adjacent wards in case they may impact on their area.

The Planning and Building Standards Online Services

The [online services](#) allows planning application details, including the application form and associated plans, to be viewed via the internet. There are several ways of searching for applications such as by ward, property address and application number.

Once you have registered to view or comment on planning applications, you can submit comments and save searches so that you will be notified of any new applications that match the saved search details.

Arrangements are also in place to allow community councils to borrow a set of applications plans to assist discussion in a local meeting. The period for borrowing plans has been increased to 48 hours.

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Planning Proposals and Applications

Hierarchy of developments and pre-application consultation with communities

Following the Planning etc (Scotland) Act 2006, there is a greater role for community councils and community engagement in the planning system. This includes early and broad based engagement when preparing planning policies and major development proposals.

Hierarchy of developments

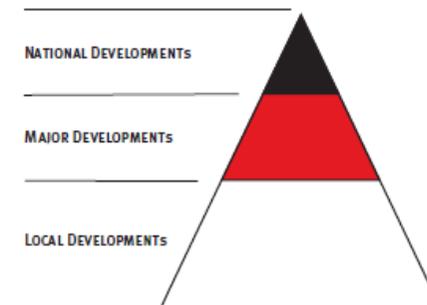
All planning proposals and applications are now classified in a hierarchy of developments. Proposals and applications can be designated as national, major or local developments.

National developments are contained in the National Planning Framework (NPF) which is produced by Scottish Government. The current (2009) version is NPF2. This includes the new Forth Crossing and enhancements at Edinburgh Airport. National developments are at the top tier of the hierarchy.

Below national developments are major developments. There are 9 classes of major development in the hierarchy. For example, 50 or more houses is a major development.

For national and major developments, design and access statements may have to be submitted and there may be additional scrutiny in deciding the application, such as a pre-determination hearing or consideration by full Council.

All other development proposals are classified as local developments.



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Pre-application consultation

The developer is now required to undertake mandatory pre-application consultation for all national and major developments. Pre-application consultation allows communities to be better informed and to have an opportunity to contribute their views to the developer before a planning application is submitted.

There is no requirement to undertake formal pre-application consultation for local developments, but determining community views on the proposed development at an early stage is often a good idea.

Proposal of application notice (PAN)

A proposal of application notice (PAN) must be submitted to the planning authority by the developer at least 12 weeks prior to submission of a national or major application. This notice must provide details of the proposal and the pre-application consultation to be carried out.

As a minimum, the PAN must be served on affected community councils and one public event must be held. There must be publicity for the public event in the form of a newspaper advert at least 7 days in advance. The PAN will also be published in the appropriate Weekly List.

Sometimes, a developer may be asked by the planning authority to undertake additional community engagement depending on the nature, extent and location of the proposed development.

Both community councils and the public generally can make their views known to the developer. Pre-application consultation does not replace the opportunity to comment on planning applications once they have been received by the planning authority.

Pre-application consultation report (PAC report)

When the planning application is made, the developer must provide a pre-application consultation report, known as a PAC report. Before this happens developers are asked to give a draft of the PAC report to the community council for their comment. It is important that the community council gives feedback as soon as possible. Sometimes there might be a need for further consultation at this stage. The PAC report includes details of who has been consulted, what steps were taken to comply with the statutory requirements, how the applicant responded to comments made, copies of adverts and

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consultation material and evidence that the public were made aware that the PAC process does not replace the application process whereby representations can be made to the planning authority.

The Edinburgh Planning Concordat

The Concordat encourages discussions between the Council, developers and the community councils at all stages of the planning application process. By working together we can create better places for all of us.

The Concordat is a framework for consultation when major development is proposed. It is about promoting local participation and it sets out a process which all parties should encourage when discussing development.

Community Engagement Fund

To help community councils find out what people think about upcoming developments, the Council has a Community Engagement Fund. This grants up to £300 per development.

Permitted Development

Some types of local developments are 'permitted development'. These are generally smaller in scale and have limited impact on the surrounding area. These do not need applications for planning permission as the legislation already allows this. If you live in a listed building, conservation area or flat, there are only limited permitted development rights.

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Speaking up for communities

It is the statutory duty of a community council to find out what people in the community feel and to express these feelings to the Council.

You may wish to consider the following actions:

- talk to local people and see if they share the views of the community council
- contact the community newspaper or issue a newsletter describing the proposed development
- contact the local Councillor: he/she has been elected to represent the community and may even be a member of the Development Management Sub-Committee
- find out when the particular planning application is due to be considered by the Development Management Sub-Committee. Committee reports are available five days before Committee on the Council website, and details of any meeting and the items on the agenda can be obtained from the Council website (register to receive alerts) or the Planning Help Desk at Waverley Court.
- you may wish to go and see how the application has been decided although you will not be able to speak unless it is the subject of a hearing.

When to submit a representation

Any individual or organisation has the right to submit comments (known as representations) on a planning application. Many community councils submit comments and objections as 'representations' after viewing the application details.

The representation method is generally used where the community council has a clear understanding of local opinion on the proposal, or where the proposal is relatively minor but nevertheless raises a wider local issue. Representations are accepted on the understanding that the views contained therein are the views of the community council. Guidance and advice on commenting on planning proposals is available on the Council web site.

PAN47 provides community councils with guidance on their responsibilities in this respect.

A planning authority has to take comments and representations into account in reaching its decision on a planning application, provided that:

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- the representations are made within a specified period, and
- they are material planning considerations

The date of registration or advertisement is shown against each planning application on the Weekly List. The newspaper advertisement covering a limited number of applications appears in the Edinburgh Evening News, normally on a Friday. Time periods for representations and consultations are automatically extended during periods of public holiday.

When to be a Consultee

We will automatically treat you as a consultee on national or major developments. In other cases, planning legislation requires a community council to request formal consultation within 7 working days of the issuing date of the Weekly List. PAN47 emphasises that consultation should not cause delay in the processing of applications; community councils should organise themselves in a way that allows a response to be made within the consultation period. Community councils have 21 days to respond, starting from the date of issue of the consultation by the Planning Service. To request a formal consultation, contact the case officer for the application.

PAN47 advises community councils as follows in considering whether to ask to be formally consulted:

“...community councils are advised to limit their attention to proposals which raise issues of genuine community interest; householder applications will rarely involve issues of this kind.”

In accordance with its duty to “ascertain, co-ordinate and express” local views, a community council may decide that it is necessary to arrange a public meeting or some other form of local consultation exercise before it submits its consultation response. In such a situation, the community council may wish to seek an extension to the 21 day consultation period. This is likely to be limited to proposals raising complex or controversial local issues and would not be expected to occur on a regular basis. The community council must discuss a request for an extension with the case officer for the application, and then confirm it in writing, giving reasons. If an extension to the timetable is agreed, the extension period will be specified so that the applicant can be informed.

Letters of representation or consultation can be inspected on the Planning and Building Standards Portal. They cannot be treated as confidential, although all personal details will be redacted.

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Variation or amendment of applications after submission

Legislation allows applications to be changed after submission with the agreement of the planning authority, provided that the changes are not substantial. A new application would be required to take forward substantial changes.

The legislation makes it clear that it is for the planning authority to decide what is appropriate regarding notice about the changes to other parties. These changes are often minor and raise no new planning issues so we do not do any further publicity. Many changes address points raised by objectors or planning officers

Changes can also be made to **approved** applications provided they do not raise any new material planning issues. This is called a non-material variation.

Contact with the Case Officer

During the processing of an application the case officer will endeavour to offer help and advice on progress and procedures. They will be unable to enter into a debate on the merits of a scheme.

Similarly it is inappropriate for case officers to express views about proposals at open meetings or other meetings with interested individuals during the consideration of an application. It is the case officer's duty to remain impartial until all the relevant information has been assessed.

Following a decision, the report and its assessment set out our justification for the decision. This is available on the online services. There is no right of appeal for community groups after a decision is made.

Making the Decision

In Edinburgh, the final decisions on planning applications are either taken by the Development Management Sub-Committee (about 7%) or – to help speed up the process - less complex or non-controversial decisions (about 93%) are 'delegated' to Planning officers for a decision.

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Under new regulations associated with the recent changes to planning legislation, Councils are required to create a scheme of delegation which specifies how applications for local developments will be decided. The decision taken can be reviewed by a Local Review Body of the planning authority rather than by an appeal to Scottish Ministers.

Our previous Scheme of Delegation has been retained and updated and used in addition to the new scheme of delegation. This allows us to delegate listed building consent and other consents, as well as non-controversial major developments.

Some application types are the subject of mandatory pre-determination hearings and the Regulations prescribe those, other than the applicant, who can appear before and be heard by the relevant committee. In these cases, the final decision is made by the full Council. Pre-determination hearings are mandatory for major developments where they are significantly contrary to the development plan, and for national developments.

In some cases, applications will be decided by a normal hearing rather than a pre-determination hearing. This is for more complex and contentious cases and it gives all parties the right to address the Development Management Sub-Committee. This is the only way a ward councillor can address the Committee.

Planning Policy

Development Plans

Edinburgh Council is required by the Government, to prepare a plan explaining its long term intentions for the future development of their area. The plan sets out policies and proposals which are used when deciding planning applications.

The Edinburgh area is currently covered by two plans:

- The Edinburgh City Local Plan which was published in 2010, and
- The Rural West Edinburgh Local Plan which was published in 2006.

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The Council is now working on updating these plans into one plan called the Edinburgh Local Development Plan which is the first of a new type of plan to cover the Edinburgh Council area as a whole.

The Council prepares an annual update on how preparation of this plan is progressing in a booklet called the Development Plan Scheme. It also sets out when and how to get involved in the plans content.

The content of the plan must meet the requirement set out in two other documents:

- The National Planning Framework which sets out Scottish Governments strategy for development across the country; and
- The Strategic Development Plan for South East Scotland which sets out a long term approach to where future development will be located across all of the Lothians, Borders Council and part of Fife.

Copies of the more recent Plans are available for everyone to inspect on the Council website, at all public libraries and at the Planning Help desk, Waverley Court.

Community councils are entitled to a free copy of all development plan documents, and copies of the new documents will be sent directly to the nominated planning spokesperson of the each community council.

Community councils are encouraged to become involved in the preparation or review of the development plan, particularly when consultation exercises on the plans are undertaken. This allows communities to shape the planning framework which is used for making decisions on individual development proposals.

Supplementary Guidance and Planning Guidelines is produced to provide more detail to the policies of the development plan and to guide the development of larger sites. Their content is also used when deciding planning applications. They are subject to publicity and consultation, and are also available on the Council's website.

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Help and Advice

<i>Planning Help Desk</i>	(0131) 529 3550 or email planning@edinburgh.gov.uk
<i>Planning website</i>	www.edinburgh.gov.uk/planning
<i>Scottish Government website</i>	www.scotland.gov.uk
<i>In writing to:</i>	Head of Planning and Building Standards The City of Edinburgh Council, City Development Department Level G3, Waverley Court, 4 East Market Street Edinburgh, EH8 8BG
<i>Planning Aid for Scotland (PAS)</i>	If you need independent advice then Planning Aid for Scotland may be able to help. This organisation is a voluntary charitable company which offers free advice to individuals, community councils and other groups. PAS volunteers are qualified and experienced planners who can provide information and advice on all aspects of Town and Country Planning and related issues. They can be contacted at the address below: Planning Aid for Scotland 11a South Charlotte Street Edinburgh EH2 4AS Tel: (0131) 220 9730 email: office@planningaidscotland.org.uk helpline: 0845 603 7602

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APPENDIX 1

Summary of the roles and responsibilities of community councils in the planning system (extract from PAN47)

- statutory right to be consulted on applications for planning permission
- represent a broader yet still local view
- key task is helping to provide an informed local context within which sensible decisions can be made in the public interest
- should appoint one person as their point of contact for the planning authority on all planning matters, provide holiday cover, and inform the authority accordingly
- community councils should receive copies of the weekly list of planning applications
- may wish to view particular applications in detail and can request formal consultation within 7 working days of the issuing date of the weekly list
- may not seek to be formally consulted - may submit comments (known as representations) like any other member of the public
- advised to limit their attention to proposals which raise issues of genuine community interest : householder applications will rarely involve issues of this kind
- ensure method of working allows response within the consultation period (21 days)
- should not expect to be consulted on very minor changes which are sometimes made to applications either while they are being considered or after they have been approved
- planning authorities should consider occasional training sessions for community councillors in their area

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APPENDIX 2

Full details of the planning [hierarchy](#)

National developments are identified in the National Planning Framework and tend to be proposals for infrastructure developments such as the replacement Forth Crossing.

There are 9 classes of major development which are designated in the Regulations (Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009), and include proposals such as all development under Schedule 1 of the EIA (Scotland) Regulations 1999 and housing proposals of 50 dwellings or more, or housing sites exceeding 2 hectares.

Local developments are designated as those which are not national or major developments, and tend to be of a smaller scale.