

Community Council Role in Planning Applications

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Lead Planning Officer

The Legal Framework

Planning (Scotland) Act 2019

Town and Country Planning (Scotland) Act 1997

Planning etc. (Scotland) Act 2006

Development Management Procedure Regulations 2013

Control of Advertisements Regulations 1984

Town and Country Planning (Listed Buildings and Conservation Areas) Scotland Act 1997

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992

The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regs 2017

Environmental Impact Assessment Regulations 2017

The Town and Country Planning(Use Classes) (Scotland) Order 1997

The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010

The Town and Country Planning (Appeals) (Scotland) Regulations 2013

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013

Planning (Hazardous Substances) (Scotland) Act 1997

Local Government (Scotland) Act 1973

Certain Sites and Control of Development Act 1969

And so on...

Development

“the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”
(S.26, TCP(S)A 1997)

- *But not:*

Internal works, works within road boundaries,
infrastructure works, agriculture, forestry

“Permitted Development”

- General Permitted Development Order

Types of Consent

- Planning Permission
 - Full Planning Permission
 - Planning Permission in Principle
 - Approval of Matters Specified in Conditions (Reserved Matters)
- Listed Building Consent
- Conservation Area Consent
- Advertisement Consent

The Application Process

- Validation and Registration
- Weekly List: Publication online (Public Access)
- Consultation (21/28 days):
 - Neighbours
 - Internal/Statutory Consultees
 - Community Councils
- Allocation to Officer
- Site Visit
- Report Preparation
- Authorisation of Recommendation

Scheme of Delegation

Which Applications come before Committee?

- All “Major” applications (e.g. over 2ha or 50 houses)
- Recommendation to approve a **planning application**, where:
 - At least 5 letters of representation from separate households:
 - *Must be on genuine planning grounds*
 - *Must be “within time”*
 - the application is significantly contrary to the Development Plan.
 - an objection has been received from a statutory consultee.
- Member Referral (5 SBC Councillors)

Making Planning Decisions

Section 25 of the 1997 and 2006 Acts

“Where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.”

Making Planning Decisions

- Process concerned with Land Use Planning

“Planning authorities are expected to consider the views of local residents when determining a planning application. Nevertheless, local opposition to a proposal is not, by itself, a reasonable ground for the refusal of a planning application, unless that opposition is founded on valid planning reasons which are supported by substantial evidence. While the planning authority will need to consider the substance of any local opposition to the proposal, their duty is to decide a case on its planning merits”. (DCLG Circular 8/93)

Material Considerations

- | • Yes: | • No: |
|---|--|
| • Suitability of site/development | • Protection of individual or business interests |
| • Suitability of development | • Views from adjoining sites/houses |
| • Relationship with surrounding developments and uses | • Property Value |
| • Design | • Personal circumstances |
| • Scale | • Moral, political or ideological considerations |
| • Materials | • Cost of development |
| • Roads/Access | • Need for development (with some exceptions) |
| • Disturbance: e.g. noise, smell | • Over-provision of facility |
| • Loss of Privacy | • Land ownership/legal rights over land |
| • Economic or Community Benefits, where justified and evidenced | • Issues covered by other legislation |
| • Meeting Identified Needs | |
| • Adequacy of infrastructure | |
| • Previous decisions on application site | |

Role of Community Council

- Formal consultee, where request is made or amenity of area affected
- SBC takes more proactive approach
- Provision of local knowledge and background
- Provide views representative of community relevant development being proposed
- Major applications – pre-application consultation

Pre-Application Notification

- Promotes Community Engagement
- Applicant must consult Community Council
- At least one public event (CC can advise)
- Opportunity for CC to gather views
- No direct role for SBC
- All feedback to developer
- Normal consultation/representation process once application submitted

Automatic Consultation with CCs

- “Bad Neighbour” Development (e.g. noise, smells)
- Applications which might affect the character of a Conservation Area
- Applications that are likely to be of general interest to the community and, as a result, may result in representations.
- Applications that are considered to be of significant local interest for economic, social or environmental reasons
- Applications for all new houses.
- Listed Building Consent
- Any applications for which a request is made within 7 days

Things to consider

- Different CC sizes and organisation
- Planning sub-committee
- Single point of contact for planning matters
- Decisions may need to be made outwith normal cycle of meetings
- Circulation of plans/links electronically for comment
- CCs do not need to be formally consulted to comment on applications
- Weekly List

Things to consider

- Restrict comments to planning merits of proposal
- Local Development Plan
- Material Planning Considerations
- Planning Conditions; reasonable and relevant
- LDP land allocations and AMC applications : principle already established
- Measure of Local Feeling
- “Development Jigsaw”
- SBC has duty to determine applications timeously
- Not appropriate to resist acceptable development because an alternative might be preferable

Things to consider

- Declaring an interest (land *or* applicant/objector/supporter)
- Representations as a private individual; make clear.
- Views should be expressed in clear and unambiguous terms.
- Indicate if no consensus
- Opposition of an application: Reasons on relevant planning grounds. Refer to policy if possible.
- Where qualified support for an application is expressed, conditions can be suggested.
- Larger schemes, consider gathering wider local views (may require additional time)
- Contact case officer for advice

E-Consultation

- **System now almost completely electronic**
- Moving forward:
 - Electronic notification for all CCs
 - All CCs to respond electronically
 - papers copies of major applications – e.g. windfarms
- Reasonable requests for paper copies

E-Consultation

- Set up – quick and easy
- Notification by email – with links to application
- Response to:
dconsultees@scotborders.gov.uk
- Not to case officer or other e-mail address

E-Consultation Process

<https://www.scotborders.gov.uk>



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Comment on or object to a planning application

Due to essential maintenance you will be unable to view or comment on planning applications and building warrants online on Thursday 26 April 2018. Find other ways to [comment on a planning application](#).
Apologies for any inconvenience.



Any individual, group or organisation can make comments of objection or support for a planning application while it is open for consultation.

How to comment on a planning application

To comment online you must [register on the public access portal](#). It only takes a couple of minutes and will also allow you to track applications and save searches.

Once registered, please follow the steps below:

1. Log in to your account Select '[Search>Planning>Simple search](#)' and find the application you wish to comment on
2. On the right side of the page select 'Make a public comment'
3. Enter your comments
4. Select 'Submit'

To comment by post, please write to the following address and include the following:

- the date
- the name and address of the sender
- the reference number of the application
- the address of the site
- your comments

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Community Council:

Duns Community Council



Ward:

All



Week beginning:

23 Apr 2018



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Reference Numbers

Application Reference:

Alternative Reference:

Application Details

Description Keyword:

Applicant Name:

Application Type:

All

Ward:

All

Community Council:

Ayton Community Council

Agent:

Decision:

All

Development Type:

All

Address:

Dates

Enter a date range (a start date and an end date) for the criteria that you are interested in. The date fields may be entered manually using the date format dd/mm/yyyy (e.g. 21/08/2008). Alternatively, click on the calendar button and pick a date.

Date Received:

01/01/2018

to

25/04/2018

Date Validated:to

Date Actual Committee:to

Decision Date:to

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24 Mar 2017

Correspondence

DELEGATED APPROVAL

24 Mar 2017

Decision

APPROVAL

24 Mar 2017

Report

OFFICERS REPORT

27 Feb 2017

Consultation Reply

HERITAGE AND DESIGN OFFICER

24 Feb 2017

Adverts

EDINBURGH GAZETTE

23 Feb 2017

Adverts

SOUTHERN REPORTER

15 Feb 2017

Application Form

COVER SKEWS ON SOUTH WEST GABLE WITH LEAD

15 Feb 2017

Drawing

SITE PLAN

15 Feb 2017

Drawing

SOUTH GABLE

15 Feb 2017

Photo

SW GABLE & VESTRY

15 Feb 2017

Drawing

ROOF PLAN

15 Feb 2017

Photo

LOCATION PLAN

27 Jan 2017

Invalidity Letter

Community Council Guidance Note

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

The primary responsibility for the operation of the planning system lies with strategic development planning authorities and local and national development planning. However, all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland. This includes the Scottish Government and its agencies, public bodies, statutory consultees, elected members, communities, the private sector, developers, agencies, agents, interest groups and representative organisations – Scottish Planning Policy 2014.

Introduction

The aim of this guidance note is to provide basic information to Community Councils on planning matters, and to signpost further information.

The Scottish Government is responsible for developing planning policy in Scotland but the implementation of the policy is primarily a local function. The responsibility for planning matters in the Scottish Borders, including the processing and determination of planning and related applications, rests with Scottish Borders Council.

Within SBC, planning is dealt with by the Planning and Planning Services Department.

Planning law can be complex, and the Government has issued Planning Advice Notes (PANs) and circular guidance to help interpret the legal framework. These must be taken into consideration by Local Authorities when developing systems, local policies and taking decisions.



Community Councils have a formal, statutory role in the planning system and must be consulted on a variety of issues. Advice on Community Councils and Planning is given in [PAN 47](#) – It is national planning policy to encourage community involvement in the planning system and there is current advice on [Community Consultation](#). In addition, Community Councils should familiarise themselves with the [SBC Community Liaison](#), which is now the primary means of accessing information on planning applications.

Community Councils play a key part in both Development Planning and Development Management. SBC welcome any help in ensuring local systems (whether on a policy matters or on individual planning applications). The views of Community Councils, where properly expressed and relevant to planning, are important material considerations in the determination of any applications.

Development Planning

Development Plans provide a vision of how places should develop, including those areas which should receive special protection.

SBC is one of 8 planning authorities in South East Scotland (Scottish Borders, East Lothian, Midlothian, West Lothian, North Ayrshire, South Ayrshire, North Ayrshire and City of Edinburgh). The Local Development Plan (LDP) which has been reviewed in the production of a Development Management Plan for the wider region ([LDP2021](#)).

The Local Development Plan adds detail to national and regional policy and is the core document against which planning applications are assessed. The Local Development Plan goes through an extensive consultation process in its development before being adopted by the (U) Council and it must also be approved by the Scottish Government. The current plan runs to 2026.

Community Councils are statutory consultees and are asked to put forward views and local knowledge at the consultative stage.