

## Scottish Planning Policy

### 1. Land use planning matters, community engagement and community councils – an outline guide.

**See: Reference Document: Scot Gov Planning Advice Note 3/2010: Community Engagement (50pp)**

[PAN 3/2010 Community Engagement](#)

#### **What's the purpose of this outline guide on planning issues?**

This is a primer for community councillors; for new ones joining upon the 2024 elections and for others who want to remind themselves of some of the legislative detail. Planning matters (in their immediate locality and beyond) are a central responsibility of community councils. The following text, drawn from the City of Edinburgh Council (CEC) Scheme for Community Councils, sets out what community councils undertake to do in the round:

***City of Edinburgh Council (CEC): Scheme for Community Councils: Draft, June 2024***

***3. The role and responsibilities of community councils***

*3.1 The general purpose of community councils is to act as voices for their local areas, articulating the views and concerns of individuals and groups on a wide range of issues of public concern, including making representations to the City of Edinburgh Council, other public sector bodies and private agencies on matters within their sphere of interest.*

*3.2 Community councils have a statutory right to be consulted on planning applications.*

*3.3 Community councils are competent objectors to all licence applications lodged with the City of Edinburgh Council in terms of the Civic Government (Scotland) Act 1982, which includes applications for House in Multiple Occupation licences.*

*3.4 Community councils are the key community representative bodies within the local community planning arrangements across the city of Edinburgh.*

Planning is a deeply detailed field with a massive amount of information content from a wide range of sources. While some community councillors take naturally to it and become expert in the detail, all community councillors ought to have a decent acquaintance with the precepts built into the legislation and the codes of practice. This is especially the case with issues of community engagement, since that too is a core function of community councils.

This briefing paper highlights key extracts (“...”) from the Scot Gov Planning Advice Note on Community Engagement (the Reference Document highlighted above, with the link). It’s an introduction to where community councils stand in the arena of community response to changes in land use in their neighbourhood, locality or ‘place’. The paper sets the backdrop for more formal training in planning, something which should be offered by CEC in the coming months to all community councils. It introduces some of the jargon. It reduces many pages of official documentation down to a practical length for its purpose as an introduction to planning for community councillors.

## The Reference Document

The Reference Document quoted above is a Scot Gov [Planning Advice Note](#), one of a wide range of publications on planning guidance.

[Planning guidance - Planning and architecture - gov.scot \(www.gov.scot\)](http://www.gov.scot/Planning-guidance-Planning-and-architecture)

### Introduction

Para 3. “Ministers are looking to create a planning system that is effective and efficient, while recognising the important role that communities have in the decision-making process.”

### Community Engagement in Planning

8. “The Scottish Government expects engagement with the public to be meaningful and to occur from the earliest stages in the planning process to enable community views to be reflected in development plans and development proposals.”

### Roles and Responsibilities

#### The Planning Authority

13. “Planning authorities’ key roles include: • Preparing strategic development plans, local development plans, master plans, development briefs and supplementary guidance • Processing and deciding on applications for planning permission plus other consents (such as listed building consent);”

#### Community Councils

18. “Community Councils have a formal role in the planning system. They are consulted when development plans are being prepared, during pre-application consultation and when a planning application has been submitted. Many Community Councils take a proactive role in planning matters to ensure that the community they represent is consulted on issues that could have an impact on the area and that their views are communicated to the planning authority. They achieve this by monitoring the weekly list of planning applications produced by the planning authority; consulting with relevant planning officers where appropriate; holding public meetings to publicise plans and gauge community feeling where appropriate; responding rapidly to the planning authority expressing the views of the community on planning issues.”

#### Applicants and their Agents

21. “There are legal requirements on prospective applicants to engage with the community on certain applications. The requirements around preapplication consultation are set out below. But also, there are applicants for planning permission who engage with local communities voluntarily in advance of making a planning application.”

### Community Engagement in the Planning System

#### The Preparation of Development Plans

27. “All planning authorities are required to prepare local development plans for their areas. ([Development Plan Schemes](#); DPS) These contain a detailed statement of the authority’s policies and proposals for development and land use.”

28. “It is the role of the planning authority, including councillors, to promote wider public awareness of development plans by engaging actively with the people they represent. The community has an important role in engaging positively with the planning authority to ensure all parties have a common understanding of the issues.”

(Community councils within the plan area are advised of DPS publication and of the related Participation Statement. They will be part of the widespread consultation which follows, where the key areas of change addressed in the DPS are identified in a [Main Issues Report](#).)

35. This paragraph sets out a Planning Authority [checklist](#) for community engagement in the Strategic and Local Development Planning process.

### Development Management

36. “Development management is the term used for the process of deciding whether to grant or refuse planning permission.”

**Planning Aid Scotland (PAS)** is a volunteer-led educational charity and social enterprise offering an excellent information and advisory service, alongside skills training, for individuals and community groups who are engaging with the planning system.

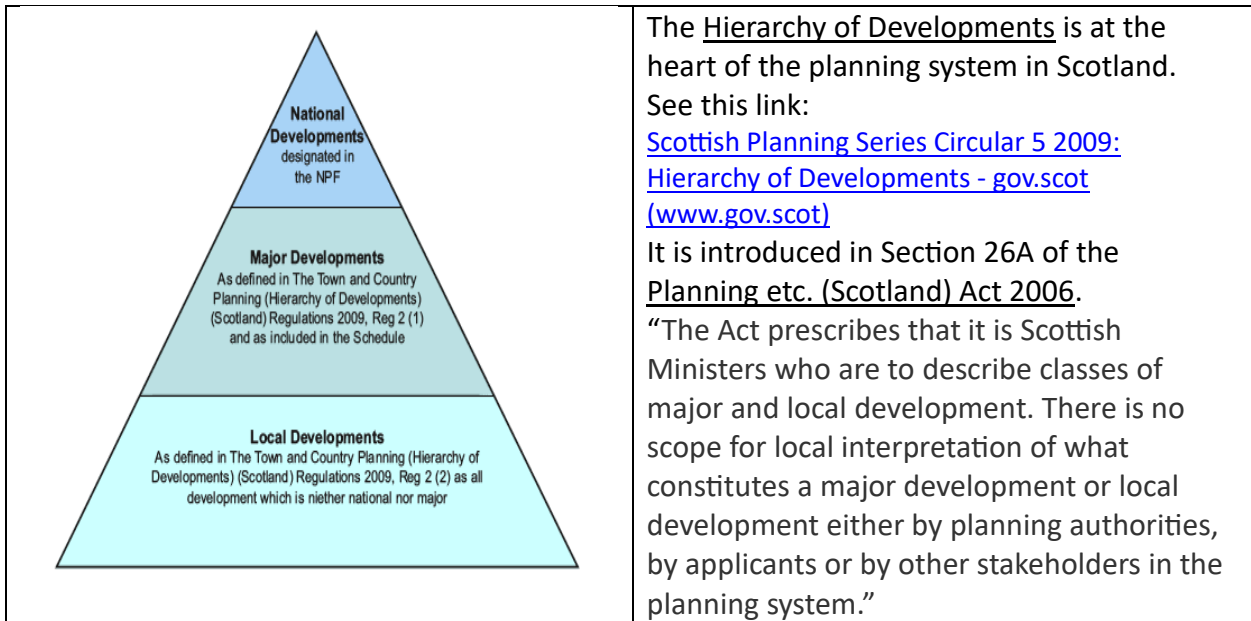
The PAS information sheet on [Development Management](#) carries this introduction:

- “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.”
- “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.”

Take a look at the comprehensive suite of free resources, guides and toolkits made available by PAS here: [Resources - Planning Aid Scotland \(pas.org.uk\)](https://www.pas.org.uk/resources)

37. “In distinguishing between public and private interests, the basic question is whether the wider community’s interest would be unacceptably affected by the proposals, for instance through loss of amenity or loss or damage to land and buildings which ought to be protected, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.”

38. “The hierarchy of development categorises all developments into national, major or local developments. [National Developments](#) – are developments set out in the National Planning Framework; [Major Developments](#) – there are 9 classes of development set out in law including developments of 50 or more dwellings, certain waste and transport infrastructure and larger scale mixed use developments; [Local Developments](#) – these are all other developments not categorised as national or major.”



### Consultation before an application is submitted

39. “Prospective applicants are required by law to consult communities before a planning application is made for a national or major development\*. The purpose of pre-application consultation is for communities to be informed about development proposals and to have an opportunity to contribute their views before a formal planning application is submitted to the planning authority.”

\*But not for a local development. Consequently, there is a natural focus on the threshold or criteria by which a development would be classed as a major development, as opposed to a local development (where prior notice to / prior consultation with community councils doesn't have to take place). This is especially the case with Housing; Business & General Industry development, and Transport & Infrastructure projects, among others. Section 19 of the Hierarchy of Developments link (above) gives the detail. See **Appendix 1** to this paper for more information.

With local developments, the community council can ask to become a statutory consultee. However, the onus is on the community council to be alert to local planning applications and to make that request.

40. “Where pre-application consultation is required, the prospective applicant must send a Proposal of Application Notice (PoAN) to the planning authority at least 12 weeks before submitting an application for planning permission. They must also send a copy of this notice to relevant community councils.”

41. “The planning authority has 21 days to respond if it considers that it wants to see additional notification and consultation beyond the minimum set out in law. The minimum consultation requirement is to consult relevant community councils and hold at least one public event which is advertised in the local press.”

43. “When an applicant submits a planning application for a major or national development, they must also submit a pre-application consultation report. This report confirms that

consultation has taken place in line with statutory minimum requirements and any further requirements set by the authority in its response to the proposal of application notice.”

### **Engagement and Information on Planning Applications**

47. “Planning authorities are legally required to publicise information on applications and decisions to the wider public in the following ways:”

Lists of submitted applications: Available at the planning office, public libraries and online.

Weekly lists: Sent to community councils by the planning authorities; also available as above.

Planning Register: Part 1 covers applications yet to be determined. Part 2 covers applications which have been determined.

Decisions on applications: “As well as sending the decision notice to the applicant, the planning authority informs everyone who made a written representation on the application of the decision and where a copy of the decision notice is available for inspection.”

### **Neighbourhood notification and publicity**

49. “Everyone has the right to comment on a planning application – the wider community as well as those who could be directly affected such as neighbours.”

50. “Neighbour notification requirements seek to give those likely to be most affected by proposals notice that a planning application has been submitted. It is the responsibility of the planning authority to write to owners, occupiers and lessees of “neighbouring land” at any premises on such land once the planning application and supporting drawings and plans are available to view.”

51. “Where there are no premises on the neighbouring land, the application must be advertised in the local press. There are further requirements to publicise applications in the local press which include where an applicant has been unable to notify the owners of the site of the proposed development or the development is of a class specified in regulation as one likely to have wider impacts on amenity (e.g. hot food shops and licensed premises).”

52. “The period for making comments on a planning application in response to neighbour notification is no less than 21 days from the date of the notice. Where the application is advertised in the local press, then the period for responding is no less than 14 days from the date of the advert. The period within which representations should be made will be set out in the notice or advert.”

### **Consultation with the community council**

53. “As noted above, community councils must be consulted on development plans and where pre-application consultation is required for applications for national and major developments. The law also requires them to be consulted: • where the community council, within 7 days of receiving the weekly list containing information about an application, informs the planning authority that it wishes to be consulted; and • where the development is likely to affect the amenity of the community council’s area.”

So, the community council is a statutory consultee on ‘national’ and ‘major’ developments. For the third tier of ‘local’ developments, the community council can ask to be a statutory consultee.

54. “Planning authorities must give community councils at least 14 days to consider and respond to the application before they determine it.”

“But the 14-day period is a minimum and it is open to a community council, like any other statutory consultee, to ask the authority to use its discretion to allow a reasonable extension in special cases: for example, those which are unusually complex or controversial.”

### Appeals and Local Reviews

57. “Where planning permission is refused, or where the planning authority has failed to make a decision within a specific timescale, the applicant can challenge the decision or non-determination by making an appeal. It is only the applicant who can make an appeal or seek a review of the decision. The appeal will be made to either the Local Review Body (i.e. local developments delegated to an officer for decision) or the Scottish Ministers (i.e. local developments not delegated to an officer for decision plus all major and national developments).”

This section also sets out a Planning Authority checklist for engaging people in the planning application process.

59. “Appeals and local reviews examine all relevant information which had been before the planning authority when it considered the application – including letters of representation from local people, community groups etc.”

### Enforcement

60. “For many people, their first contact with the planning system is, unfortunately, when they complain to the planning authority about apparent breaches of planning requirements. Breaches of planning control fall into two broad categories; unauthorised development – including development without planning permission, and breaches of planning conditions which were attached to a grant of planning permission.”

61. “Planning authorities are required to publish a regularly reviewed and updated Planning Enforcement Charter. The Charter should set out in clear terms their policies in respect of planning enforcement so that members of the public can understand how to raise concerns about suspected breaches of planning control and how these will be investigated and addressed.”

This section also carries a Planning Enforcement Charter checklist.

### Page 27: Delivering effective community engagement in land use planning:

Para 64: Sets out a list of ten National Standards on community involvement and engagement.

1. Involvement	5. Working Together	9. Feedback
2. Support	6. Sharing Information	10. Monitoring and Evaluation
3. Planning	7. Working with Others	
4. Methods	8. Improvement	

**Note Standard 8:**

81. “The skills of all parties should be maintained and improved in achieving effective community engagement. Everyone with public or community liaison responsibilities – including developers and their agents – should have appropriate training and customer care skills, including specific training programmes to develop skills and the capacity of community councils and other groups and help ensure that as far as possible community engagement is sustainable.”

**Support for Community Engagement in Planning**

85. “Planning Aid for Scotland provides a free, independent and impartial planning advice service (subject to eligibility criteria), and delivers a range of training events aimed at everyone, including young people, community groups, community councils, Social Enterprises and business start-ups as well as planning professionals and Councillors. Planning Aid for Scotland is a volunteer-based organisation which achieved Investing in Volunteers status in October 2008. Contact details are available at Annex 1.”

89. “Planning authorities have a role in providing training for their Community Councils, other community groups and individuals to improve understanding of and participation in the planning system. In addition, the Scottish Government provides core funding to Planning Aid for Scotland, an independent voluntary organisation, which provides training and advice on planning matters to individuals and groups across Scotland.”

**Page 41:** Annex 1: Useful Contacts and References

**Page 44:** Glossary of Planning Terms

**Appendix 1**

[Scottish Planning Series Circular 5 2009: Hierarchy of Developments - gov.scot \(www.gov.scot\)](http://www.gov.scot/Scottish-Planning-Series-Circular-5-2009-Hierarchy-of-Developments)

**Schedule of Major Developments**

Section 19 *et seq.*

Classes of major developments: Threshold or criteria

1. Schedule 1 development relating to Environmental Impact Assessment (Scotland) Regulations 1999(4)
2. Housing: (a) the development comprises 50 or more dwellings; or (b) the area of the site is or exceeds 2 hectares.
3. Business and General Industry, Storage and Distribution: (a) the gross floor space of the building, structure or other erection constructed as a result of the development exceeds 10,000 square metres; or (b) The area of the site is or exceeds 2 hectares.
4. Electricity Generation: The capacity of the generating station is or exceeds 20 megawatts.
5. Waste Management Facilities: Capacity of 25,000-plus tonnes per annum, with a sludge limit.
6. Transport and Infrastructure Projects: Length of installation exceeds 8km
7. Fish Farming: Surface area of 2 hectares-plus.
8. Minerals: Area of site is 2 hectares-plus.
9. Other Development: Gross floor space of structure of 5000 square metres-plus, or area of site is 2 hectares-plus.

END

Planning is a highly detailed, complex field, arrayed with a large amount of written material which can be over-whelming, even for those who know their way around. This briefing note is a short, manageable primer, serving only as a pointer to where to look next. But that in itself is helpful and time-saving.

Keep in touch with the [CEC Planning and Building Standards](#) site for revisions and updates: [Planning and Building Standards – The City of Edinburgh Council](#).

The **Planning Guidance** PDFs (e.g. ‘For Householders’ and ‘Listed Buildings and Conservation Areas’) together with the **Planning Quick Guide** PDFs are very good reference documents.

You can also examine the [Scot Gov](#) coverage of the planning system at: [Planning and architecture - gov.scot \(www.gov.scot\)](#).

Use the great library of free resources, guides and toolkits at [Planning Aid Scotland \(PAS\)](#), particularly the project management aids for building community-led [Local Place Plans](#), which are to sit at the heart of Edinburgh’s next local development plan, City Plan 2040. Go to: [Who We Are - Planning Aid Scotland \(pas.org.uk\)](#)

Prepared by Ken Robertson, EACC Secretary, July 2024