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**RESPONSE TO PERTH AND KINROSS LDP FURTHER  
INFORMATION REQUEST 03 – HOUSING LAND  
REQUIREMENT/SUPPLY**

**JANUARY 2019**

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Homes for Scotland (HFS) is the voice of the home building industry in Scotland, representing some 200 companies and organisations which together deliver the majority of the country's new homes.

We are committed to improving the quality of living in Scotland by providing this and future generations of Scots with warm, energy-efficient, sustainable homes in places people want to live.

HFS makes submissions on national and local government policy issues affecting the industry. Its views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from our member companies.

## **RESPONSE TO PERTH AND KINROSS LDP FURTHER INFORMATION REQUEST 03 – HOUSING LAND REQUIREMENT/SUPPLY**

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### **Introduction**

1. Homes for Scotland (HFS) welcomes the opportunity to comment on Perth and Kinross's Further Information Request (FIR) response. These submissions have been reviewed and agreed by Homes for Scotland's East Central Area Committee.

### **Evidence Base**

2. Homes for Scotland is pleased that the 2018 Housing Land Audit (HLA) could be agreed without dispute as set out in the Council's response. The now published Audit provides both an up to date position which includes agreed programming for all proposed LDP allocations and a well presented, rich source of other relevant information.
3. The housing land supply set out in the Council's response is now derived from a number of sources, according to the footnotes, including the 2016 HLA, the 2017 HLA, additional allocations referred to in the Housing Background Paper (November 2017) and programming for these sites as set out in the 2018 HLA. As the HLAs only provide annual programming for 7 years further assumptions are also required for the later years of the plan. These appear to have been done based on the 2016 HLA, according to the Council's FIR Response.
4. This is a complex picture and HFS would advocate the sole use of the 2018 HLA, as this is the most up to date source of information which provides a consistent and comprehensive review of the current housing land supply, including proposed allocations. Further account needs to be taken for programming beyond year 7 (i.e. 2024/25) and Appendix 1 of this response provides this by extrapolating agreed completions rates (in years 1 – 7) forward over the remainder of the plan period (2025/26 – 2028/29)
5. For the purpose of our response we use the 2018 HLA as it is the most recent position, avoids the requirement to use a mixture of HLAs and our extrapolations (Appendix 1) provide a transparent approach to programming in the later years of the LDP.

### **Housing Land Requirement and Supply**

6. TayPlan sets out Housing Land Requirements (HLRs) and Housing Supply Targets (HSTs) for the period 2016-28. These equate to 12,000 and 10,152 respectively over the 2016-28 period. However, as the LDP is being adopted part way through this period, further adjustments are required.
7. The Reporters' conclusions in the recent Dundee LDP examination (ref. LDP-180-2, issued 9 October 2018) are instructive on how the Housing Land Requirement should be calculated. TayPlan sets out targets starting in 2016. The Reporter stated that

*"I consider that, in order to meet the HLR in TAYplan and the terms of SPP (above), the proposed plan would need to address the TAYplan requirement from 2016, and the 10-year period from the expected date of adoption of the proposed plan. On the assumption that the proposed plan is adopted in 2019 (see below), that would mean the plan would need to address the HLR for the period 2016-2029" (para. 7, p. 69).*

8. An adjustment is therefore required to provide an HLR which covers the 13 year period from 2016 to 2029. For Dundee the Reporters concluded this should be done as follows:

*"On the assumption that the proposed plan is adopted in 2019 (see below), that would mean the plan would need to address the HLR for the period 2016-2029...I therefore conclude that the Housing Land Requirement at Appendix 2 of the proposed plan should be modified from 5,280 to 6,864 homes (i.e. 528 units per year x 13 years)." (p. 69-70)*

9. The reasons for taking this approach are clearly explained by the Dundee Reporters, as follows

*"I do not accept the suggestion that this approach would artificially inflate the housing land requirement in the proposed plan. Instead, it would ensure that the LDP fulfils its share of the requirement for the region, and that any under-performance in the first few years of the SDP is taken into account in setting the requirement for the local development plan. Otherwise, it could be argued the LDP would fail to accord with the SDP, as is required by statute." (para. 8, p.70, our emphasis)*

10. The HLR for Perth and Kinross should therefore be 13,000 for 2016-29, assuming the LDP is adopted in 2019, as this will ensure the requirement in Scottish Planning Policy for LDPs to allocate sites to meet the housing land requirement over a 10 year period (para. 120). The HST should be 10,998 for the 2016-29 period (i.e. 13 x 846).

*Table 1: Housing Land Requirement and Housing Supply by Housing Market Area*

HMA	HLR 2016- 29*	Completions 2016-18	Residual HLR 2018-29	Programmed Completions	Windfall Assumption (@ 10% of annualised HLR)	Small Sites Allowance Applied to Highlands (@ 15% of HLR)	Surplus / Shortfall
Dundee	78	17	61	71			10
Strathmore and Glens	1859	128	1731	1367	186		-178
Highland Perthshire	1105	73	1032	600	111	166	-156
Kinross	983	133	850	808	98		56
Greater Perth	7129	572	6557	5430	713		-414
Strathearn	1846	241	1605	1134	185		-286
<b>Total</b>	<b>13000</b>	<b>1164</b>	<b>11836</b>	<b>9410</b>	<b>1292</b>		<b>-968</b>
* Includes adjustment to move 10% of Kinross HLR to Greater Perth							
** Perth and Kinross Housing Land Audit 2018, p.32							

11. This HLR figure needs further adjustment to take into account completions to date. In accordance with the Dundee Reporters' recommendations (p.73) we suggest that

this is should be done by simply subtracting completions from the Housing Land Requirement. This calculation gives an HLR of 11,836 for the 2018 – 29 (11 year) period. These calculations have been set out in Table 1 for each of the housing market areas, calculated using Perth and Kinross 2016/17 and 2017/18 (April to March) completions figures. 10% of the Kinross HLR has been moved to Greater Perth as the Council proposes.

12. Table 1 shows that there is a shortfall of approximately 970 homes over the LDP period. On a housing market area level there are shortfalls in each area except for Kinross and Dundee. This shortfall should be addressed through new allocations to ensure a generous and diverse supply of housing land and potentially through a review of site capacities.
13. Further, it is important that steps are taken to ensure that a generous supply of land exists in all housing market areas as Scottish Planning Policy (SPP) makes clear that “*The planning system should: identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5-year supply of effective housing land at all times*” (para. 110, **our emphasis**). It is reasoned in the Housing Background Paper (e.g. p. 4 & 5) that the generosity margin of 18% is greater than the shortfall in some housing market areas. However, the SPP is clear that a generous supply should exist in *each* housing market area and as such sufficient land should be allocated in each to meet the HLR in full (i.e. the HST +18% generosity).

## Windfall Allowance

14. Homes for Scotland broadly supports the currently proposed windfall allowance of 10% of HLR in each housing market area except for Dundee. Expressing this as a percentage of the HLR is not ideal, as the two are not related. However, the overall number this comes to (1,292) is reasonable in our view.
15. Whilst we note that Perth and Kinross have not advocated an increase in its windfall allowance, sensitivity testing using higher proportions was requested in the FIR. HFS consider that any increase would not be supported by evidence and therefore is inconsistent with SPP. Furthermore, relying significantly on windfall delivery is contrary to the existing legislative framework which seeks to deliver a plan-led system.
16. The Local Development Plan should give the public and all other a reasonable idea of where new development will occur through the allocation of sites. This may well need revision if sufficient numbers of new homes are not being built to meet need and demand. However, it is not appropriate or realistic at the outset of the plan period to assume that as much as 30% of the HLR will come forward on as yet unidentified sites over a 10-year period. Such an approach would run counter to the aims of Policy and the current Planning Bill to ensure that the LDP provides an opportunity for meaningful and informed consultation with the public on the Council's development aspirations.
17. Scottish Planning Policy (SPP) states that “*Any assessment of the expected contribution to the housing land requirement from windfall sites must be realistic and*

*based on clear evidence of past completions and sound assumptions about likely future trends.” (para. 117).*

18. According to the 2018 HLA, windfall completions for the period 2014-18 amounted to 994 dwellings over the 5 year period, or an average of 199 per annum (p. v). Windfall delivery is influenced by the age of Plan, whether it is up to date and whether it is demonstrating adequate housing land supply. It is therefore important to recognise that the adoption of a new plan will generally tend to reduce opportunities for windfall development, as new allocations are made.
19. New allocations, provided they are effective, have the impact of crowding out windfall sites as allocated alternatives are available for development. The threshold for new allocations in the plan is approximately 20 dwellings according to the Housing Background Paper (p. 2). However, according to the 2018 HLA 140 dwellings are programmed for completion on *allocated* sites with a capacity of less than 20 dwellings. It is also relevant that 168 dwellings are programmed on windfall sites with capacities of more than 20 dwellings (Appendix 2). Windfall opportunities on sites larger than 20 dwellings would reasonably be expected to decrease once the LDP is adopted. Additionally, the allocation of some smaller sites suggests the crowding out effect of the LDP may not only be restricted to sites of greater than 20 dwellings. It is therefore important to take a conservative approach to windfall completions.
20. In arriving at the windfall allowance it is also relevant that the HLA has significant foresight over forthcoming windfall completions and these are accounted for in the housing land supply. A review of windfall sites in the 2018 HLA shows that the average time between the date of the latest approval date and the first programmed completion is 4.39 years (Appendix 2). This period often involves the negotiation of the sale of the site, technical consents, site clearance, preparation and construction. Such sites are also often of a smaller scale which can make viability more challenging as set up costs, professional fees and other expenses are not proportional to the number of new homes.
21. Having regard to these principles we consider that the windfall allowance should be calculated as follows:
  - a. No allowance should be assumed for 2016-2018, as this period of the plan has passed and completions are known for this period.
  - b. The average lead in time from planning permission to completions set out above for windfall sites is over 4 years. It is therefore reasonable to assume that completions for at least the 3 years from March 2018 are already identified, therefore HLA windfall programming should be used, which amounts to 401 dwellings over the period.
  - c. If the 199 dwellings per annum average for 2014-2018 is assumed to apply from March 2021 until the end of the plan period (2029), this would give a figure of 1,592 (over 8 years). Windfall completions already programmed to occur between 2021-29 the 2018 HLA (318 dwellings) should be subtracted from this figure giving a total of 1,274. It could be argued that a further discount should be applied to the 199 dwellings per annum figure to ensure a conservative approach is taken and a plan led approach is prioritised.

22. Whilst a more conservative approach would not be unreasonable we consider that this figure is clearly calculated, based on reasonable assumptions and therefore satisfies the SPP Policy which requires windfall contributions to be “*realistic and based on clear evidence of past completions and sound assumptions about likely future trends*”. It is also broadly consistent with the figure the Council use, which is based upon 10% of the HLR. Using the Council’s calculation over a 13 year period gives a windfall assumption of 1,292. The figures are therefore broadly aligned.

### **Adjusted Programming**

23. We note that if the adjusted housing land supply was used the shortfall would be significantly greater over the plan period than what is shown in Table 1, as set out in our original Local Development Plan response (dated February 2018). Therefore, the Council in accepting that the individual programming of sites within the HLA may be over-optimistic, are nevertheless highly reliant on this being achieved to narrow the shortfall in housing supply.
24. From footnote 13 of the Council’s FIR response we understand that the Council does not consider that increasing supply would help to increase delivery above this capped figure. However, we would contend that ensuring a varied, effective housing land supply which provides opportunities for all sectors of the housing market is essential to improving housing delivery. A greater quantity and variety of housing allocations than the 1,217 dwellings of new allocations in the proposed LDP is necessary to ensure the housing supply target is met.

### **Conclusion**

25. Homes for Scotland agrees with the windfall allowance advocated in the Proposed LDP. Whilst Perth and Kinross have made important and welcome progress in the allocation of new sites over this and the previous Plan it is clear from a review of the most up to date evidence that there is a shortfall in planned housing supply.
26. We consider this should be rectified through additional allocations and review of existing site capacities upwards to ensure a generous supply of land is provided as required by the SPP. Furthermore, steps should be taken to ensure that a generous supply of land is provided in each housing market area. The shortfall also highlights the unsuitability of the proposed cap on housing delivery for allocated sites.
27. The issue of housing supply may be a matter requiring further submissions. If this is so we would suggest that the basis for this should be the 2018 HLA as this allows the most up to date evidence to be used. It also fully integrates programming for proposed allocations.

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**Appendix 1: Housing Market Analysis**

SITEREF	LOCATION	NAME	DEVELOPER	CAPACITY	BUILT	U_C	STATUS	STAT_ID	LPYEAR	LPREF	TENURE	HFS Extrapolation												
												PV/HA	PV	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
DHM018	Inchtture	Moncur Farm Road	Private/ HA	66	0	0	PLDP	PLDP	2017	H24	PV/HA	PV	5	10	25	25	6	0	0	0	0	0	01/12/17	
DHM019	Invergowrie	Errol Road, 4	West Developments	5	0	5								5	0	10	25	25	6	0	0	0	0	01/01/18
<b>Dundee</b>																								
EAA007	Alyth	Strathmore Terrace 1 (1 foundation exists)	Balfour Beatty	34	0	0	D	ALDP	2014	SHC	PV							4	10	10	10	10	01/07/08	
EAA024	Alyth	West Quarter Farm	Mr G McGibbon / various	17	16	0	UC	ALP	1998	H18	PV						1	5	10	10	10	2	01/03/08	
EAA032	Alyth	Glenree	Private/ HA	37	0	0	H59	PLDP			PV/HA						5	15	15	15	15	11	01/12/17	
EAA033	Alyth	Albert Street and St Ninians Road	Guild Homes/ HA	91	0	0	H60	PLDP			PV/HA						5	5	5	5	5	5	01/09/15	
EAA034	Alyth	Loyal Road/Airlie View	L Thomson	20	0	0					PV						5	5	5	5	5	5	01/02/17	
EAA035	Alyth	Annfield Place	Private/ HA	93	0	0	PLDP	PLDP	2017	H252	PV/HA						10	10	10	10	10	10	01/12/17	
EAB058	Blaigowrie	Beeches Moyness Park	Stewart Milne	78	7	9	UC	ALP	1998	H1	PV	36	35										01/10/17	
EAB069	Blaigowrie	Glenalmond Road, Rattray	Springfield Properties/ HA	209	0	0	D	PLDP	2017	H63	PV/HA	29	38	28	18	18	15	15	15	15	15	3	01/02/18	
EAB070	Blaigowrie	Welton Road/ Eastern Expansion	Private/ HA	761	0	0	PLDP	PLDP	2017	MU330	PV/HA						25	25	25	25	25	25	01/12/17	
Blaigowrie South (further application received)																							01/09/14	
EAB071	Blaigowrie	Western Blaigowrie	Stewart Milne/ Petrie family	121	0	0	O	PLDP	2017	H64	PV/HA					15	18	18	18	18	16			
EAB072	Blaigowrie	Parkhill House, Rattray	Westpark Partnership LLP	229	0	0	MU5	PLDP			PV/HA					20	20	20	20	20	20	20	01/12/17	
EAB074	Blaigowrie	Coralbank Terrace, Rattray	S Miller	5	0	0	D			PV					2	3							01/11/15	
EAB076	Blaigowrie		R Farquharson	6	0	6				PV	6											01/02/16		
EAB077	Blaigowrie	Upper Allan Street, Hill Primary School	Corryard Developments	18	0	0				PV	10	8											01/07/17	
EAB078	Blaigowrie	Westfields of Rattray	Private/HA	86	0	0	PLDP	PLDP	2017	H341	PV/HA						20	20	20	20	20	20	01/12/17	
EAB079	Blaigowrie	Golf Course Road	Private/HA	25	0	0	H258	PLDP		PV/HA						5	10	10	10	10	10	01/12/17		
EAC019	Coupar Angus	Royal Hotel, High Street	Ltd	11	4	7	UC			PV				4	3								01/10/12	
EAC021	Coupar Angus	Pleasance Cottage 2 (demolished)	Murraybrooke Properties Ltd	19	0	0	H20	ALP		PV						5	10	10	10	10	4		01/05/10	
EAC022	Coupar Angus	Larghan	Private/ HA	102	0	0	PLDP	PLDP	2017	H65	PV/HA					10	10	10	10	10	10	10	01/12/17	
EAC023	Coupar Angus	Beech Hill Road	W Abernethy	5	0	0	O			PV				1	2	1	1	1	1	1	1		01/07/17	
EAL025	Meigle	Ardler Road	Hadden Homes/ HA	29	0	0	PLDP	PLDP	2017	H68	PV/HA	7	7	7	7	8							01/12/17	
EAL027	Meigle	Forfar Road		82	0	0	H69	PLDP		PV/HA				5	10	20	20	20	20	20	7	01/12/17		
EAL034	by Alyth	Bankhead of Alyth	R Selwa/ individuals	6	1	0	UC			PV	1	1	1	1	1	1	1	1	1	1	1		01/08/16	
EAL036	Kettins	Keillor Farm Steadings	J McLean & Muirfield Contracts (In administration)	17	15	0				PV			1	1									01/03/18	
EAL037	Meikleour	Gateside Farm (detail for plot layout)	G Wilson	5	0	0	D			PV			1	2	2								01/01/17	
EAL039	New Alyth	New Alyth	A & J Stephen/ HA	24	0	0	PLDP	PLDP	2017	H61	PV/HA	6	6	6	6	6							01/12/17	
EAL042	Spitalfield	Spitalfield	Private/ HA	20	0	0	MU6	PLDP		PV/HA			5	5	5	5	5	5	5	5	5	5	01/12/17	
EAL043	Kirkmichael	Fearnach	Pitnacree Developments Ltd	5	0	0	O			PV			1	2	2								01/11/15	
<b>Strathmore and Glens</b>													81	109	68	95	126	169	205	190	143	107	74	
HIA014	Aberfeldy	Borlick	A & J Stephen/ HA	200	0	0	PLDP	PLDP	2017	H36	PV/HA			20	20	20	20	20	20	20	20	20	20	01/12/17
HIA023	Aberfeldy	Duntaylor Avenue 2 (drainage works complete)	G S Brown	27	0	0	D	ALDP	2014	SHC	PV				2	5	11	9					01/11/08	
HIA027	Aberfeldy	Kenmore Street, Cruachan House (demolished)	Cox Developments Ltd	5	0	0				PV			1	1	1	1	1	1	1	1	1		01/02/18	
HIA028	Aberfeldy	Kenmore Road (detail for 32)	Bolfracks Estate/ Hillcrest HA	100	0	10	UC	ALDP	2014	H37	PV/HA	24	8	11		15							01/02/18	
HIA029	Aberfeldy	Chapel Street	P Bradley	8	0	0	O			PV			4	4									01/10/15	
HIL025	Murthly	Murthly Hospital 1	Private/ B & B Joiners	56	46	4	H35	ALP		PV	3	3	2	2								01/01/18		
HIL026	Balnaguard	Aberfeldy Road	Caledonian Trust plc	9	0	0	H25	ALP		PV	2	4	4	3								01/03/18		
HIL048	Ballinluig	Buail Bhain 1 (suspective conditions to be met)	Atholl Estates	15	0	0	D	PLDP	2017	H40	PV			5	5	5							01/07/14	
HIL068	Fortingall	Drumcharry	Various individuals	8	5	1	UC			PV	1				1									



PEL248	Glenfarg	Main Street, Lomond Hotel (demolished)	Glenfarg Developments	12	0	0 D	PV	6	6								01/05/15			
PEL249	Errol	Orchard Cottage, Grange (consent initiated)	P J Redford Construction Ltd	10	0	0 D	PV			5	5						01/03/14			
PEL251	Errol	Errol Airfield (s75 for mixed use completed)	Morris Leslie Ltd	240	0	0 O	ALDP	2014 SHC	PV/HA	10	10	10	10	10	10	10	01/01/14			
PEL254	Scone	Boghall Farm	A Smith	13	1	0 UC		PV	1	1	1	1	1	1	1	1	01/02/11			
PEL259	Abernethy	Newburgh Road North	Private/ HA	15	0	0 PLDP	PLDP	2017 MU8	PV/HA	5	5	5	5				01/12/17			
PEL260	Balbeggie	St Martins Road	Private/ HA	102	0	0 PLDP	PLDP	2017 H13	PV/HA	5	10	10	10	10	10	10	01/12/17			
PEL261	Bridge of Earn	Old Edinburgh Road/ Dunbarney Avenue	King Group	85	0	0 PLDP	PLDP	2017 H14	PV/HA	5	10	10	10	10	10	10	01/12/17			
PEL263	Dunning	Auchterarder Road	A & J Stephen	52	0	0 PLDP	PLDP	2017 H20	PV/HA	12	12	12	12	4			01/12/17			
PEL266	Aberargie	Ayton Farm	J Messenger	7	0	0		PV		2	2	2	1				01/02/17			
PEL268	Luncarty	Luncarty South	A & J Stephen, I & H Brown/ HA	674	0	0 PLDP	PLDP	2017 MU27	PV/HA	5	20	20	20	20	25	25	01/12/17			
PEL269	Scone	Scone North	A & J Stephen/ HA	649	0	0 PLDP	PLDP	2017 H29	PV/HA	10	25	30	30	40	40	40	01/12/17			
PEL270	Stanley	Perth Road South	Private/ HA	65	0	0 PLDP	PLDP	2017 H30	PV/HA	5	10	15	15	15	5	5	01/12/17			
PEL271	Stanley	Perth Road North	Private/ HA	75	0	0 H34	PLDP		PV/HA					12	12	12	01/12/17			
PEL272	Scone	Perth Airport	Morris Leslie	53	0	0 O	PLDP	2017 MU3	PV/HA			5	10	15	15	8	01/05/17			
PEL274	Scone	Glebe School	Private/ HA	61	0	0 PLDP	PLDP	2017 Op22	PV/HA	30	35						01/12/17			
PEL278	Bridge of Earn	Kintillo Road	King Group/ Ogilvie Homes/ HA	80	0	0 D	PLDP	2017 H72	PV	20	15	15	15				01/11/17			
PEL281	Bankfoot	Church Lane, Church Hall	Tayvalley Homes Ltd	5	0	0 D		PV			5						01/05/14			
PEL283	Forgandenny	TRP Scotland	TRP (Scotland) Ltd	5	0	0		PV			1	1	1	1	1	1	01/06/16			
PEL284	Leetown	Ross Steading	Rosstay Farms Limited	12	0	0 D		PV		1	1	2	2		4	2	01/11/16			
PEL285	Scone	Birch Avenue (demolished)	Perth & Kinross Council	20	0	20 UC		LA	20								01/03/17			
PEL286	Glenfarg	Main Street, Glenfarg Hotel	Arngask Hotels Ltd	12	0	0 D		PV		1	4	4	3				01/10/16			
PEP175	Perth	Tulloch, Primrose Crescent 6	G S Brown	202	172	0 UC	ALP	1996 H11	PV	5	10	10	5				01/11/15			
PEP203	Perth	Almond Valley	Stewart Milne/ Pilkington Trust/ HA	902	0	0 MU73	PLDP		PV/HA	30	40	50	75	75	75	75	01/09/17			
PEP221	Perth	Glasgow Road, Cherrybank Inn (consent initiated)	Cherrybank Garage	6	0	0 D		PV		3	3						01/01/13			
PEP236	Perth	Hillside Hospital, Dundee Road (demolished)	Matthew P Henderson (administrators)	61	0	0 D	PLDP	2017 MU337	PV			5	15	15	15	11	01/05/07			
PEP239	Perth	Perth	Jeanfield Road, Plough Inn	20	0	20		PV	20								01/08/17			
PEP250	Perth	Newhouse Farm	G Sinclair	9	0	0 O		PV				4	5				01/11/15			
PEP254	Perth	Berthapark (detail for PH1)	Springfield Properties/ HA	3000	0	4 UC	PLDP	2017 MU345	PV/HA	44	92	80	105	105	100	100	01/02/18			
PEP255	Perth	Perth West (outline on part of site)	Private/ HA	3065	0	0 O	PLDP	2017 MU70	PV/HA			30	50	50	50	50	01/01/18			
PEP257	Perth	Gannochy Road (detail for 48)	Gannochy Trust	82	0	0 D	PLDP	2017 H3	HA	10	24	14	17	17			01/11/17			
PEP259	Perth	Broxden, Glasgow Road	Craigrossie Ltd	234	69	21 UC	ALDP	2014 MU1	PV/HA	35	35	35	30	30			01/01/18			
PEP260	Perth	Caledonian Road School	Caledonia HA	51	45	6 Op1	ALDP		HA	6							01/08/17			
PEP261	Perth	Thimblerow	Private/ HA	62	0	0 PLDP	PLDP	2017 Op2	PV/HA			5	25	25	7		01/12/17			
PEP263	Perth	Newton Farm	Private/ HA	91	0	0 PLDP	PLDP	2017 H71	PV/HA				30	30	30	1	01/12/17			
PEP269	Perth	Ainslie Place Phase 6-7	Urban Union Ltd/ Caledonia HA	203	37	80 UC	ALDP	2014 SHC	PV/HA	90	70	6					01/07/16			
PEP272	Perth	Crieff Road, 145	Caledonia HA	6	0	0 D		HA									01/06/16			
PEP273	Perth	Atholl Street, 44	Perthshire Glazing Company	14	0	0 D		PV			5	9					01/11/15			
PEP278	Perth	Carrs Croft	Greenfield Properties	5	0	0 O		PV			5	5					01/10/15			
PEP281	Perth	Glasgow Road	A & J Stephen Ltd	46	0	0 O		PV	24	22							01/12/15			
PEP282	Perth	Atholl Street, 56	The Bathroom Company	5	0	0		PV			5						01/08/16			
PEP286	Perth	King Street, 11-15	John McKinlay Printers Ltd	5	0	0		PV			5						01/01/18			
PEP288	Perth	Crieff Road, 208	Perth & Kinross Council	24	0	1 UC		LA	24								01/04/17			
PEP289	Perth	Murray Royal Hospital	Private/ HA	118	0	0 MU336	PLDP		PV/HA			10	25	25	25	25	01/12/17			
PEP290	Perth	Perth Quarry	Private/ HA	144	0	0 PLDP	PLDP	2017 MU171	PV/HA			25	25	25	25	25	01/12/17			
PEP291	Perth	Ruthvenfield (detail for 12 initiated)	J Bryden	134	0	0 D	PLDP	2017 H319	PV/HA	5	15	25	25	25	25	14	01/08/11			
		Greater Perth Totals								321	448	460	476	552	613	598	558	499	477	428
STA033	Auchterarder	Auchterarder Dev Framework 2 (detail for 272)	Stewart Milne/ HA	400	102	5 SHC	ALDP		PV/HA/LA	20	25	25	30	30	30	30	30	30	30	18
STA036	Auchterarder	Feus, 2	Darnley Homes Ltd	5	4	0 UC		PV		1										01/11/11
STA039	Auchterarder	Townhead, Regal Cinema	C Kasiewicz	11	0	0 D		PV				3	4	4						01/05/15
STA040	Auchterarder	Abbey Road/ Feus	Stephen Gardiner Homes	9	8	1		PV	1											01/03/17
STA041	Auchterarder	Auchterarder Dev Framework 3a	Robertson Homes/ HA	145	62	12 UC	ALDP	2014 Op20	PV/HA	25	25	25	8							01/12/15
STA042	Auchterarder	Castleton Road (detail for 4)	Craigmount Developments Ltd	5	0	0 D		PV		1	1	2				1				01/01/18
STA044	Auchterarder	Auchterarder Dev Framework 1 (Ph1 for 158)	Muir Homes/HA	223	110	7 UC	ALDP	2014 SHC	PV/HA	30	30	30	23							01/05/16
STA046	Auchterarder	North West Kirkton	Private/ HA	106	0	0 H228	PLDP		PV/HA					10	10	10	10	10	10	01/12/17
STA047	Auchterarder	Auchterarder Dev Framework 3b	Private/ HA	124	0	0 H342	PLDP		PV/HA					10	10	10	10	10	10	01/12/17
STC045	Crieff	Kincardine Road	Stewart Milne/ Hillcrest HA	223	133	0 H16	ALP		PV/HA	5	5	5	5	15	20	20	15			01/09/15

STC046	Crieff	Oakbank	Oakbank (Crieff) Ltd/ Private individuals	22	19	1 H17	ALP	2001 H54	PV	1	1	1	6	6				01/06/17
STC048	Crieff	Pigeon Row (consent renewed)	Drummond Foundation	17	0	0 D	ALP		PV									01/04/16
STC052	Crieff	Turretbank	Private individuals	8	7	1			PV	1								01/04/17
STC055	Crieff	Mitchell Street	Strathardle Developments Ltd	5	1	0 UC			PV									01/01/07
STC060	Crieff	Wester Tomaknock	G S Brown/ HA	117	0	0 H57	PLDP		PV/HA		5	10	10	10	10	10	10	01/12/17
STC061	Crieff	Broich Road	Robert Simpson and Son/ HA	524	0	0 O	PLDP	2017 MU7	PV/HA				10	20	20	20	20	01/12/15
STC062	Crieff	Comrie Street, 54	Braemore Estates	5	0	0 D			PV			5						01/07/16
STL055	Gleneagles	Braco Road	Gleneagles Hotel/ various individuals	15	14	1 H34	ALP	2001 H35	PV	1								01/04/16
STL056	Gleneagles	Muirton Coachworks	Stewart Milne Homes	32	0	0 D	ALP		PV		18	14						01/08/17
STL059	Gleneagles	gWest (detail for 26 plots initiated)	Ochil Developments (UK) Ltd	70	0	0 D	ALDP	2014 SHC	PV				5	5	5	5	5	01/04/12
STL065	by Auchterarder	Eind Farm	Tighmor	6	0	5			PV			1	2	2	1			01/03/18
STL071	by Auchterarder	Thorn Farm	D G MacRae, D M MacRae	6	0	0 D			PV				6					01/12/15
STL077	Comrie	Tomperran Farm	Caledonian Trust plc	23	0	0 D			PV			5	5	5	8			01/02/18
STL078		Blackford	Netherton Farm	19	9	2			PV		5	5						01/01/17
STL079	St Fillans	Station Road (detail for 4)	WRFU Ltd	16	1	0 UC	ALDP	2016 H1	PV			1	1	1	1	1	1	01/10/16
STL080	Comrie	Cowden Road	A & J Stephen	42	0	0 PLDP	PLDP	2017 H58	PV/HA			12	12	12	6			01/12/17
STL081	St Fillans	Glentarken Park	B Salmond and P Magnus	7	0	0 D			PV			1	1	1	1	1	1	01/10/16
STL083	St Davids	Shearerston Moor	KAAS Properties Ltd	5	0	0 D			PV			1	2	1	1			01/04/15
STL084		Gleneagles	Firhill	6	0	0			PV			6						01/03/17

#### Strathearn Totals

Total

85 122 143 127 102 104 112 107 92 76 64

658 807 865 907 1007 1032 1044 966 806 714 604

2018/19 2019/20 2020/21 2021/22 2022/23 2023/24 2024/25 2025/26 2026/27 2027/28 2028/29 Plan Total

Dundee	5	0	10	25	25	6	0	0	0	0	0	71
Strathmore and Glens	81	109	68	95	126	169	205	190	143	107	74	1367
Highland Perthshire	47	29	64	63	86	56	76	59	48	39	33	600
Kinross	119	99	120	121	116	84	53	52	24	15	5	808
Grater Perth	321	448	460	476	552	613	598	558	499	477	428	5430
Strathearn	85	122	143	127	102	104	112	107	92	76	64	1134

## Appendix 2: Windfall Programming

SITEREF	LOCATION	NAME	DEVELOPER	CAPACITY	BUILT	U_C	STATUS	STAT_ID	LPYEAR	LPREF	TENURE	HFS Extrapolation												latest approval date
												2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29		
PEP255	Perth	Perth West (outline on part of site)	Private/ HA	3065	0	0 O		PLDP	2017 MU70	PV/HA						30	50	50	50	50	50	50	50	01/01/18
PEP254	Perth	Berthapark (detail for PH1)	Springfield Properties/ HA	3000	0	4 UC		PLDP	2017 MU345	PV/HA	44	92	80	105	105	100	100	100	100	100	100	100	01/02/18	
PEL164	Bridge of Earn	Oudenarde	G S Brown/ Taylor Wimpey	1300	0	0 PLDP		PLDP	2017 H15	PV			30	40	35	35	35	35	35	35	35	35	35	01/12/17
PEP203	Perth	Almond Valley	Stewart Milne/ Pilkington Trust/ HA	902	0	0 MU73		PLDP		PV/HA			30	40	50	75	75	75	75	75	75	75	01/09/17	
EAB070	Blairgowrie	Welton Road/ Eastern Expansion	Private/ HA	761	0	0 PLDP		PLDP	2017 MU330	PV/HA						25	25	25	25	25	25	25	01/12/17	
PEL268	Luncarty	Luncarty South	A & J Stephen, I & H Brown/ HA	674	0	0 PLDP		PLDP	2017 MU27	PV/HA			5	20	20	20	20	20	20	20	20	20	01/12/17	
PEL269	Scone	Scone North	A & J Stephen/ HA	649	0	0 PLDP		PLDP	2017 H29	PV/HA			10	25	30	40	40	40	40	40	40	40	01/12/17	
STC061	Crieff	Broich Road	Robert Simpson and Son/ HA	524	0	0 O		PLDP	2017 MU7	PV/HA						10	20	20	20	20	20	20	01/12/15	
STA033	Auchterarder	Auchterarder Dev Framework 2 (detail for 272)	Stewart Milne/ HA	400	102	5 SHC		ALDP		PV/HA/LA	20	25	25	30	30	30	30	30	30	30	30	30	01/07/17	
KIK034	Kinross	Lathro Farm	Persimmon Homes / Springfield	300	14	15 UC		ALDP	2014 H47	PV/HA	50	68	50	50	50	50	50	50	50	50	50	50	01/09/17	
PEL212	Bridge of Earn	150) Oudenarde, Clayton Road (detail for Errol Airfield (s75 for mixed use completed)	Hillcrest HA	300	108	0 UC		PLDP	2017 H15	HA				15	15	15	20	20	20	20	20	20	20	01/01/09
PEL251	Errol		Morris Leslie Ltd	240	0	0 O		ALDP	2014 SHC	PV/HA				10	10	10	10	10	10	10	10	10	10	01/01/14
PEP259	Perth	Broxden, Glasgow Road	Craigrossie Ltd	234	69	21 UC		ALDP	2014 MU1	PV/HA	35	35	35	30	30	30	30	30	30	30	30	30	01/01/18	
EAB072	Blairgowrie	Western Blairgowrie	Westpark Partnership LLP	229	0	0 MUS5		PLDP		PV/HA				20	20	20	20	20	20	20	20	20	20	01/12/17
STA044	Auchterarder	Auchterarder Dev Framework 1 (Ph1 for 158)	Muir Homes/HA	223	110	7 UC		ALDP	2014 SHC	PV/HA	30	30	30	23									01/05/16	
STC045	Crieff	Kincardine Road	Stewart Milne/ Hillcrest HA	223	133	0 H16		ALP		PV/HA	29	5	5	5	5	15	20	20	20	20	20	20	01/09/15	
EAB069	Blairgowrie	Glenalmond Road, Rattray	Springfield Properties/ HA	209	0	0 D		PLDP	2017 H63	PV/HA	90	70	6	18	18	15	15	15	15	15	15	15	01/02/18	
PEP269	Perth	Ainslie Place Phase 6-7	Urban Union Ltd/ Caledonia HA	203	37	80 UC		ALDP	2014 SHC	PV/HA													01/07/16	
PEP175	Perth	Tulloch, Primrose Crescent 6	G S Brown	202	172	0 UC		ALP	1996 H11	PV			5	10	10	5								01/11/15
HIA014	Aberfeldy	Borlick	A & J Stephen/ HA	200	0	0 PLDP		PLDP	2017 H36	PV/HA			20	20	20	20	20	20	20	20	20	20	01/12/17	
STA041	Auchterarder	Auchterarder Dev Framework 3a	Robertson Homes/ HA	145	62	12 UC		ALDP	2014 Op20	PV/HA	25	25	25	8	10	25	25	25	25	25	25	25	01/12/15	
PEP290	Perth	Perth Quarry	Private/ HA	144	0	0 PLDP		PLDP	2017 MU171	PV/HA													01/12/17	
PEP291	Perth	Ruthvenfield (detail for 12 initiated)	J Bryden	134	0	0 D		PLDP	2017 H319	PV/HA				5	15	25	25	25	25	25	25	25	01/08/11	
STA047	Auchterarder	Auchterarder Dev Framework 3b	Private/ HA	124	0	0 H342		PLDP		PV/HA				10	10	10	10	10	10	10	10	10	10	01/12/17
EAB071	Blairgowrie	Blairgowrie South (further application received)	Stewart Milne/ Petrie family	121	0	0 O		PLDP	2017 H64	PV/HA			15	18	18	18	18	18	18	18	18	18	18	01/09/14
PEP289	Perth	Murray Royal Hospital	Private/ HA	118	0	0 MU336		PLDP		PV/HA				10	25	25	25	25	25	25	25	25	25	01/12/17
STC060	Crieff	Wester Tomaknock	G S Brown/ HA	117	0	0 H57		PLDP		PV/HA			5	10	10	10	10	10	10	10	10	10	10	01/12/17
PEL025	Methven	Drumgrain Avenue 1	G S Brown/ HA	111	37	2 UC		ALDP	2014 SHC	PV/HA	6	6	6	6	6	6	6	6	6	6	6	6	01/08/16	
STA046	Auchterarder	North West Kirkton	Private/ HA	106	0	0 H228		PLDP		PV/HA			10	10	10	10	10	10	10	10	10	10	10	01/12/17
EAC022	Coupar Angus	Larghan	Private/ HA	102	0	0 PLDP		PLDP	2017 H65	PV/HA			10	10	10	10	10	10	10	10	10	10	10	01/12/17
PEL260	Balbeggie	St Martins Road	Private/ HA	102	0	0 PLDP		PLDP	2017 H13	PV/HA			5	10	10	10	10	10	10	10	10	10	10	01/12/17
HIA028	Aberfeldy	Kenmore Road (detail for 32)	Bolfracks Estate/ Hillcrest HA	100	0	10 UC		ALDP	2014 H37	PV/HA	24	8	11	15	15	15	15	15	15	15	15	15	01/02/18	
KIK019	Kinross	Station Road / Clashburn	G S Brown	96	94	2 Op1		ALP		PV/HA	2												01/09/15	
EAA035	Alyth	Annfield Place	Private/ HA	93	0	0 PLDP		PLDP	2017 H252	PV/HA													01/12/17	
KIK035	Kinross	Former High School	Persimmon Homes/ HA	91	31	29 UC		ALDP	2014 H75	PV/HA	50	10											01/08/16	
PEP263	Perth	Newton Farm	Private/ HA	91	0	0 PLDP		PLDP	2017 H71	PV/HA													01/12/17	
EAA033	Alyth	Albert Street and St Ninians Road	Guild Homes/ HA	91	0	0 H60		PLDP		PV/HA			5	15	15	15	15	15	15	15	15	15	01/09/15	
EAB078	Blairgowrie	Westfields of Rattray	Private/HA	86	0	0 PLDP		PLDP	2017 H341	PV/HA													01/12/17	
HIP040	Pitlochry	Robertson Crescent	A & J Stephen/ HA	86	0	0 PLDP		PLDP	2017 H39	PV/HA													01/12/17	
PEL261	Bridge of Earn	Avenue	King Group	85	0	0 PLDP		PLDP	2017 H14	PV/HA													01/12/17	
PEP257	Perth	Gannochy Road (detail for 48)	Gannochy Trust	82	0	0 D		PLDP	2017 H3	HA	10	24	14	17	17	10	10	10	10	10	10	10	01/11/17	
EAL027	Meigle	Forfar Road		82	0	0 H69		PLDP		PV/HA			5	10	10	10	10	10	10	10	10	10	01/12/17	
PEL278	Bridge of Earn	Kintillo Road	King Group/ Ogilvie Homes/ HA	80	0	0 D		PLDP	2017 H72	PV	20	15	15	15	15	15	15	15	15	15	15	15	01/11/17	
EAB058	Blairgowrie	Beeches Moyness Park	Stewart Milne	78	7	9 UC		ALP	1998 H1	PV	36	35											01/10/17	
PEL271	Stanley	Perth Road North	Private/ HA	75	0	0 H34		PLDP		PV/HA													01/12/17	
STL059	Gleneagles	gWest (detail for 26 plots initiated)	Ochil Developments (UK) Ltd	70	0	0 D		ALDP	2014 SHC	PV				5	5	5	5	5	5	5	5	5	5	01/04/12
PEL175	Stanley	Station Road / Linn Road (PH1 detail for 35)	Muir Homes	70	21	12 UC		PLDP	2017 H33	PV	25	24											01/11/15	
HIP039	Pitlochry	Middleton of Fonab	A & J Stephen/ HA	69	0	0 PLDP		PLDP	2017 H38	PV/HA			5	10	10	10	10	10	10	10	10	10	01/12/17	
KIM018	Milnathort	Pace Hill	Dundas Estates	68	0	0 PLDP		PLDP	2017 H49	PV/HA			25	25	18								01/12/17	
DHM018	Inchture	Moncur Farm Road	Private/ HA	66	0	0 PLDP		PLDP	2017 H24	PV/HA			10	25	25	25	25	25	25	25	25	25	01/12/17	
PEL173	Stanley	Manse Crescent	Private/ HA	65	0	0 PLDP		PLDP	2017 H32	PV/HA													01/12/17	
PEL270	Stanley	Perth Road South	Private																					

STL056	Gleneagles	Muirton Coachworks	Stewart Milne Homes	32	0	0 D	ALP	2001 H35	PV	18	14							01/08/17	
KIL095	Crook of Devon	A977	Private/HA	30	0	0 PLDP	PLDP	2017 MU266	PV/HA									01/12/17	
EAL025	Meigle	Ardler Road	Hadden Homes/ HA	29	0	0 PLDP	PLDP	2017 H68	PV/HA	7	7	7	8	10	10	10	10	01/12/17	
		Duntaylor Avenue 2 (drainage works complete)																01/12/17	
HIA023	Aberfeldy	G S Brown		27	0	0 D	ALDP	2014 SHC	PV					2	5	11	9	01/11/08	
HIL084	Kenmore	Primary School East	Private/ HA	27	0	0 PLDP	PLDP	2017 H42	PV/HA					5	5	5	5	01/12/17	
KIL084	Scotlandwell	Scotlandwell	Private/ HA	26	0	0 PLDP	PLDP	2017 H54	PV/HA					5	5	5	5	01/12/17	
KIM019	Milnathort	Old Perth Road	Stewart Milne	26	0	0 PLDP	PLDP	2017 H50	PV					14	12			01/06/14	
EAB079	Blairgowrie	Golf Course Road	Private/HA	25	0	0 H258	PLDP	2017 H50	PV/HA					5	10	10	10	01/12/17	
PEL166	Guildtown	Main Street	A & J Stephen	24	18	6 SHC	ALDP		PV	6								01/10/17	
EAL039	New Alyth	New Alyth	A & J Stephen/ HA	24	0	0 PLDP	PLDP	2017 H61	PV/HA					6	6	6	6	01/12/17	
STC046	Crieff	Oakbank	Oakbank (Crieff) Ltd/ Private individuals	22	19	1 H17	ALP		PV	1	1	1						01/06/17	
KIL052	Hattonburn	Hattonburn	Stewart Milne Homes	22	0	0 D	PLDP	2017 H52	PV/HA					18	4			01/12/17	
PEL172	Burrelton	Church Road, Woodside	Private/ HA	21	0	0 PLDP	PLDP	2017 H17	PV/HA					5	5	5	6	01/12/17	
EAL042	Spitalfield	Spitalfield	Private/ HA	20	0	0 MU6	PLDP		PV/HA					5	5	5	5	01/12/17	
EAC021	Coupar Angus	Pleasance Cottage 2 (demolished)	Murraybrooke Properties Ltd	19	0	0 H20	ALP		PV						5	10	4		01/05/10
EAA024	Alyth	West Quarter Farm	Mr G McGibbon / various	17	16	0 UC	ALP	1998 H18	PV					5	6	6		01/03/08	
STC048	Crieff	Pigeon Row (consent renewed)	Drummond Foundation	17	0	0 D	ALP	2001 H54	PV					2	2	2		01/04/16	
PEL157	Errol	Old Village Hall	Private/ HA	17	0	0 H21	PLDP		PV/HA						8	9			01/12/17
STL079	St Fillans	Station Road (detail for 4)	WRFU Ltd	16	1	0 UC	ALDP	2016 H1	PV					1	1	1	1	1	01/10/16
		Glenaeagles Hotel/ various individuals																01/04/16	
STL055	Gleneagles	Braco Road	Buail Bhan 1 (suspensive conditions to be met)	15	14	1 H34	ALP		PV	1									01/07/14
HIL048	Balolinluig	Atholl Estates		15	0	0 D	PLDP	2017 H40	PV					5	5	5	5		01/12/17
PEL259	Abernethy	Newburgh Road North	Private/ HA	15	0	0 PLDP	PLDP	2017 MU8	PV/HA					5	5	5	5		01/02/18
HIP031	Pitlochry	East Moulin Road 2	G S Brown	13	4	2 H14	ALP		PV	2	2	2	1						01/02/18
HIL087	Murthly	Bridge Road	A & J Stephen/ HA	12	0	0 PLDP	PLDP	2017 H45	PV/HA					6	6				01/12/17
KILO63	Balado	Balado Crossroads	Ballantyne Partners	10	0	0 D	ALP	2004 Op6	PV					1	3	3	2	1	01/05/15
HIL026	Balnaguard	Aberfeldy Road	Caledonian Trust plc	9	0	0 H25	ALP		PV					2	4	3			01/03/18
PEL082	Guildtown	Northfield Road 1	A & J Stephen	6	0	0 O	ALP	1996 H43	PV					6					01/06/15

Allocated / Proposed Allocation Programming																			Dwellings built	Additional years				
																				Years ago from 1 April 2018	before delivery expected	Time from Latest PP to Anticipated Start		
PEP281	Perth	Glasgow Road	A & J Stephen Ltd	46	0	0 O			PV	521	685	723	812	928	960	1005	949	800	708	600	01/12/15	0	2.66	1
PEL195	Clathymore	Clathymore 1	A & J Stephen	42	27	0 UC			PV	2	3	2	2	3	3						01/09/15	27	0.00	0
PEP288	Perth	Crieff Road, 208	Perth & Kinross Council	24	0	1 UC			LA	24											01/04/17	0	1	1
STL077	Comrie	Tompernan Farm	Caledonian Trust plc	23	0	0 D			PV				5	5	5	8					01/02/18	0	0.16	1
EAA034	Alyth	Loyal Road/Airlie View	L Thomson	20	0	0			PV				5	5	5	5					01/02/17	0	1.16	2
PEL285	Scone	Birch Avenue (demolished)	Perth & Kinross Council	20	0	20 UC			LA	20											01/03/17	0	1.08	1
PEP239		Perth	Jeanfield Road, Plough Inn	20	0	20			PV				20								01/08/17	0	0.66	1
STL078		Blackford	Netherton Farm	19	9	2			PV	5	5										01/01/17	9	0.00	0
EAB077	Blairgowrie	Upper Allan Street, Hill Primary School	Corryard Developments	18	0	0			PV	10	8										01/07/17	0	0.58	1
			J McLean & Muirfield Contracts (in administration)																		01/03/18	15	0.00	0
EAL036	Kettins	Keillor Farm Steadings		17	15	0			PV				1	1							01/05/13	0	4.91	1
HIP041	Pitlochry	Atholl Road (consent initiated)	Upland Developments	16	0	0			PV	4	8	4									01/03/18	0	0.08	1
PEL169	Tibbermore	Tibbermore Central	Ribbon Homes/ N Sinclair	15	0	4 UC			PV	6	6	3									01/11/17	8	0.00	0
KILO72	Mawcarse	Mawcarse Farm	The Good House Company	14	8	4			PV	6											01/12/17	0	0.25	1
PEL211	Scone	Perth Airport, 90	Morris Leslie Ltd	14	0	0			PV				4	5	5						01/11/15	0	2.41	1
PEP273	Perth	Atholl Street, 44	Perthshire Glazing Company	14	0	0 D			PV				5	9							01/04/17	0	1	1
KILO93	Glenlomond	Levenglen Nursing Home	Glenhor Developments Ltd	13	0	0			PV				5	5	3						01/02/11	1	0.00	0
PEL254	Scone	Boghall Farm	A Smith	13	1	0 UC	</																	

EAB076	Blairgowrie	Coralbank Terrace, Rattray	R Farquharson	6	0	6	PV	6	1	1	1	1	1				01/02/16	0	2.16	0	2.16	1
EAL034	by Alyth	Bankhead of Alyth	R Selwa/ individuals	6	1	0 UC	PV										01/08/16	1		1	1.00	0
HILO69	Kindallachan	Kindallachan (consent initiated)	Tighmor/Atholl Estates	6	0	0 D	PV										01/06/09	0	8.83	5	13.83	1
HIL082	Killiecrankie	Railway Yard (consent initiated)	Discovery Homes	6	0	0 D	PV										01/02/10	0	8.16	5	13.16	1
HILO89	Amulree	Amulree Hotel (consent initiated)	D Henderson	6	0	0 D	PV										01/07/12	0	5.75	2	7.75	1
KILO76	Powmill	Pitfar	Trilogy	6	0	2 UC	PV										01/02/15	0	3.16	2	5.16	1
KILO78	Solsgirth	Newhall Farm (detail for 1)	Mr Mrs Broome	6	0	0 D	PV										01/10/15	0	2.5	2	4.50	1
PEL217	Bankfoot	Over Bleloch	Tayvalley Homes	6	3	1	PV	1	1	1							01/02/18	3			0.00	0
PEL238	Abernethy	Drumcairn Farm (detail for 1)	J MacGregor	6	0	0 D	PV										01/09/16	0	1.58	1	2.58	1
PEP221	Perth	(consent initiated)	Cherrybank Garage	6	0	0 D	PV										01/01/13	0	5.25	1	6.25	1
PEP272	Perth	Crieff Road, 145	Caledonia HA	6	0	0 D	HA	6									01/06/16	0	1.83	1	2.83	1
STL065	by Auchterarder	Eind Farm	Tighmor	6	0	5	PV										01/03/18	0	0.08	2	2.08	1
STL071	by Auchterarder	Thorn Farm	D G MacRae, D M MacRae	6	0	0 D	PV										01/12/15	0	2.25	3	5.25	1
STL084	Glenegles	Firhill	6	0	0	PV										01/03/17	0	1.08	1	2.08	1	
DHM019	Invergowrie	Errol Road, 4	West Developments	5	0	5	PV	5									01/01/18	0	0.25	0	0.25	1
EAB074	Blairgowrie	Parkhill House, Rattray	S Miller	5	0	0 D	PV										01/11/15	0	2.41	3	5.41	1
EAC023	Coupar Angus	Beech Hill Road	W Abernethy	5	0	0 O	PV										01/07/17	0	0.83	3	3.83	1
EAL037	Meikleour	Gateside Farm (detail for plot layout)	G Wilson	5	0	0 D	PV										01/01/17	0	0.83	3	3.83	1
EAL043	Kirkmichael	Fearnach	Pitnacree Developments Ltd	5	0	0 O	PV										01/11/15	0	2.41	3	5.41	1
HIA027	Aberfeldy	Kenmore Street, Cruachan House (demolished)	Cox Developments Ltd	5	0	0	PV										01/02/18	0	0.16	1	1.16	1
HIL074	Grandtully	Taycladdoch (access work started)	B Liddle	5	0	0 D	PV										01/11/14	0	3.41	2	5.41	1
KILO75	Solsgirth	Westermuirhead Farm	P & A Coles	5	1	0 UC	PV										01/10/17	1		0	0.00	0
KILO87	Gairneybank	Hillview House	G King	5	0	2 UC	PV	1	1	1	1	1	1				01/07/13	0	4.83	0	4.83	1
KILO92	Kinnesswood	Main Street	Lime Blue Design Build	5	0	0 D	PV										01/07/17	0	0.75	2	2.75	1
KIM023	Milnathort	Wester Loan, 2-12	Waverco Ltd/ Caledonia HA	5	0	5	HA	5									01/09/15	0	2.58	0	2.58	1
PEL220	Glenfarg	Glendeuglie, The Lodge	G S Brown	5	2	1 UC	PV										01/09/09	2		2	2.00	0
PEL232	Duncrievie	Duncrievie Farm (demolished)	G S Brown	5	0	0 D	PV										01/09/07	0	10.58	5	15.58	1
PEL281	Bankfoot	Church Lane, Church Hall	Tayvalley Homes Ltd	5	0	0 D	PV										01/05/14	0	3.91	3	6.91	1
PEL283	Forgandenny	TRP Scotland	TRP (Scotland) Ltd	5	0	0	PV										01/06/16	0	1.83	2	3.83	1
PEP278	Perth	Carrs Croft	Greenfield Properties	5	0	0 O	PV										01/10/15	0	2.5	2	4.50	1
PEP282	Perth	Atholl Street, 56	The Bathroom Company	5	0	0	PV										01/08/16	0	1.66	2	3.66	1
PEP286	Perth	King Street, 11-15	John McKinlay Printers Ltd	5	0	0	PV										01/01/18	0	0.25	2	2.25	1
STA036	Auchterarder	Feus, 2	Darnley Homes Ltd	5	4	0 UC	PV	1									01/11/11	4		1	1.00	0
STA042	Auchterarder	Castleton Road (detail for 4)	Craigmount Developments Ltd	5	0	0 D	PV	1	1	2		1					01/01/18	0	0.25	0	0.25	1
STC055	Crieff	Mitchell Street	Strathardle Developments Ltd	5	1	0 UC	PV										01/01/07	1		0	0.00	0
STC062	Crieff	Comrie Street, 54	Braemore Estates	5	0	0 D	PV										01/07/16	0	1.75	2	3.75	1
STL083	St Davids	Shearerston Moor	KAAS Properties Ltd	5	0	0 D	PV										01/04/15	0	3	2	5.00	1

Windfall Site Programming	137	122	142	95	79	72	39	17	6	6	4									285.54	65
Total Windfall %				658	807	865	907	1007	1032	1044	966	806	714	604						Average Years	4.39

LA/HA Windfall

Windfall with capacity of 20 dwellings and over

Allocations under 20 dwellings capacity

5yr windfall  
Plan windfall

20+ windfall  
<20 allocations

3yr windfall  
2021-29 windfall



Planning and Environmental Appeals Division

By Email Only

13 February 2019

## **Perth and Kinross Further Information Request 03 - Issue 01 A Successful, Sustainable Place**

Dear Sir/Madam

We are grateful for the opportunity to comment on the Scottish Government's response to the above matter.

We note that the Strategic Development Plan (SDP) sets out all tenure housing supply targets and housing land requirements. Homes for Scotland considers that an all-tenure, whole-system approach continues to be the most appropriate way to plan for the allocation of housing land.

The SDP sets out an "approximate" split of 75% market housing to 25% affordable housing. The Perth and Kinross Schedule 4 response (Issue 1 – final page) suggests a further Table 1a could be added showing this "indicative" 75% to 25% split after the all tenure Housing Land Requirement (HLR), this would be consistent with the 25% affordable housing provision sought through proposed LDP2 Policy 20. Homes for Scotland would support the approach proposed by Perth and Kinross in the Schedule 4 as it is consistent with the SDP. However, further to our previous response to Issue 01 (dated 30 January 2019), we consider that consequential changes to the all tenure HLR figures should be made.

Yours Sincerely



Joe Larner

Senior Planning Advisor

---

*improving living in scotland*



HOMES FOR SCOTLAND

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**RESPONSE TO PERTH AND KINROSS LDP FURTHER  
INFORMATION REQUEST 04 – PLACEMAKING–**

**JANUARY 2019**

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Homes for Scotland (HFS) is the voice of the home building industry in Scotland, representing some 200 companies and organisations which together deliver the majority of the country's new homes.

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HFS makes submissions on national and local government policy issues affecting the industry. Its views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from our member companies.

## RESPONSE TO PERTH AND KINROSS LDP FURTHER INFORMATION REQUEST 04 – PLACEMAKING

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### Introduction

1. Homes for Scotland (HFS) welcomes the opportunity to comment on Perth and Kinross's Further Information Request (FIR) response. These submissions have been reviewed and agreed by Homes for Scotland's East Central Area Committee.
2. We note that the Perth & Kinross response focuses on consequential amendments to the Schedule 4's to reflect its change of position following the LDP consultation. However, as this is the first opportunity for any public scrutiny, our response addresses the proposed (via the Schedule 4 response) introduction of a cap on the number of new homes allowed on allocated housing sites in Policy 1D.

### Proposed Amendment to Policy 1D

#### Proposed Changes

3. Following the decision of the Full Council on 29 August 2018, the Council's Schedule 4 response requested that the reporter change Policy 1D to read as follows, **additions** and **deletions** are shown for clarity.

*"Sites allocated in the Plan for housing development have a capacity range identified. Only in exceptional circumstances will permission be granted for proposals which fall outwith the identified range. Applications which exceed the identified capacity range will not be permitted. The Placemaking Supplementary Guidance will set out how capacity ranges will be calculated on windfall sites. and how proposals for changes to the capacity on consented sites will be dealt with.*

*Note: Placemaking Supplementary Guidance will set out how the Council aims to implement the above policy. Technical notes will provide further detailed information as to how the individual criteria can be achieved. Further information will also be provided on how capacity ranges have been calculated on allocated sites. It will also set out how capacity ranges will be calculated on windfall sites, and how proposals for changes to the capacity on consented sites will be dealt with. and sites under construction with consent, which do not appear in the LDP."*

4. These changes have not been consulted on as the Council chose not to formally amend the LDP. However, the change would have significant negative consequences on the ability of the Council to meet its housing needs. It would reduce the options and flexibility available to planning officers to meet housing needs and ensure that optimal densities are delivered on allocated sites, thereby reducing the pressure for further land releases. Furthermore, it seeks to make an important and complex decision at a time when information is relatively limited rather than when the planning application is determined, which is currently the case.

#### Timing of Decision Taking

5. Scottish Planning Policy states that policies and decisions should be guided by a number of principles including "*making efficient use of existing capacities of land,*

*buildings and infrastructure*". Given the priority placed on this, it is important that when decisions on capacities are taken that sufficient evidence is available to make an informed choice. We consider that the information is not available at the plan making stage to take a final, binding decision on capacities.

6. At present indicative capacities are provided for allocated housing sites in LDPs. The final acceptable number of houses is then a matter for consideration at the application stage by Planning Officers and Councillors sitting on the Planning and Development Management Committee. Some larger applications may also go before the Pre-Determination Committee, allowing Councillors to hear the views from the public and seek further information from the applicant. When the decision is taken by Councillors at the Planning Committee, the proposed development will be the product of a substantial period of design development and will have been subject to multiple rounds of scrutiny, as set out below:
  - a. Initially the design of the scheme will be the outcome of an extensive period of design development lasting several months and a year or more for larger developments;
  - b. It will be subject to 12 week period of pre-application consultation, during which further changes to the design will be considered;
  - c. Once the planning application is submitted, the Council will send out neighbour notifications and seek the expert opinions of statutory consultees;
  - d. The application will then be assigned a dedicated planning officer to assess the proposals over a period of 16 weeks, though more time is often taken. The Officer will take into consideration the views of statutory consultees and neighbourhood representations and can seek changes to the proposals;
  - e. Councillors will then be able to make their decision at Committee with the benefit of a detailed report provided by the Planning Officer and hear the views of members of the public and the applicant.
7. Homes for Scotland considers that the application stage, with the benefit of the above evidence, is the correct point to make a final decision on the capacity of an allocated site. It is at this stage that the gathering of extensive evidence has taken place which in turn allows an informed decision to be reached.
8. This approach is consistent with the Reporters' decision in the case of the Aberdeenshire LDP. In assessing the Council's proposed policy for rigid site capacities, the decision concluded as follows

*"I understand the council's reasoning in seeking to create greater certainty about the capacity of sites. This is intended to secure the efficient forward planning of infrastructure and to provide transparency for communities. Nevertheless, Scottish Planning Policy promotes the efficient use of land. **The capacity of a site is difficult to determine at this early stage prior to the consideration of house-type, layout and design.** There may be also be associated issues of financial viability and efficient infrastructure provision which support a higher density.*

*Consequently, whilst I appreciate the reasoning behind this approach, I consider that*

*the figures in the local development plan should remain indicative. This avoids prejudging an optimal capacity of sites and enables land to be used as efficiently as possible. This should not undermine the planned and appropriate use of infrastructure but should avoid sites being developed at a density which may prove less than optimal at the detailed planning stage. However, that would not set aside the need to demonstrate that any increase in density was appropriately justified in the context of infrastructure delivery and appropriate layout and design. My recommended modifications to Policy H1 as set out below reflects this.”* (p. 83, paras. 6 & 7, **our emphasis**)

9. The proposed cap is therefore inconsistent with Scottish Planning Policy and seeks to make a final decision on site capacity prematurely, without the benefit of the significantly more detailed evidence available at the application stage.

#### Site Capacity Ranges Evidence

10. The Schedule 4 Response states that “*The capacity range for allocated sites in LDP2 has been established using the methodology set out in the Proposed Plan Housing Background Paper 2017*”. However, the ‘methodology’ set out is very limited and confined to a Proforma of approximately a quarter of a side of A4 long which simply states the size of the site, the developable area and the dwellings per hectare multiplier which has been used for the upper and lower bounds of the capacity range.
11. There is no explanation of how the developable area has been defined, nor any explanation how or why the chosen densities have been arrived at. No detailed consideration is given to the house-type / size, layout and design. These variables will have a significant impact on an assessment of whether a proposed development is acceptable in design terms. The ranges set out in the LDP are therefore based on unevidenced assumptions. Given that this approach will have a negative impact on the delivery of new homes and is proposed in place of the application process (and the level of detail this involves) outlined above, this evidence base is entirely inadequate to justify the strict limits on site capacity.
12. The note at the foot of the Policy explains that Supplementary Guidance will be forthcoming and that this will “*provide further information on how capacity ranges have been calculated on allocated sites*”. It should go without saying that the post hoc justification of proposed planning policies in documents which are not subject to independent examination is not appropriate. The assessment of the LDP by the public and the Reporter should be done with access to all the evidence which has informed it. This is particularly so with regard to policies which will have a fundamental impact on the delivery of new homes.
13. Similarly, it is not necessary for future Supplementary Guidance to set out how capacities for Windfall sites will be calculated as is suggested will take place in the note at the foot of Policy 1D. This, as is presently the case, should be a matter for assessment at the application stage, taking into account site specific considerations.

#### Housing Supply Shortfall

14. As we set out in our response to Further Information Request 03, we consider that the plan has a shortfall in housing land supply. One way in which some progress could be made in addressing this shortfall would be for the delivery of additional

homes on allocated sites where detailed consideration at the application stage deemed this appropriate. The flexibility for Planning Officers and Councillors to make these decisions should be retained.

## Conclusion

15. For the reasons set out above we do not consider that the cap on homes is appropriate. It is not justified by evidence, it is inconsistent with Scottish Planning Policy and would preclude thorough, informed decision making at the application stage. Also, as set out previously we object to the use of site capacity ranges and the inclusion of the test in the policy requiring “exceptional circumstances” to be demonstrated in order to grant planning permission for proposals which fall outwith the identified range.
16. As HFS set out in response to the Proposed LDP consultation, the LDP should provide *indicative* site capacities based on a mixture of officer judgment informed by liaison with site promoters. Policy 1D could therefore be deleted or alternatively amended to explain that site capacities are indicative. We would suggest that further text explaining that any increase on the indicative figure would need to be justified at the application stage could be added if it was considered helpful.

## Prepared by:

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Senior Planning Advisor  
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**From:** [REDACTED]  
**Sent:** 13 February 2019 16:17  
**To:** [REDACTED]  
**Subject:** RE: LDP-340-2 Comments requested - Further Information Request 03 - Issue 01  
**Attachments:** 340-02 Matter 03 Issue 01 A Successful, Sustainable Place 13-02-19.pdf

Hi [REDACTED]

Thank you for the additional time on this.

Please find attached our brief response.

Kind regards

---

**From:** DPEA <[REDACTED]>  
**Sent:** 28 January 2019 10:16  
**To:** [REDACTED]  
**Subject:** LDP-340-2 Comments requested

[REDACTED]  
Please find attached a document related to the case: LDP-340-2 - Perth And Kinross Proposed Local Development Plan

Regards,



[Case Publication Website](#)

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Planning and Environmental Appeals Division

By Email Only

13 February 2019

**Perth and Kinross Further Information Request 03 - Issue 01 A Successful, Sustainable Place**

Dear Sir/Madam

We are grateful for the opportunity to comment on the Scottish Government's response to the above matter.

We note that the Strategic Development Plan (SDP) sets out all tenure housing supply targets and housing land requirements. Homes for Scotland considers that an all-tenure, whole-system approach continues to be the most appropriate way to plan for the allocation of housing land.

The SDP sets out an "approximate" split of 75% market housing to 25% affordable housing. The Perth and Kinross Schedule 4 response (Issue 1 – final page) suggests a further Table 1a could be added showing this "indicative" 75% to 25% split after the all tenure Housing Land Requirement (HLR), this would be consistent with the 25% affordable housing provision sought through proposed LDP2 Policy 20. Homes for Scotland would support the approach proposed by Perth and Kinross in the Schedule 4 as it is consistent with the SDP. However, further to our previous response to Issue 01 (dated 30 January 2019), we consider that consequential changes to the all tenure HLR figures should be made.

Yours Sincerely

A large black rectangular redaction box covering a signature.

Senior Planning Advisor

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*improving living in scotland*



**NORTH AYRSHIRE COUNCIL FURTHER INFORMATION REQUEST  
02 ISSUE 01: HOUSING**

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**MARCH 2019**

Homes for Scotland (HFS) is the voice of the home building industry in Scotland, representing some 200 companies and organisations which together deliver the majority of the country's new homes.

We are committed to improving the quality of living in Scotland by providing this and future generations of Scots with warm, energy-efficient, sustainable homes in places people want to live.

HFS makes submissions on national and local government policy issues affecting the industry. Its views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from our member companies.

## **RESPONSE TO NORTH AYRSHIRE COUNCIL FURTHER INFORMATION REQUEST 02 ISSUE 01: HOUSING**

---

### **Introduction**

1. Homes for Scotland (HFS) is grateful for the opportunity to comment on North Ayrshire Council's Further Information Request (FIR) response. This submission has been reviewed and agreed by Homes for Scotland's Strathclyde Area Committee.
2. As mentioned in the FIR request, Homes for Scotland has written to North Ayrshire Council welcoming the further evidence on housing provided by North Ayrshire. Homes for Scotland is pleased to have had the opportunity to work collaboratively with Officers. We provided advice on marketable locations and engaged in detailed discussions on the housing land supply through the housing land audit preparation. We continue to broadly support the approach taken by the Council.

### **General Comments**

3. We consider that the setting of the Housing Supply Target (HST) above the HNDA output is pertinent to several points and should be covered upfront.
4. The HNDA is a (nominally) policy neutral part of the evidence base which is used to inform the strategy taken in the LDP. It is the starting point for setting the (HST), but it does not represent a cap on the number of new homes which can be planned for. As the 2018 HNDA Managers Guide explains the two are "*not the same and therefore not expected to match*" (para. 9.1).
5. For instance, if an employment report prepared as evidence to inform the plan, forecast dwindling job opportunities, the Council would not be expected to just plan for this decline. It would be expected that Officers would use the LDP, perhaps in concert with other initiatives, as an opportunity reverse this trend and proactively produce new job opportunities.
6. The approach taken by North Ayrshire is similar in this regard. Setting the HST above the HNDA projection and then seeking to ensure it is met through a rigorous focus on site deliverability, provides a strong example of proactive planning. It is an approach which recognises the agency of the Local Development Plan to deliver important beneficial change. It should go without saying that population decline and the negative effect it would have on communities, services and the viability of local businesses would be a bad outcome.
7. We therefore support North Ayrshire's approach as set out in our letter of 4 October 2018. It is consistent with paragraph 115 of Scottish Planning Policy (SPP) which allows further policy adjustments to be made to the HST.

## **Response to Specific Questions**

We set out our response to selected questions below, recognising that some were specifically directed at the Council and there are others where no further comment from HFS is necessary.

**Question 1(d): The council accept some risks associated with a target considerably in excess of any demand assessment in terms of the maintenance of the 5 year effective housing land supply. Such an approach also raises community concerns. In that context:**

- i) should the emphasis have been placed on actions to deliver the established land supply rather than on additional allocations?**
8. Homes for Scotland agrees with North Ayrshire's response. Notwithstanding the Council's efforts to bring forward some of the extant land supply, several sites have been identified for a several of plan cycles with no development forthcoming, even when the market was at its strongest in the middle of the last decade. Such sites do not represent appropriate locations for continued allocations and we welcome the removal of some of these sites from the housing land supply.
  9. We strongly support the Council's view that a new approach to housing supply with a greater focus on the quality and deliverability of sites is required. The approach proposed by the Council represents a coherent strategy in this regard. We would also agree that it has the potential to amount to more than the sum of its parts. By allocating sites which are backed by home builders and experienced land promoters, there is scope to test and in time prove the market, leveraging in more investment not only in housing but other businesses and services.
  10. Sites promoted by homebuilders or experienced land promoters (whose business model is to sell on to homebuilders) will typically have been subject to more detailed site investigation and market research than other sites. They also importantly indicate a lack of ownership constraints. Ensuring that sites are free of constraints is particularly important in weaker market areas as final sales values are insufficient to cover the significant upfront costs required to deal with constraints.
  11. Taking a 'wait and see approach' relying on a bloated and ineffective extant land supply, which in some instances has seen no development or interest for several decades, would not have been an appropriate strategy. Such an approach would have invited population decline and the negative social and economic consequences this would entail.
  12. Our members look forward to working with officers to ensure the allocated sites are delivered.
- ii) is it sufficiently demonstrated that the target, as an estimate of actual housing delivery, is realistic and achievable?**
13. Homes for Scotland considers that the target is realistic and achievable. It is evidence based and North Ayrshire delivered homes at a considerably faster rate than this before the recession. A handful of authorities have now begun to match or exceed pre-recession output demonstrating that this is achievable. Whilst Scotland

on average lags significantly behind pre-recession output, a substantial element of this is the lack of land available in the right locations. This is clearly set out in Lichfield's *Effective Housing Land in Scotland's Cities* (December 2016) for instance. The approach taken by the Council seeks to address this.

14. Important changes have also taken place since some of the Council's evidence base was produced. The Ayrshire Growth Deal was announced in January 2019. It will invest £200m to help drive economic development across the region and seek to leverage in further private sector investment. It is important that these ambitions for job creation are matched by a commitment to make effective land available for housing. This ensures a joined-up approach with new job opportunities accompanied by a choice of high-quality new homes throughout the authority.
15. Furthermore, recent evidence from Homes of Scotland Members currently on site in North Ayrshire points towards the possibility of pent up demand in the area with stronger than expected forward sales. These positive signs add further evidence to suggest that the target set is realistic and achievable.

**Question 2 (b): In section 22.11 of CD5 the council state it has taken an all tenure approach and is not required to separate the affordable and market sector housing land requirements. Is that statement consistent with the expectation of Scottish Planning Policy that the plan should clearly set out the scale and distribution of the affordable housing requirement for the area?**

16. Homes for Scotland agree with the Council that separate Affordable and Market Housing Land Requirements (HLRs) are not required. This is consistent with the SPP, as set out below
- "Outwith city regions, local development plans should set out the **housing supply target (separated into affordable and market sector)** and the housing land requirement for each housing market area in the plan area up to year 10 from the expected year of adoption." (para. 120)*

17. The placement of the parentheses after the reference to the HST rather than after both or at the start or end of the sentence in the main body of text makes this clear. With regards to the scale and distribution, the LDP includes a reference to the SHIP which sets out the location of the sites proposed for affordable housing.
18. We endorse an all tenure approach to the setting of the HLR. The HLR informs the Council how much land it needs to allocate. The tenure of homes which are ultimately built on site could change over the plan period and should not be fixed. In any case, our view is that the principles of selecting sites for allocation which are effective and in locations where people want to live applies across all tenures.

**Question 3 (b): Should this split in the housing target, between affordable and market housing, also be reflected in the housing land requirement figure? Again a suggested amendment should be provided.**

19. Homes for Scotland agree with the Council that no change is needed for the reason they have set out and those we put forward above.

**Question 3 (d): If the annualised target as expressed in table 22.4 of CD5 is to be included in Schedule 10 should this also be referenced in the main text on pages 60 and 61?**

20. Like the Council we would not object to an indicative annual average being included. However, we would question whether this is necessary as in terms of the delivery of the LDP it is the supply target over the plan period which should be met in full.

### **Conclusion**

21. Homes for Scotland welcomes the opportunity to comment on the Council's response and looks forward to participating in the remainder LDP examination as required.

#### **Prepared by:**

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Senior Planning Advisor  
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**PERTH AND KINROSS LDP FURTHER INFORMATION REQUEST  
03B – ISSUE 01 A SUCCESSFUL, SUSTAINABLE PLACE**

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**MARCH 2019**

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## **RESPONSE TO PERTH AND KINROSS LDP FURTHER INFORMATION REQUEST 03B – ISSUE 01 A SUCCESSFUL, SUSTAINABLE PLACE**

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### **Introduction**

1. Homes for Scotland (HFS) welcomes the opportunity to comment on Perth and Kinross's Further Information Request (FIR) response. We are grateful to Perth and Kinross for the clear and detailed response they have provided. These submissions have been reviewed and agreed by Homes for Scotland's East Central Area Committee.
2. There are four main issues to cover: the use of the 2018 Housing Land Audit, the requirement for a 10-year Local Development Plan (LDP) period, windfalls and site programming. These are addressed in turn below.

### **2018 Housing Land Audit and Actual Completions**

3. Homes for Scotland welcomes Perth and Kinross's openness to using the 2018 Housing Land Audit date should the Reporter agree that this is appropriate. For the reasons previously set out we consider this is the correct approach.
4. We consider that the LDP must provide for the Housing Land Requirement (HLR) from 2016-28 set out in Tayplan, plus the additional year to 2029 for the reasons previously set out. Notably to ensure it is consistent with the SDP and Scottish Planning Policy (SPP) paragraph 119.
5. We also consider that it is logical to consider completions to date and subtract these from the Housing Land Requirement. This is because the SDP requires this land to be made available. Land which has had homes built since 2016 is no longer available but was, by definition, available and effective in the 2016-29 period, so should be subtracted from the HLR going forward. The Dundee Reporters made a similar calculation by subtracting actual 2016/17 completions as part of their calculation of the residual HLR (Examination Report, p. 73), explaining that it was necessary for consistency with the SDP.
6. The Dundee Reporters also subtracted 2017/18 and 2018/19 programmed completions in addition to 2016/17 actual completions. We would respectfully suggest that doing this in the case of Perth and Kinross for 2018/19 programmed completions is unnecessary. Whilst we consider year 1 programming is robust it could be exceeded or potentially slightly underdelivered. As such we consider it would be more prudent to work on the basis of the available evidence as there is no need to make the plan period strictly 10 years, just to ensure it stretches for 10 years from the expected date of adoption, it could cover an earlier period also.
7. In relation to the population projections HFS agrees with Perth and Kinross that the LDP must accord with the SDP and that the targets set out in the SDP cannot be changed as part of the LDP process. We would also point out that the basis of Housing Need and Demand Assessment (HNDA) which informed the SDP is the household projections, not the population projections. The difference between the

2012 based and 2016 based household projections for the period 2016-29 is much smaller.

8. Another important element of the HNDA is unmet backlog of housing need. An unmet backlog of need for 2,502 dwellings in Perth and Kinross was identified in the SDP HNDA, which is a significant amount.
9. We would also caution against the reading of the population / household projections as being solely a demand side indicator. Recent research commissioned by Crisis<sup>1</sup> explained the potential supply side influences on them

*“While household projections are still used [in our model], they are not as central to this new method. As noted in the introduction to this report, one of the key reasons for this is that the projections themselves are based on existing trends; this raises the very real possibility of the effects of historic under-supply of new housing being perpetuated. If household growth has been artificially suppressed by the under-supply of new housing, then basing future need calculations on those lower growth figures will by necessity under-estimate that need.” (p.23)*

10. Recent supply side influences (such as constrained availability and the recession) could therefore be subsumed within the projections and as such the projections should be treated with caution when presented in isolation. We agree with the Council that the SDP targets should be used to ensure legal compliance and consistency with SPP. However, we don't consider that the population projections are relevant to the issue of whether the most recent completions should be used to work out the residual HLR.

## 10 Year Plan Period

11. Homes for Scotland appreciates that the plan preparation was delayed for reasons outwith the control of the Council. However, we consider that there is a clear requirement in SPP to meet (and therefore set) a housing land requirement over a period of 10 years from the expected date of adoption (para. 119).
12. The Dundee Reporter's conclusions are clear on this point and recommended extending the plan period until 2029. The Dundee LDP was considered ahead of the Perth and Kinross LDP and is within the same Strategic Planning Authority. As such it represents a clear and relevant example of recent practice which, as an important matter of consistency, we consider should be followed.
13. We welcome Perth and Kinross's openness to extending the period to 2029 should the Reporter agree that this is appropriate.

## Windfall Allowance

14. Homes for Scotland considers that there is common ground with the Council on the substance of the windfall allowance even if the methodology is a little different. We agree with the Council's statement that a conservative approach is appropriate and that an assumption above 10% of the HLR would not be appropriate. Homes for

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<sup>1</sup> Housing supply requirements across Great Britain: for low-income households and homeless people, Glen Bramley (November 2018) commissioned by Crisis and the National Housing Federation

Scotland's previous response had used the windfall calculation from the draft LDP which had applied it from 2016 as a proportion of the HLR. However, we would agree with the Council that it would be logical to instead apply this 10% allowance from 2018.

## **Later Years Programming**

15. The HFS approach to programming is standard practice and extrapolates out agreed completions rates into the later years of the Plan. Whilst in reality completions will show some variations it is not possible to predict these variations so far in advance and so we consider taking an average annual completions rate is a robust approach, used in the majority of housing land audits.
16. We would accept that some sites may be subject to foreseeable significant changes in output over time. For instance, if a site currently is delivering from one outlet at say c. 2 dwellings per month and another homebuilder has acquired an interest in part of the site, it could be reasonably assumed that the output will significantly increase, perhaps double. As such HFS is open to the idea that evidence may be provided to explain why programming on certain sites may be expected to change accordingly over time.
17. However, the Perth and Kinross programming anticipates step changes in the delivery of a number of dwellings between year 7 (2024/25), which is the final year of the audit with includes annualised programming, and year 8. For example, PEL228, a plots site, increases from 1 dwellings every two years to 2 dwellings per annum (dpa) in year 8. PEL260 increases from 10 dpa to 16 and EAB072 increases from 20dpa to 30. Without further explanation we do not consider this approach to be robust.
18. Homes for Scotland does not in principle have an objection to using the high capacity figures. We consider these would be reasonable on sites with a homebuilder attached which has indicated the high capacity figure or indeed a higher figure could be delivered. However, on sites where no homebuilder or experienced land promoter is attached we consider a more conservative approach would likely result in more realistic and robust programming.
19. Should the LDP progress to be adopted on this basis we consider it would be incompatible with the proposed change to Policy 1D to introduce a cap on the number of new homes allowed on allocated housing sites. It would create an LDP which was reliant on sites delivering the high capacity but which also contained a policy seeking outright refusal of any application which sought to deliver one more home than the housing supply assumed it would. Even if every other policy in the plan was satisfied. For the LDP to implicitly suggest it could make such fine-grained decisions, definitively, before consideration of other merits of the proposal at application stage would evidently be unreasonable.
20. We have previously set out (FIR Response 04) why this proposed policy would be counter-productive and is unevidenced regardless of any changes to the land supply assumptions.

## **Conclusion**

21. Homes for Scotland welcomes the opportunity to comment on the detailed response which the Council have provided. We note that it appears that Homes for Scotland and the Council agree on the substance of the windfall allowance and it appears tentatively on the use of the 2018 Housing Land Audit. It also appears that there is some common ground on the logic to updating the plan period to 2029.
22. On the consideration of the most recent completions figures we consider these should be used to calculate the HLR and that recent practice in Dundee supports this approach. The programming for the first 7 years of the plan period is common ground between HFS and the Council. However, in some instances HFS and the Council's later years (2025/26 – 2029/30) programming differs. For the reasons set out above we consider our evidence on this matter offers a consistent approach.

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**From:** [REDACTED]  
**Sent:** 08 March 2019 16:43  
**To:** [REDACTED]  
**Subject:** RE: LDP-310-2 Comments requested  
**Attachments:** North Ayrshire Council FIR Request 08.03.19.pdf

Hi [REDACTED]

Please find attached our comments on FIR 02 – Issue 1 Housing.

Kind regards

[REDACTED]  
Senior Planning Advisor  
**Homes for Scotland**

5 New Mart Place, Edinburgh, EH14 1RW

Tel: [REDACTED]

Mob: [REDACTED]

E-mail: [REDACTED]

Web: [www.homesforscotland.com](http://www.homesforscotland.com)

*Homes for Scotland's strategy sets out the direction and prioritisation of objectives for our organisation for the period from 2018 – 2023. Our wish is that everyone with an interest in increasing housing supply can unify around our primary purpose: **To deliver more homes for Scotland.***

Click [here](#) to access the strategy document.



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**From:** info@homesforscotland.com  
**Sent:** 25 February 2019 09:24  
**To:** [REDACTED]  
**Subject:** FW: LDP-310-2 Comments requested

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**From:** DPEA [REDACTED]  
**Sent:** 22 February 2019 14:16  
**To:** [info@homesforscotland.com](mailto:info@homesforscotland.com)  
**Subject:** LDP-310-2 Comments requested

Sir/Madam,

Please find attached a document related to the case: LDP-310-2 - Proposed North Ayrshire Council Local Development Plan

Regards,



[Case Publication Website](#)

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*improving living in scotland*



**NORTH AYRSHIRE COUNCIL FURTHER INFORMATION REQUEST  
02 ISSUE 01: HOUSING**

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**MARCH 2019**

Homes for Scotland (HFS) is the voice of the home building industry in Scotland, representing some 200 companies and organisations which together deliver the majority of the country's new homes.

We are committed to improving the quality of living in Scotland by providing this and future generations of Scots with warm, energy-efficient, sustainable homes in places people want to live.

HFS makes submissions on national and local government policy issues affecting the industry. Its views are endorsed by committees and advisory groups utilising the skills and expertise of key representatives drawn from our member companies.

## **RESPONSE TO NORTH AYRSHIRE COUNCIL FURTHER INFORMATION REQUEST 02 ISSUE 01: HOUSING**

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### **Introduction**

1. Homes for Scotland (HFS) is grateful for the opportunity to comment on North Ayrshire Council's Further Information Request (FIR) response. This submission has been reviewed and agreed by Homes for Scotland's Strathclyde Area Committee.
2. As mentioned in the FIR request, Homes for Scotland has written to North Ayrshire Council welcoming the further evidence on housing provided by North Ayrshire. Homes for Scotland is pleased to have had the opportunity to work collaboratively with Officers. We provided advice on marketable locations and engaged in detailed discussions on the housing land supply through the housing land audit preparation. We continue to broadly support the approach taken by the Council.

### **General Comments**

3. We consider that the setting of the Housing Supply Target (HST) above the HNDA output is pertinent to several points and should be covered upfront.
4. The HNDA is a (nominally) policy neutral part of the evidence base which is used to inform the strategy taken in the LDP. It is the starting point for setting the (HST), but it does not represent a cap on the number of new homes which can be planned for. As the 2018 HNDA Managers Guide explains the two are "*not the same and therefore not expected to match*" (para. 9.1).
5. For instance, if an employment report prepared as evidence to inform the plan, forecast dwindling job opportunities, the Council would not be expected to just plan for this decline. It would be expected that Officers would use the LDP, perhaps in concert with other initiatives, as an opportunity reverse this trend and proactively produce new job opportunities.
6. The approach taken by North Ayrshire is similar in this regard. Setting the HST above the HNDA projection and then seeking to ensure it is met through a rigorous focus on site deliverability, provides a strong example of proactive planning. It is an approach which recognises the agency of the Local Development Plan to deliver important beneficial change. It should go without saying that population decline and the negative effect it would have on communities, services and the viability of local businesses would be a bad outcome.
7. We therefore support North Ayrshire's approach as set out in our letter of 4 October 2018. It is consistent with paragraph 115 of Scottish Planning Policy (SPP) which allows further policy adjustments to be made to the HST.

## **Response to Specific Questions**

We set out our response to selected questions below, recognising that some were specifically directed at the Council and there are others where no further comment from HFS is necessary.

**Question 1(d): The council accept some risks associated with a target considerably in excess of any demand assessment in terms of the maintenance of the 5 year effective housing land supply. Such an approach also raises community concerns. In that context:**

- i) should the emphasis have been placed on actions to deliver the established land supply rather than on additional allocations?**
8. Homes for Scotland agrees with North Ayrshire's response. Notwithstanding the Council's efforts to bring forward some of the extant land supply, several sites have been identified for a several of plan cycles with no development forthcoming, even when the market was at its strongest in the middle of the last decade. Such sites do not represent appropriate locations for continued allocations and we welcome the removal of some of these sites from the housing land supply.
  9. We strongly support the Council's view that a new approach to housing supply with a greater focus on the quality and deliverability of sites is required. The approach proposed by the Council represents a coherent strategy in this regard. We would also agree that it has the potential to amount to more than the sum of its parts. By allocating sites which are backed by home builders and experienced land promoters, there is scope to test and in time prove the market, leveraging in more investment not only in housing but other businesses and services.
  10. Sites promoted by homebuilders or experienced land promoters (whose business model is to sell on to homebuilders) will typically have been subject to more detailed site investigation and market research than other sites. They also importantly indicate a lack of ownership constraints. Ensuring that sites are free of constraints is particularly important in weaker market areas as final sales values are insufficient to cover the significant upfront costs required to deal with constraints.
  11. Taking a 'wait and see approach' relying on a bloated and ineffective extant land supply, which in some instances has seen no development or interest for several decades, would not have been an appropriate strategy. Such an approach would have invited population decline and the negative social and economic consequences this would entail.
  12. Our members look forward to working with officers to ensure the allocated sites are delivered.
- ii) is it sufficiently demonstrated that the target, as an estimate of actual housing delivery, is realistic and achievable?**
13. Homes for Scotland considers that the target is realistic and achievable. It is evidence based and North Ayrshire delivered homes at a considerably faster rate than this before the recession. A handful of authorities have now begun to match or exceed pre-recession output demonstrating that this is achievable. Whilst Scotland

on average lags significantly behind pre-recession output, a substantial element of this is the lack of land available in the right locations. This is clearly set out in Lichfield's *Effective Housing Land in Scotland's Cities* (December 2016) for instance. The approach taken by the Council seeks to address this.

14. Important changes have also taken place since some of the Council's evidence base was produced. The Ayrshire Growth Deal was announced in January 2019. It will invest £200m to help drive economic development across the region and seek to leverage in further private sector investment. It is important that these ambitions for job creation are matched by a commitment to make effective land available for housing. This ensures a joined-up approach with new job opportunities accompanied by a choice of high-quality new homes throughout the authority.
15. Furthermore, recent evidence from Homes of Scotland Members currently on site in North Ayrshire points towards the possibility of pent up demand in the area with stronger than expected forward sales. These positive signs add further evidence to suggest that the target set is realistic and achievable.

**Question 2 (b): In section 22.11 of CD5 the council state it has taken an all tenure approach and is not required to separate the affordable and market sector housing land requirements. Is that statement consistent with the expectation of Scottish Planning Policy that the plan should clearly set out the scale and distribution of the affordable housing requirement for the area?**

16. Homes for Scotland agree with the Council that separate Affordable and Market Housing Land Requirements (HLRs) are not required. This is consistent with the SPP, as set out below
- "Outwith city regions, local development plans should set out the **housing supply target (separated into affordable and market sector)** and the housing land requirement for each housing market area in the plan area up to year 10 from the expected year of adoption." (para. 120)*

17. The placement of the parentheses after the reference to the HST rather than after both or at the start or end of the sentence in the main body of text makes this clear. With regards to the scale and distribution, the LDP includes a reference to the SHIP which sets out the location of the sites proposed for affordable housing.
18. We endorse an all tenure approach to the setting of the HLR. The HLR informs the Council how much land it needs to allocate. The tenure of homes which are ultimately built on site could change over the plan period and should not be fixed. In any case, our view is that the principles of selecting sites for allocation which are effective and in locations where people want to live applies across all tenures.

**Question 3 (b): Should this split in the housing target, between affordable and market housing, also be reflected in the housing land requirement figure? Again a suggested amendment should be provided.**

19. Homes for Scotland agree with the Council that no change is needed for the reason they have set out and those we put forward above.

**Question 3 (d): If the annualised target as expressed in table 22.4 of CD5 is to be included in Schedule 10 should this also be referenced in the main text on pages 60 and 61?**

20. Like the Council we would not object to an indicative annual average being included. However, we would question whether this is necessary as in terms of the delivery of the LDP it is the supply target over the plan period which should be met in full.

### **Conclusion**

21. Homes for Scotland welcomes the opportunity to comment on the Council's response and looks forward to participating in the remainder LDP examination as required.

#### **Prepared by:**

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Each case is unique and must be considered on its merits. It is for the person appointed to determine the case to satisfy him/herself that the application of the practice contained in this note is appropriate to the circumstances of the case. A reporter who intends to depart from the guidance should advise his/her SGL so issues emerging can be considered for future case work.

Guidance note:	<b>2013 REGULATIONS: RECEIPT OF CASE</b>
Relating to:	<p>This note relates to cases progressed under the Town and Country Planning (Appeals) (Scotland) Regulations 2013. These are:</p> <p><b>Planning Permission appeals (PPA)</b>  <b>Enforcement Notice appeals (ENA)</b>  <b>Certificate of Lawful Use or Development appeals (CLUD)</b>  <b>Tree Works Consent appeals (TWCA)</b>  <b>Tree Replacement Enforcement Notice appeals (TENA)</b>  <b>Amenity Notice appeals (ANA)</b>  <b>Planning Obligation appeals (POA)</b>  <b>Good Neighbour Agreement appeals (GNAA)</b>  <b>Listed Building Appeals (LBA)(from 1 December 2011)</b>  <b>Conservation Area Consent Appeals (CAC) (from 1 December 2011)</b>  <b>Listed Building Enforcement Appeals (LBE) (from 1 December 2011)</b>  <b>Advertisement Consent Appeals (ADA) (from 30 June 2013)</b>  <b>Advertisement Discontinuance Notice Appeals (ADD) (from 30 June 2013)</b>  <b>Advertisement Enforcement Notice (ADE) (from 30 June 2013)</b>  <b>Applications for urgent Crown development (from 30 June 2013)</b></p>
Background/legislative and policy framework:	<p>The changes to the Town and Country Planning Act 1997 introduced by the Planning Act 2006 together with the consolidated Town and Country Planning (Appeals) (Scotland) Regulations 2013 introduced a significant change to the way that the procedure for determining an appeal is decided. The 'right to be heard' has been removed and regulations 7 and 9 specify that the appointed person may determine the manner in which the appeal is to be conducted.</p> <p>See also <a href="#">Circular 4/2013; Planning Appeals.</a></p>
DPEA practice:	<p>Our targets for dealing with cases are:</p> <ol style="list-style-type: none"> <li>1. No further procedure - 8 weeks</li> <li>2. Site visit only - 12 weeks</li> <li>3. Further written evidence and site visit - 20 weeks</li> <li>4. Hearing session and site visit – 26 weeks</li> <li>5. Inquiry session and site visit – 32 weeks</li> </ol>

Process:	<p>On receipt of an Appeals Regulations case the appointed person should:</p> <ul style="list-style-type: none"><li>o Check for any potential conflict of interest/other issue which may preclude them from determining the appeal (as normal);</li><li>o note the anticipated procedure (see e mail or APP/PROC/1);</li><li>o review the documents on the case file (using the Case Management System (CMS) if the file is not at hand);</li><li>o consider the issues raised in the papers available to date and:<ul style="list-style-type: none"><li>o if content with the anticipated procedure, advise case officer of site visit arrangements (accompanied or unaccompanied, date and time).</li><li>o if <i>not</i> content with anticipated procedure complete form APP/PROC/2 and submit it through the CMS. Continue to make arrangements for the site visit if this is appropriate.</li></ul></li></ul> <p><b>NB: a reporter may, at ANY time, request further information</b> This should be carried out by completing APP/PROC/2 as above.</p>
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## **Personal interests**

1.22 All Reporters are aware that they have to be seen to be independent, untainted by any influence that might be seen as a source of potential bias or prejudice that could affect the outcome of a case. Personal interests are best kept to a personal level. You should not be involved in clubs or pressure groups that might be seen as influencing judgement. Similarly, you should take care that personal relationships with people that you meet through your work do not create the perception that favours are expected and given.

1.23 As a reporter it is your duty to ensure that you do not use your official position to further your own private interests or those of others. You should not take part in any decision that could affect the value of private investments or those of your family or close friends. It is undesirable that any Reporters (full time or self employed), or members of their immediate families, hold shares in any of the major retailers, housebuilders, and utility companies operating in Scotland. To do so would put you at risk of challenge on grounds of potential bias, which would limit your ability to perform your responsibilities as a Reporter. The intention is not to interfere unduly with the freedom of individuals to own shares or to pursue personal interests. The stock market offers sufficient opportunity outwith the development sector, or outwith Scotland, for those who wish to hold this type of share to do so. If not, one possible solution would be to place this type of share in the hands of an independent share manager.

1.24 It is the Reporter's responsibility to consider, on a case by case basis, whether there are any issues that may lead other parties to consider that the Reporter may not be impartial. Any Reporter who envisages any problem of this sort should discuss it with the Chief Reporter or Deputy Chief Reporter. A specific case that might create a potential problem should be reported as soon as possible.

## **Personal interests and prior disclosure**

1.25 As a general principle Reporters are not allocated cases involving a site within one mile of their home in an urban area and in rural areas the distance is five miles. These general guidelines are adjusted to reflect the realities of the particular case. In addition, we try to ensure that those with a background in a particular planning authority are not allocated cases that could be said to call into question their independence and impartiality. However additional safeguards are necessary.

1.26 In cases where Reporters are allocated a case relating to a site within the Council area in which they live, and also in cases where the impact of a proposal may be perceived as having an impact on where they actually live, on their financial and other interests, or those of their family, they should disclose the position (but **not** their home address) to parties in writing in advance and **at the earliest opportunity**. This allows those with any concerns about the impartiality of the Reporter to raise them before the proceedings have started.

1.27 The Scottish planning world is a small place, and it is inevitable that from time to time you will unexpectedly come across familiar faces, or people who are known to you at inquiries, hearings and site visits. It is not possible to give detailed advice on how to deal with individual circumstances, but you should operate on the principle that any familiarity with one or more of the participants should be disclosed. If anyone present objects to your continuing with the case you should notify the Head of Administration so that a decision can be taken as to whether a fresh Reporter should be appointed.

1.28 Reporters' have the right, as private individuals, to express their views about development proposals or plans that may affect them. However it is essential that any private engagement does not damage the professional role of a reporter by leading others to believe that his or her judgement or integrity is compromised. Particular care should be taken when commenting on policies or plans to ensure that views expressed are not seen as conflicting with Government policy.

1.29 Where you have made objections to a planning application you should inform the Head of Administration by email, giving the address and development to which you are objecting. If the application is subsequently refused and then appealed you should send in addition a copy of your letter to the planning authority, together with any further representations you make. This information is used:

To ensure that you have no involvement with the appeal, thus allowing you to continue your objection; and

To allow us to decide whether the delegation and other arrangements that normally apply to the case need to be reviewed.

1.30 The Head of Administration should also be sent a copy of any representation to a development plan by a Reporter or member of staff. A form is available for Reporters to declare any interests they may have, including land ownership and membership of groups. This can be obtained from and should be returned to the Head of Administration. It will also be circulated for completion periodically.

## **2. THE LEGISLATIVE AND POLICY BACKGROUND**

### **2.1 Introduction**

2.1.1 The purpose of this chapter is to highlight the key elements of the legislative and policy framework within which Reporters must make their decisions. This includes the most commonly used primary legislation, statutory instruments, case law, European Union law, the European Convention on Human Rights, and Scottish Government policy guidance.

2.1.2 This chapter can only provide a general overview. Further guidance on the legislative and policy aspects of particular areas of casework is given in the following chapters.

### **2.2 Primary legislation – General**

2.2.1 Most of the casework given to Reporters will relate to planning and listed building legislation. The legislation for the modernised planning system is set out in the Planning etc (Scotland) Act 2006 (2006 Act), which amends the Town and Country Planning (Scotland) Act 1997 (1997 Planning Act). A consolidated version of the 1997 Planning Act, incorporating the 2006 Act is on the Reporters SharePoint site. Listed building legislation is set out in the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (1997 Listed Buildings Act) and a copy is on the SharePoint site. It is expected that the Historic Environment (Amendment) Bill will amend the 1997 Listed Buildings Act in due course. You will need to be generally familiar with the key provisions of the planning and listed building legislation.

2.2.2 The range of legislation for non-planning casework is extensive. As any individual Reporter may undertake some of the more specialist areas rarely, it is particularly important that the relevant primary and secondary legislation is available. More details are given in the specialist chapters of this handbook and some legislation may be available on the SharePoint site. Always check that you have access to the relevant legislation for any non-planning casework.

2.2.3 From time to time, parties in a case may quote from legislation in making their case. A dispute over a legal point may also arise. If this occurs, as a starting point, it is always best to go to the text of statute to check matters, as quotations from precognitions or other documents may be inaccurate or selective. How to get help to resolve any more complicated legal issues is set out in section 1.7 below.

2.2.4 In all of the legislation governing casework, important statutory definitions of the meaning of critical words and phrases are provided. There are usually specific sections or articles in primary and secondary legislation that provide these statutory definitions. In determining an appeal or making a recommendation the definitions should be applied as stated in legislation. Do not use terms loosely or colloquially if there is a particular statutory definition or meaning. A decision that is not consistent with a statutory interpretation may not be defended if appealed to the Court.

2.2.5 Legislation is constantly changing and it is important for you to try to keep up to date as far as possible. You should register with the Directorate for the Built Environment's alert service ([www.scotland.gov.uk/Topics?Built-Environment/Planning/news/e-news](http://www.scotland.gov.uk/Topics?Built-Environment/Planning/news/e-news)) and monitor the SharePoint site for announcements. Changes by way of amending legislation can be particularly challenging if there have been a number. A consolidated version of the legislation is usually necessary so that the legislative intention can be clearly understood. DPEA has a license with a law library and can obtain consolidated legislation if it is not available on the SharePoint site. The office may also be able to assist if there has been a more recent case in a similar area.

## **2.3 Primary Legislation – Planning**

2.3.1 The 1997 Planning Act as amended by the 2006 Act is on the SharePoint site and is divided into 15 parts. Most of the changes set out in the 2006 Act have now been commenced but further regulations on mezzanine floors, good neighbour agreements, section 75 agreements and tree preservation orders are not expected until 2010/2011.

2.3.2 The most frequently referred to parts of primary planning legislation are Parts 1A - National Planning Framework; Part 2 - Development Planning; Part 3 - Control of Development; Part 6 - Enforcement; Part 7 - Special Controls and Part 14 Miscellaneous and General.

2.3.3 Parts 1A and 2 set out the forward planning framework as well as procedural requirements for the preparation and approval of these documents. The development planning framework consists of the National Planning Framework, the Strategic Development Plan (in strategic planning areas – i.e. the 4 main Scottish cities) and the Local Development Plan. Outwith strategic development plan areas, there is only the Local Development Plan, which will take a different form.

2.3.4 Other documents and procedures to be familiar with are supplementary planning guidance, development plan schemes and action programmes. It should be noted that section 25 (status of the development plan) has been amended to include reference to the National Planning Framework in certain circumstances. The statutory test in respect of the primacy of the development plan is addressed in more detail in para 1.3.11 below.

2.3.5 Part 3 relates to the control of development. A key foundation of the Planning Acts is section 26 – meaning of “development.” It is however, a complicated section with 21 subsections and will frequently have to be read in conjunction with the General Permitted Development Order or other Orders – which themselves have often been amended. For example, the situation in relation to demolition. Subsection 4 of section 26 states that demolition of a building is a building operation and hence development. However, sub section 2(g) states that demolition is not development if specified in a direction given by Scottish Ministers (see Town and Country Planning (Demolition which is not development) (Scotland) Direction 2001). Class 70 of the Town and Country General Permitted Development Order (as amended) makes most demolition “permitted development” subject to certain conditions.

2.3.6 In general, the remainder of Part 3 sets out procedural requirements for determining planning applications and related matters. Another key element of the control of development is the hierarchy of national, major and local developments. DPEA only determines appeals for national, major and local developments that have been determined by committee rather than an officer. As this depends on the individual scheme of delegation of each planning authority, there can be a wide variation in the types of planning appeals that you will determine.

2.3.7 Part 3 also includes new rights of appeal for section 75 agreements and good neighbour agreements. These are due to come into force on 1 February 2011.

2.3.8 Part 6 sets out the enforcement provisions. It includes what constitutes a breach of planning control and the various enforcement powers available to planning authorities. Sections 130-133 (as amended) deal with enforcement appeals,. More details are provided in chapter 7 [to be updated shortly] on Enforcement elsewhere in this handbook.

2.3.9 Part 7 deals with special controls including tree protection, site amenity notices and advertisement control. These have appeal provisions that are determined by DPEA. There are also more detailed regulations. See chapters 7 and 11 of the handbook [to be updated shortly].

2.3.10 The changes to primary planning legislation set out in the 2006 Act have been commenced incrementally by statutory instrument. Although over time this will impact on a diminishing number of cases, it is important to note that any appeal received before 3<sup>rd</sup> August 2009 has to be determined using the previous rules and procedures.

#### *Primacy of the Development Plan*

2.3.11 Section 37(2) of the Town and Country Planning (Scotland) Act 1997 requires the planning authority in dealing with a planning application, to “*have regard to the provisions of the development, so far as material to the application.*” The force of this requirement is strengthened by the provisions of section 25 of the Act, which requires that “*where, in making any determination under the planning acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise – to be made in accordance with that plan, .....*”

2.3.12 It should be noted that section 25 has been modified by the 2006 Act, so that for national developments, regard must also be had to the National Planning Framework. However, this will relate to only a few appeal cases. The meaning of “development plan” has also been amended by section 24 and can include supplementary guidance if prepared under the provisions set out in section 22.

2.3.13 Section 25 applies to called in applications under section 46 of the 1997 Planning Act, called in applications under section 18 of the Planning (Hazardous Substances) (Scotland) Act 1997 and to planning permission appeals under section 47 of the 1997 Planning Act. In these cases, it is essential that the appeal decision

notices and reports make it clear in the reasoning that the section 25 test has been applied.

2.3.14 In other types of appeal or call in (e.g. listed buildings and advertisements), where section 25 does not apply, there is no statutory requirement to have regard to the development plan. However, you may have to apply other statutory tests. Depending on circumstances, it may still be relevant to refer to, and consider any relevant development plan policies but the question of whether or not the proposal accords with the development plan would not normally be the main determining issue.

2.3.15 In applying section 25, the first point of reference should be the development plan. It is for the planning authority to advise you of which plans are pertinent and which are the relevant provisions. Normally, the appellant or other parties to the appeal will be aware of the importance of section 25. Upon receiving a case, it is essential that the paperwork be checked to see that adequate information on the relevant policies of the development plan is provided. If there is any doubt, this should be checked with the parties immediately.

2.3.16 Section 24 defines the meaning of “development plan.” The development plan consists of the strategic development plan and local development plan in strategic planning areas and the local development plan outwith strategic planning areas. It will also include any supplementary guidance issued under section 22. For national developments, the National Planning Framework will also be relevant. However, it may take a number of years before these documents are formally approved. Until this happens, for the purposes of section 25, the development plan consists of the approved structure plan and any adopted local plan that remains in force, whatever its age.

2.3.17 Emerging development plans or other “informal” development management policies may be important material considerations but they cannot constitute or in any formal sense displace the development plan. Sometimes the planning authority or other parties overlook this fact. This is why an early check of the paperwork is so important. You should be wary of cases where there are bound to be development plan policies but the documentation supplied relies only on emerging policies or informal guidance. You should also make sure that you are clear about the status of any supplementary guidance.

2.3.18 Section 25 also requires you to have regard to material considerations. Material considerations will embrace:

- Scottish Planning Policy
- Circulars
- Technical advice
- Any policy statements not included in the definition of the statutory development plan in section 24
- Any other relevant arguments or circumstances that any party submits for consideration

2.3.19 Section 25 therefore requires you to carefully balance a number of factors. To avoid a later court challenge the principles established in City of Edinburgh v

Secretary of State for Scotland (1997) SCLR 1112 should be followed in the reasoning.

- Identify the relevant policies of the development plan
- Properly understand the intention of the relevant policies as well as the detailed wording
- Assess whether, in the light of the development plan as a whole the proposal does or does not accord with it
- Identify the relevant material considerations and note which of them support the proposal, which do not and the weight to be attached
- Decide whether there are material considerations of such weight that the decision should differ from the provisions of the development plan

2.3.20 In deciding what weight to attach to the various elements in a case be cautious about using words such as “*significant*,” “*great*,” “*little*,” or “*negligible*.” All these words and others may be appropriate in their context, but the use of different terms by different Reporters in what may seem to parties to be similar circumstances will cause confusion. It may be better to say, “*I have had regard to/taken into account policy x*” and then demonstrate the significance of that policy by the importance you give it in your reasoning and in your conclusions.

2.3.21 Alternatively, phrases could be used such as, “*the weight which can be attached to an emerging plan increases as it approaches adoption*.” In some circumstances, a negative form of words may be useful – “*the [informal guidance] has not been subject to public consultation and this reduces the weight which can be attached to its policies*.”

2.3.22 Avoid general criticisms of the merits of particular policies or pronouncements about the plan as a whole, as this may affect what another Reporter can say in a subsequent case. Finally, never use words that might appear to be attaching less weight to the development plan than the statutory duty prescribes. In applying section 25 the development plan is the starting point; if it is out of date that will be a material consideration, but it should not be described as reducing its weight. Rather, it increases the weight of other factors.

## **2.4 Primary Legislation – Listed Buildings and Conservation Areas**

2.4.1 The 1997 Listed Building Act includes the powers and procedures relating to listed buildings and conservation areas and is available on the SharePoint site. There are two important points to note; firstly, that, currently, the 2008 Appeal Regulations do not apply to appeals or call ins under the Listed Building Act. Secondly, the Act includes some statutory tests for determining listed building consent applications as well as planning decisions that affect a listed building, or its setting, or development within a conservation area.

2.4.2 It is intended that the Historic Environment (Amendment) Bill will amend the 1997 Listed Building Act. This includes bringing appeal procedures in line with planning appeal cases. However, this is at an early stage and unlikely to be commenced until 2011/12.

2.4.3 In determining an appeal for listed building consent, section 14 requires the Reporter to have, “*...special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*” The Reporter will have to have sufficient evidence to understand the nature of the building, its setting and any special architectural or historic features of interest.

2.4.4 Section 59 applies the same test to any planning application which affects a listed building or its setting. The reasoning must make clear that this statutory test has been addressed.

2.4.5 Section 64 applies a general duty for you to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area for the exercising of any function under the planning acts. This most commonly relates to planning applications but can include other casework such as advertisement appeals and enforcement appeals etc.

2.4.6 To discharge this general duty you will need to have a map of the conservation area and pay particular attention on the site visit to understanding its character. The planning authority’s conservation area character assessment or appraisal can also be helpful in this regard.

2.4.7 It is the responsibility of the planning authority to advise you if a listed building or conservation area is relevant to any casework. Normally, this will be clear from the submitted evidence. However, if the issue is not perceived to be central, the information may be less obvious and included within the Report of Handling or the supplementary comments in the Planning Authority Response Form. In your preparation for a site visit, always check to see if a listed building or conservation area will be relevant.

2.4.8 It is possible that a listed building appeal has an associated planning application appeal that is being determined by a Local Review Body. If the decision of the Local Review Body is known, this is likely to be a material consideration, but not an overriding one.

2.4.9 Section 7 of the 1997 Listed Building Act requires notice of a proposal to execute works of demolition to be given to the Royal Commission on the Ancient and Historical Monuments of Scotland, in order to allow the Commission the opportunity to record the building. If you grant consent for demolition you must impose a condition on the consent, reflecting the requirements set out in Section 7(2)(c) of the Act. Reporters should also ensure that a copy of the decision letter is sent to the Commission.

2.4.10 If you are allocated a case where a planning authority has purported to refuse “listed building consent” for works to a building which is used for ecclesiastical purposes, you should check whether the authority has not appreciated that the application has been made on the basis of a voluntary pilot scheme. Such works are exempt from control (see section 54). This advice does not apply to planning permission appeal cases or cases involving buildings no longer used for worship.

## **2.5 Primary Legislation – Other**

2.5.1 The primary legislation for non-planning casework is extensive. The table below highlights the main legislation for various types of casework and provides the link to the SharePoint site.

<b>Casework</b>	<b>Legislation</b>	<b>Link</b>
Hazardous Substance Consent	Planning(Hazardous Substances) (Scotland) Act 1997	<a href="#">Link to its SharePoint folder</a>
Compulsory Purchase Orders	Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947	<a href="#">Link to its SharePoint folder</a>
Electricity Act cases	Electricity Act 1989	<a href="#">Link to its SharePoint folder</a>
Flood Defence Schemes	Flood Prevention (Scotland) Act 1961, Flood Risk Management (Scotland) Act 2009	<a href="#">Link to their SharePoint folder</a>
Environmental Appeals	Environmental Protection Act 1990, Environment Act 1995, Pollution Prevention and Control Act 1999, Sewerage (Scotland) Act 1980, Water Environment and Water Services (Scotland) Act 2003, Water (Scotland) Act 1980	<a href="#">Link to SharePoint folder containing first 3 Acts</a> <a href="#">Link to its SharePoint folder</a> <a href="#">Link to SharePoint folder containing last 2 Acts</a>
Roads	Roads (Scotland) Act 1984, Transport and Works (Scotland) Act 2007	<a href="#">Link to their SharePoint folder</a>
Core Paths	Land Reform (Scotland) Act 2003	<a href="#">Link to its SharePoint site</a>

2.5.2 The important things to identify are whether there are any particular tests or requirements for you to follow in making a decision. Is there anything that is analogous to section 25? The key requirements are explained in more detail in the topic specific chapters of this handbook.

## **2.6 Statutory Instruments**

2.6.1 Whilst primary legislation sets out the main objectives, definitions and key procedures, much of the detail relevant to casework is contained in statutory instruments. The number of statutory instruments relevant to planning and non-planning casework is immense and constantly changing. It is not expected that you will know every statutory instrument that may be applicable. However, there will be certain key pieces of secondary legislation with which you should be familiar. There will be others of which a general overview will be needed. Otherwise, you need to have an awareness that there are specific regulations that apply in certain situations and that these should be consulted in those cases to which they apply. Generally, a

circular will be issued when regulations are first introduced. Reading the relevant circular is usually an easier way of establishing a general understanding than going straight to the legal order.

2.6.2 For planning permission cases, knowledge of the Town and Country Planning (Appeals) (Scotland) Regulations 2008 is essential. It should be noted that these regulations only apply to planning permission appeals, enforcement appeals, appeals against a replanting notice, appeals against an untidy site notice and appeals against certificates of lawfulness of existing or proposed developments. This means that listed building appeals, advertisement appeals, conservation area consent appeals and hazardous substance consent appeals are not covered by the procedures set out in the 2008 Regulations. However, the intention is to amend the relevant legislation so that ultimately there is a common approach.

2.6.3 The Appeal Regulations set out the statutory procedures that must be followed. The key changes are that the appeal will normally be based on the information considered by the planning authority and that it is for you to determine whether any further procedure is necessary in order to make a decision. Further guidance on the implications of the regulations for actual working practices is set out in [DPEA Guidance Notes 6,7,8,9 and 14](#). Also of note is that schedule 1 and 2 of the Appeal Regulations set out the hearing session rules and inquiry session rules.

2.6.4 Other important regulations for planning permission cases will be the Town and Country Planning (Development Management) (Scotland) Regulations 2008, Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the Town and Country Planning (Use Classes)(Scotland) Order 1997. It should be noted that the General Permitted Development Order has been amended extensively since 1992 and using the consolidated version on the SharePoint site is essential.

2.6.5 Other regulations will also apply to the other less common planning casework and numerous specific regulations for the non-planning casework. For environmental appeals, there is an extensive range of specialist regulations and if allocated an environmental appeal, it is recommended to check the environmental appeal section of the SharePoint site. In particular, check that you have identified any specific criteria to which the decision maker must have regard in making a decision. Further details are provided in the detailed chapters elsewhere in this handbook.

2.6.6 For Development Plan examinations it is the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 that are the main regulations. These explain the statutory procedures for plan preparation and for examination. Again, the emphasis is on a Reporter led examination with further submissions limited to what you consider necessary to make a decision. Detailed guidance on the issues surrounding development plan examinations are set out in [DPEA Guidance Notes 12 and 13](#).

2.6.7 There are also a number of general legislative requirements relating to issues that can cross cut a number of planning and non-planning casework. This would include, for example, environmental impact assessment and natural habitat

and species protection. In relation to the latter, specific legislative tests and procedures will apply to proposals that may impact on Special Protection Areas, Special Areas of Conservation and certain protected species. More detail on the issues surrounding environmental impact assessment and nature conservation can be found at paragraphs 2.47 and 2.83 to 2.90 of chapter 2 of the 2007 version of the handbook which are being updated.

## 2.7 Case Law

2.7.1 Case law is relevant to DPEA's casework in two main ways: legal challenge and the interpretation of legislation. A Reporter's decision can be open to statutory or common law challenge to the Court of Session. In planning appeals, the statutory right of appeal is set out in section 239 of the 1997 Planning Act, which specifies the grounds upon which a decision can be challenged, that is, that the decision is ultra vires, or that relevant statutory requirements have not been complied with. Section 239 does not apply to all casework undertaken by reporters. In particular, there may be special appeals provisions in non-planning casework, so you should check the position before including the standard "challenge" paragraph in your decision notice.

2.7.2 The Court will only intervene on points of law, not on matters of planning judgement. Areas where a decision may be held to err in law can include:

- Taking into account irrelevant matters or failing to take account of relevant matters
- Inadequate reasoning – unable to tell why the matter was decided the way it was
- Fettering discretion
- Procedural impropriety
- Failure to comply with a statutory requirement or otherwise be ultra vires
- Irrational – no reasonable decision taker could ever have come to it

2.7.3 To an extent, legal challenge is an occupational hazard for a Reporter. However, it is obviously best if the situation can be avoided. As part of the checking process, it is recommended that you consider the decision from the losing party's point of view and check that all the likely areas of legal challenge have been addressed. If you are at all unsure on a point, speak to a Principal.

2.7.4 If one of your decisions is challenged you will be asked to comment on the grounds of appeal. For this reason, it is advised not to delete or destroy photographs or notebooks etc until after the expiry of the 6 week period for appeal to the Court of Session in planning cases, or any other appeal period in non-planning casework.. The decision as to whether to contest the case is taken by DPEA management after considering legal advice. The legal process can take many months and you may have to attend consultations with the Scottish Government's legal advisers. The effect of a successful challenge is normally for the decision to be quashed and for the case to returned to the DPEA for re-determination. Details of current legal challenges and Court decisions are on the SharePoint site.

2.7.5 Case law is also a useful source of guidance by the courts on the interpretation of legislation as applied in particular circumstances. Over the years,

this has resulted in a number of widely quoted decisions and the establishment of legal precedents. The key planning and environmental law precedents may be found in legal text books such as *Scottish Planning Law and Procedure* by Jeremy Rowan-Robinson and others, Neil Collar's recent book *Planning, the Scottish Planning Encyclopaedia and Environmental Law in Scotland*; and journals and periodicals such as the *Journal of Planning Law* and *Scottish Planning and Environmental Law* – available from the DPEA library.

2.7.6 If a legal point seems to be a decisive issue in a case, it is important that the main parties have a chance to comment before you make a decision. It will rarely be necessary to do so, but legal advice from the Scottish Government Legal Department can be obtained for a Reporter. In the first instance, any issues over legal interpretations should be discussed with a Principal.

## **2.8 European Union Law and the European Convention on Human Rights** [this section is to be updated]

### *European Union Law*

2.8.1 European law and policy increasingly influences UK and Scottish law, particularly on environmental matters. Generally, however, this is not done directly but by the UK government and the devolved administrations translating into domestic law any relevant European Union (EU) obligations. However, you may be referred to points of European Law and so some background information may be useful.

2.8.2 EU Law is incorporated into UK law by virtue of the European Communities Act 1972. EU law consists of:

- Primary legislation – the founding and amending treaties such as the Treaty of Rome or the Maastricht Treaty
- Secondary legislation – Acts made by EU institutions and are called Regulations, Directives, Decisions, Recommendations and Opinions
- Judgements of the European Court of Justice

2.8.3 By far the most common form of EU law that you are likely to encounter is the Directive. Directives are addressed to the member states and they are bound as to the results to be achieved. They may however, choose the method of implementation. Directives do not generally take effect in national law until they have been implemented by a specific act of national legislation. However, the terms of the original Directive may be helpful in understanding the intention.

2.8.4 Of the other forms of EU law, Regulations and Decisions are binding but few have any bearing on the work of the DPEA. Recommendations and Opinions are not binding. In some circumstances, these and other EU policy documents, such as declarations, resolutions and Commission Green Papers etc, could be material considerations.

2.8.5 The European Court of Justice is responsible for ensuring that European Law is observed. It has jurisdiction to hear cases against member states, to review the legality of acts of community institutions and to give preliminary rulings on questions of European Law following requests from national courts.

2.8.6 Parties may put forward arguments that national law has not adequately implemented the terms of an EU directive or that the Commission is in the process of pursuing the UK Government for failing to implement a Directive. If such arguments are pursued (provided they are of substance), a Principal should be consulted to see if the case should be considered for a recall. If the case is already a report case, the matter must be reported to Scottish Ministers as legal submissions.

2.8.7 European Law and various other policy documents, information and notices are published in the Official Journal of the European Communities. This is available online at [www.eur-lex.europa.eu/JOIndex.do](http://www.eur-lex.europa.eu/JOIndex.do) and also at the Victoria Quay Library.

2.8.8 If you are referred to an EU Act or other document, it is important that copies are made available to all the relevant parties, as they are not readily accessible without detailed knowledge of the EU document indexing system. It will also be necessary to establish the background details, be clear about its status, and ensure agreement about this by the relevant parties.

## **2.9 The European Convention on Human Rights**

2.9.1. The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) into UK law. The Convention rights are set out in Schedule 1 to the Act. Section 6 of the Act provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right. In addition, the Scotland Act 1998 provides that Scottish Ministers must act compatibly with the ECHR.

2.9.2 The Convention rights which are most likely to be relevant in the planning context are Article 6 which guarantees the right to a fair and impartial hearing before an independent tribunal; Article 8 which provides that everyone has the right to respect for his private and family life, his home and his correspondence; and Article 1 of Protocol 1 which provides that every legal or natural person is entitled to the peaceful enjoyment of his possessions and that no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. These are not unqualified rights. For example, the second paragraph of Article 8 provides that there shall be no interference by a public authority with the exercise of the right except in accordance with the law and where this is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health and morals or for the protection of rights and freedoms of others. Article 1, Protocol 1 is similarly qualified in that it enables the State to enforce such laws as it deems necessary to control the use of property in the public interest.

2.9.3. There have been a number of cases in which it was argued that the planning system was incompatible with Article 6 of the Convention as the right of appeal to the courts was restricted to review on a point of law and planning inspectors/reporters could not be regarded as an 'independent and impartial tribunal' for the purposes of Article 6. In particular, these issues were discussed in two cases before the European Court of Human Rights in Strasbourg: *Bryan v United Kingdom* and *Chapman v United Kingdom*; and in the UK courts in *Alconbury and County*

*Properties*. In *Bryan* the applicant argued that her Convention rights had been infringed by the refusal of her appeal against an enforcement notice requiring her to demolish buildings that had been erected without planning permission. The applicant argued that the restriction of her right to appeal to the courts to a point of law was incompatible with Article 6. The Court was satisfied that the procedures before an inspector ensured the applicant had a ‘fair hearing’ for the purpose of Article 6. The key issue was whether the inspector constituted an ‘independent and impartial tribunal’. The Court noted the quasi-judicial nature of the role and that the inspector was bound to determine the appeal in an independent and impartial, as well as fair, manner. However, the existence of the power to recall an appeal meant that the inspector could not be seen to have the requisite degree of independence. For this reason alone the inspector could not be regarded as an ‘independent and impartial tribunal’. However, the Court concluded that the right of appeal to the courts was sufficient notwithstanding their limited ability to review findings of fact made by the inspector. In doing so it relied upon the safeguards built into the proceedings before the inspector: the quasi-judicial character of the decision making process; the duty to exercise independent judgment; the requirement that inspectors must not be subject to any improper influence; and the mission statement of the Inspectorate to uphold the principles of openness, fairness and impartiality. In the present case there was no dispute as to the primary facts, nor any challenge in the High Court to the factual inferences drawn by the inspector. The issues on appeal were primarily concerned with matters of policy.

2.9.4. In the *Chapman* case the Court noted that in the specialised area of town-planning law full review of the facts may not be required by Article 6 of the Convention. The right of appeal to the courts enabled a decision to be challenged on the basis that it was perverse, irrational, had no basis on the evidence or had been made with reference to irrelevant factors or without regard to relevant factors. This afforded adequate judicial control of the administrative decisions in issue.

2.9.5. *Alconbury and County Properties* were concerned with the compatibility with Article 6 of the procedure for dealing with applications for planning or listed building consent which are called in by the Secretary of State or by Scottish Ministers, particularly where the government may have an interest in the case. The House of Lords in *Alconbury* and the Court of Session in *County Properties* concluded that they were. The judgments were based partly on the safeguards built into proceedings before inspectors/reporters referred to by the Court in *Bryan*. Other judges placed more reliance on the fact that planning decisions are primarily concerned with issues of policy.

2.9.6. The judgments in these cases establish that the statutory procedure for dealing with applications that are called in, and for determining planning appeals, is compatible with Article 6. However, they may be relevant to the choice of procedure in an appeal, particularly enforcement appeals where there may be conflicts of evidence on matters that are crucial to the determination of the appeal and where the factual dispute can only be resolved by oral evidence and the testing of each party’s evidence through probing questions put by the reporter at a hearing or by cross examination at an inquiry session. Factual conclusions made by reporters in the context of an enforcement appeal are particularly important as the matters set out in an enforcement notice that is upheld cannot be challenged in a subsequent

prosecution for failing to comply with the notice. Article 6 and the common law principles of natural justice may also point to an oral process where, for example, one of the parties has difficulty in reading or writing and would find it easier to put their case in person rather than by way of written submissions.

2.9.7. Convention rights may also come into play in determining the merits of an appeal. In the *Chapman* case the applicant, who was a Gypsy, argued that the enforcement action taken against her in relation to the occupation of caravans on a site which did not have planning permission was contrary to Articles 6, 8, and Article 1 of Protocol 1. The Court observed that it was necessary for the planning authority to weigh the development plan policies against the needs of the applicant and to have regard to the guidance on Gypsy sites and the provision of facilities for travellers made by the local authority. It was accepted that the enforcement regime amounted to an interference with the applicant's rights under Article 8. There was, however, a legitimate aim, being the protection of the rights of others through protecting the environment. Whether the particular interference was necessary in a democratic society was a matter of planning judgment. The Court indicated that a judgment by the national authorities that there are legitimate planning objections to the use of a site is not one which the European Court is well equipped to challenge. The inspector had visited the site, heard arguments on all sides and allowed the examination of witnesses. He was better placed to weigh the arguments than the Court. In so concluding the Court emphasised the importance of the procedural safeguards available to the individual. The Court went on to observe that the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases. The availability of suitable alternative accommodation is a relevant factor to be considered by the authorities, as are the personal and financial circumstances of the person against whom enforcement action is being taken. On this ground of challenge the Court said that the applicant had been given an opportunity to put her case and that the planning authorities had reached their decisions after weighing in the balance the various competing interests. It accordingly concluded that there had been no violation of Article 8. The court adopted the same reasoning in rejecting the challenge on Article 1, Protocol 1, concluding that the interference with the applicant's property rights was proportionate and struck a fair balance between the individual and general interest.<sup>1</sup>

2.9.8. Convention rights have been advanced in a number of other cases. For example, in *Lough v First Secretary of State* [2004] 1 W.L.R. 2557, a residents association objected to an application for planning permission for the development of a 20 storey building, dwellings, shops and restaurants on grounds including loss of privacy, overlooking, loss of light and a view, and interference with television reception. In an appeal before the inspector they argued that the proposals would interfere with their rights under Articles 6, 8 and Article 1 of Protocol 1 of the Convention. The Court of Appeal held that Article 8 required respect for the home

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<sup>1</sup> On this issue see also *Chichester DC v First Secretary of State* [2005] J.P.L. 1029 and *Wychavon DC v S of S CLG* [2008] EWCA Civ 692.

but did not create an absolute right to amenities currently enjoyed. Its role had to be seen in the context of competing rights including the rights of landowners and the community as a whole. National authorities enjoyed a wide margin of appreciation in striking a fair balance between competing interests. The court was not persuaded that domestic law in general or the planning process followed in the cases failed to have regard to the Article 8 rights of neighbours. The inspector had struck a fair balance that was entirely consistent with the requirements of Article 8. The potential loss of value caused by neighbouring developments is not a separate or independent basis for alleging a breach of the Convention rights involved.

2.9.9. In *R (oao Gosbee) v First Secretary of State* [2003] J.P.L. 1467 the applicant sought removal of a condition imposed on an earlier permission which required the demolition of his bungalow within one week of a new dwelling on the site being available for occupation. The applicant had sold the plot with the permission to construct the new dwelling and continued to reside in the bungalow. He argued that compliance with the condition would amount to an unjustified interference with his right to respect for his home contrary to Article 8. The inspector rejected this argument. The court noted that the inspector had concluded that the condition was the least intrusive interference to achieve the policy aim of one for one replacement. In the circumstances, important environmental interests outweighed the applicant's rights under Article 8.

2.9.10. In *R(oao Brennan) v Bromsgrove DC* [2003] J.P.L. 1444 the applicant argued that the making of a tree preservation order interfered with the peaceful enjoyment of his possessions contrary to Article 1 of Protocol 1. The court held that the statutory regime was necessary to protect the interests of the community.

2.9.11. In *R(oao Vetterlein) v Hampshire CC* [2002] J.P.L. 289 the court refused an application for judicial review of a decision by a planning authority to grant planning permission for an energy recovery facility and waste transfer station. It rejected the argument that the grant of planning permission breached local residents' right to respect for private and family life, holding that their rights under Article 8 were not engaged as their concern about increase in pollution levels was only a general environmental concern. It has been established in other cases that severe environmental pollution may amount to a breach of Article 8 (see *Lopez Ostra v Spain* (A/303-C)(1995) 20 E.H.R.R. 277 and *Guerra v Italy* (1998) 26 E.H.R.R. 357). Even if that threshold is crossed interference may be justified under Article 8(2).

2.9.12 In *Richard Butler v Derby Council* [2005] EWHC 2835 (Admin) the appellant was convicted of the offence of displaying an advertisement without the consent of the planning authority. The advertisement in question was a banner on his house, which was within a conservation area, protesting about the council's proposals for a new road scheme. As well as a slogan it contained contact details for the campaign. On appeal the court rejected the appellant's argument that the banner was not an advertisement. The appellant also argued that the proceedings against him amounted to an unlawful interference with his right to freedom of expression under Article 10 of the Convention. The court rejected the argument that the regulatory regime controlling advertisements restricted the appellant's rights. The appellant was free to express his views in a number of different ways. If,

however, he chose to do so by way of advertisement there was no breach of Article 10 in his being required to obtain the necessary consent.

2.9.13. Guidance given by DCLG in relation to CPOs states that an order should only be made where there is a compelling case in the public interest. An acquiring authority should be sure that the purposes for which it is making a CPO sufficiently justify interfering with the human rights of those with an interest in the land affected and that regard should be had to Article 1 of Protocol 1 and, in the case of a dwelling, to Article 8. The Scottish Government has published a consultation on draft guidance on the use of compulsory purchase powers <http://www.scotland.gov.uk/341578> which discusses the need for justification of the use of powers of compulsory purchase at paragraphs 12 to 15.

2.9.14. These cases demonstrate the broad range of appeals in which human rights arguments may arise. The rights that are likely to be encountered in the planning process are not unqualified and generally involve a balance between the rights of the individual and the wider public interest, the sort of judgment that commonly arises in making planning decisions. In cases where it is argued that the regulatory regime constitutes an unjustified interference with Convention rights (e.g. the regime for control of advertisements) it may be sufficient to note that the system itself allows for the balancing of competing interests. In other cases, particularly enforcement cases where Article 8 is engaged it may be necessary to have express regard to the appellant's personal circumstances and to weigh these against the relevant planning policies. In these cases it would be advisable to set out your reasoning on the ECHR arguments in your decision notice.

## **2.10     Government Planning Policy**

2.10.1 Statements of Scottish Government policy are contained within the National Planning Framework, Scottish Planning Policy, Designing Places, Designing Streets and current government circulars. It should be noted that in relation to national developments, section 25 has been modified to refer to the National Planning Framework, subject to certain limitations and therefore may be part of the statutory test. Otherwise, statements of Scottish Government policy will be material considerations. However, the expectation is that development plans will be prepared to take into account Scottish Government planning policy. You will therefore need to be familiar with the contents of the National Planning Framework and Scottish Planning Policy.

2.10.2 "Designing Places" and "Designing Streets" provide a combination of policy and technical design advice. They have been published in the context of the Scottish Government's overall policy that the quality of design is a material consideration in the determination of planning applications.

2.10.3 Circulars are frequently issued in conjunction with new legislation and so are often helpful guides in explaining the legislative intent. They often contain policy advice. Sometimes circulars are published to address particular issues. In these cases, the policy content will be greater. A circular of particular note for planning

casework is 4/1998 relating to planning conditions. If allowing an appeal, any planning conditions should comply with the terms of circular 4/1998. It should not be automatically assumed that the suggested list of conditions prepared by the planning authority complies with the terms of the circular. This issue is discussed in more detail in Chapter 9 of the 2007 version of the handbook.

2.10.4 Other circulars that will regularly be referred to include:

- 1/2010 Planning Agreements
- 6/2009 Planning Appeals
- 1/2009 Development Planning
- 10/2009 Planning Enforcement
- 8/2007 Environmental Impact Assessment Regulations

2.10.5 It should be noted that some circulars are long standing. Any current circulars published before 1995 will not be available on the web but are printed in the Scottish Planning Encyclopaedia.

2.10.6 In relation to listed building and associated casework, the Scottish Historic Environment Policy contains statements of ministerial policy and these will therefore be a material consideration.

2.10.7 For non-planning casework, Government policy will most frequently be expressed in circulars but there are also other statements of Scottish Government Policy published and therefore relevant. Scottish Government policies in relation to non-planning casework are not organised as systematically as for planning matters. In the first instance, you should check the environmental appeals section on the SharePoint site to see if there are any references to Ministerial policy relevant to your particular case.

2.10.8 The Scottish Government will be continuously reviewing and formulating its policy position and so keeping up with any changes will be an important part of your preparation for casework. As referred to in paragraph 2.2.5, you should make sure that you are registered with the Directorate for the Built Environment's alert service.

## **2.11 Technical Advice**

2.11.1 Aside from statements of Scottish Government policy there are also numerous documents published by the Scottish Government, its agencies or other similar bodies providing technical advice and examples of good practice. An obvious example for planning related cases is the Planning Advice Note series (PANs). PANs cover a variety of planning related topics and are available on the Scottish Government's website. The intention is to reduce the number of PANs and a number of the original series have been revoked.

2.11.2 In environmental appeals, SEPA has produced a number of advice notes and technical guidance. It will be important to differentiate between the policy intention of the legislation, Scottish Government policy and SEPA's own policy approaches to particular issues. The UK government and EU also produce technical guidance on the Best Available Techniques in relation to Pollution Prevention and Control (PPC) appeals.

## **12. HOUSEKEEPING**

This part of the handbook covers a variety of miscellaneous matters, mainly concerned with ancillary housekeeping.

### **Training and continuing professional development**

12.1 DPEA has a Staff Development and Training Strategy.

12.2 All new full time Reporters are expected to:-

- become familiar with the contents of this handbook;
- hold copies of key statutes, guidance and internal advice notes;
- become familiar with the key sections of the 1997 Acts, and other relevant primary legislation as required; with the key subordinate legislation; and with Scottish Government planning policies, in the form of circulars and guidelines and the planning guidance contained in the PAN series (see chapters 2 and 3).
- be issued with a networked computer;
- receive instruction on SCOTS and word processing;
- sit in on a public local inquiry conducted by a more experienced Reporter.

12.3 The same provisions apply to new self employed Reporters, except for the items relating to word processing. New Reporters will join Sub Group 1, which acts as a training group, and will be allocated a mentor to provide advice on cases and procedures but not to act as a line manager.

12.4 Initial casework is likely to be programmes of fairly simple site inspection cases, following on to simple public inquiries. During the training period Reporters should always study their casework files well before the site inspection or inquiry, and discuss the probable issues and "shopping list" of required information with their Sub Group Leader or mentor before the event takes place. Decision letters and reports should be seen in draft form by their mentor, or the Sub Group Leader before finalisation. Depending on progress, this procedure may be continued for up to 6 months, but with a progressive reduction in consultations.

12.5 Thereafter continuing training and professional development will consist of watching more experienced Reporters taking charge of an inquiry, presentations and discussions at Reporters' seminars, and periodical discussions of issues with the Sub Group Leader, and the Chief or Deputy. Full time Reporters are expected to attend appropriate training courses, seminars, and conferences, up to about 5 days per year, to improve their specific skills and update their professional background. It is normally possible to attend the RTPI Summer School every 5 years or so. Taken together with the monthly seminar programme, it is anticipated that these measures will be sufficient to keep Reporters abreast of relevant professional expertise and to meet the CPD requirements of the Royal Town Planning Institute.

12.6 Full time Reporters, like all other Scottish Government staff, are subject to an annual performance review.

## Casework programming

12.7 As public servants it is incumbent on all Reporters to ensure that they carry out their duties efficiently and effectively. Guidelines on casework time allocations are issued from time to time which provide a very general indication of the time it is expected that Reporters will take (see table below).

12.8 Some cases may take longer, but many of the simpler ones will take much less, giving time for a certain amount of reading in, checking, etc. It is recognised that complex cases will exceed these guidelines, and that specific time may have to be set aside for reading in where there are numerous or lengthy documents to be scanned. Time should be earmarked for this where necessary, and for items such as training courses, conferences, and Reporters' meetings.

12.9 These guidelines also apply to the work of the self employed Reporters, except that they are paid on a piecework basis for delegated written submissions appeal cases. Each self employed Reporter is asked to indicate how many days they would hope to work for DPEA in an average month. Programming aims to achieve this target, although large inquiry cases can cause fluctuations. Self employed Reporters are asked not to accept new work unless they are up to date with previous commitments; to aim to deliver results on the basis of the guidelines and their own monthly commitment (or sooner); and to let the Head of Administration know if they wish a respite from further work, either for reasons of overloading or other priorities.

12.10 The onus is on the Reporter as decision taker to ensure that the target is met wherever possible, by effective management of their caseload. However, Reporters should keep to the chronological order as far as possible.

12.11 Work is allocated to Reporters on the basis that decision letters will be written within 4-6 weeks of the site inspection or inquiry, except where the sheer size of the case prevents this. To keep track of delayed cases, and the reasons, all Reporters should ensure that their progress return is promptly completed.

12.12 Prompt delivery of decision letters and reports by Reporters makes an important contribution to achieving our published performance targets (see paragraphs 1.12 and 1.13 in chapter 1). However, Reporters are not expected to work excessive hours to achieve the performance targets, unless there is some special urgency. Where cases take significantly longer than anticipated, this should be noted on the progress return and the reasons for it discussed with the Sub Group Leader.

12.13 Casework administrators approach Reporters to make arrangements for the site inspections or inquiries. They will be responding to the Reporter's known availability based on progress returns and discussion with Sub Group Leaders. However if the Reporter considers that the further work would be inappropriate, the matter should be taken up with the Sub Group Leader.

12.14 Reporters are asked to notify their leave intentions to the office. It is helpful if as much notice as possible can be given of future leave proposals in order to assist with casework allocation.

## Time allocations for casework programming

Written submissions other than advertisement cases (days)									
Duration of SV	Delegated PPA/LBA/CAC			Delegated ENA and LBE			succinct decisions		
	prep	write	total	prep	write	total	prep	Write	total
0.25	0.25	1.00	1.50	0.50	1.25	2.00	0.25	0.5	1.00
<b>NB (1)</b> These figures apply only to single cases. Where you are dealing with a combined case (eg PPA/LBA or ENA/LBE, you may need to add a further 0.50 days to the writing time (which allows also for an additional element of preparation time). <b>(2)</b> When you also have to address a WS claim for expenses, you may need to add a further 0.50 days.									
Written submissions: ADAs and ADEs (days) and reports									
Duration of SV	ADAs			ADEs			Reports (all types)		
	prep	write	total	prep	write	total	Prep	Write	total
0.25	0.25	0.50	1.00	0.25	0.75	1.25	0.25	1.00	1.50
<b>NB (1)</b> When you are dealing with a combined ADA/ADE you may need to add a further 0.50 days to the writing time (which includes an additional element of preparation time). <b>(2)</b> When you also have to address an ADA or ADE claim for expenses, you may need to add a further 0.50 days.									
PLI cases (days)									
Duration of PLI	Delegated PPA/LBA/CAC/ENA/LBE			Duration of PLI	Report (all types)				
	preparation	write	total		preparation	write	total		
1.00	1.00	2.00	400	1.00	1.00	3.00	5.00		
2.00	1.50	3.50	7.00	2.00	1.50	6.00	9.50		
3.00	2.00	5.00	10.00	3.00	2.00	9.00	14.00		
4.00	2.00	6.50	12.50	4.00	2.00	11.50	17.50		
5.00	2.50	8.00	15.50	5.00	2.50	14.00	21.50		
6.00	2.50	9.50	18.00	6.00	2.50	16.50	25.00		
7.00	3.00	11.00	21.00	7.00	3.00	19.00	30.00		
8.00	3.00	12.50	23.50	8.00	3.50	21.50	32.50		
9.00	3.50	14.00	26.50	9.00	3.50	23.50	36.00		
10.00	3.50	15.50	29.00	10.00	3.50	25.50	39.00		
11.00	For longer cases of this type a judgement would have to be made in consultation with management.			11.00	4.00	27.50	42.50		
12.00				12.00	4.00	29.50	45.50		
13.00				13.00	4.50	31.50	49.00		
14.00				14.00	4.50	33.50	52.00		
15.00				15.00	5.00	35.50	55.50		
16.00				16.00	5.00	37.00	58.00		
17.00				17.00	5.50	38.50	61.00		
18.00				18.00	5.50	40.00	63.50		
19.00				19.00	6.00	41.50	66.50		
20.00				20.00	6.00	43.00	69.00		
21.00				21.00	6.50	44.00	71.50		
22.00				22.00	6.50	45.00	73.50		
23.00				23.00	7.00	46.00	76.00		
24.00				24.00	7.00	47.00	78.00		
25.00				25.00	7.50	48.00	80.50		
26.00				26.00	7.50	49.00	82.50		
27.00				27.00	8.00	50.00	85.00		
28.00				28.00	8.00	51.00	87.00		
29.00				29.00	8.50	52.00	89.50		
30.00				30.00	8.50	53.00	91.50		
<b>NB (1)</b> Where a pre-inquiry meeting is held, you may need up to a further 2 days for preparation (this includes attendance at the pre-inquiry meeting). <b>(2)</b> For call-in report cases where there is no main party opposition and you will be doing the bulk of the questioning: add a further 1 day of preparation time for a 1-2 day PLI; 2 additional days preparation time for a 3-10 day PLI; and 3 additional days for a PLI in excess of 10 days. <b>(3)</b> When you also have to address a claim for expenses, add a further 0.50 days.									

## **Professional Indemnity Insurance**

12.15 Reporters (full time or self employed) employed on work for the Scottish Government have no need to have PII for this work. The same practice applies in the Planning Inspectorate.

12.16 We work on the basis that the Scottish Government will provide legal representation for any Reporter who is sued for damages as a result of actions carried out in the course of work for the Government, or if you are defamed in your official capacity, provided that you do not refuse to agree to be represented by SG; do not refuse to instruct the SG legal representative; and have not acted outwith the course of your employment. Any damages or liability for the other side's expenses will also be met from public funds. The letter inviting self employed Reporters to join the panel already contains an assurance on these lines.

12.17 We consider that local authorities and any other non-governmental clients who employ Reporters (full time or self employed) should provide the same level of protection. If you are involved in such a new appointment, or a new area of casework, please ensure that the appropriate text is included in any letter offering your services.

12.18 Reporters should not undertake any other planning consultancy work in Scotland that could come into conflict with the work that they do as a Reporter. If any Reporter undertakes consultancy elsewhere for which PII may be necessary, that is a matter for you and the institute. Please ensure that you inform either the Chief Reporter or Deputy Chief Reporter of any such activities, to ensure that your position as a Reporter is not compromised.

## **Travel and accommodation**

12.19 The detailed rules governing travel and subsistence are published and regularly updated on the intranet. There is a general requirement that all work and travel arrangements should be made in a manner that minimises the costs to the service. Reporters should therefore arrange their work programmes with this objective in mind, seeking efficient timetabling of site inspections and inquiry sessions, and considering the most economical combination of travel mode and overnight stays.

12.20 In practice, the dispersed destinations for rural site visits and the cost of staff time spent travelling means that a great deal of our work has to be done by car. For work programmes involving distances in excess of about 100 miles per day, it is more economical for Reporters living within 20 miles of a depot to use a hire car. These are delivered to the house and collected free of charge within this distance, and **must** be left with a full tank at the end of the hire, as a surcharge is made on fuel that they supply to refill tanks. Hire cars can also be used in conjunction with train, ferry and air travel, with the destination station or guest house being the collection point, provided that it is within 20 miles of a depot. Bookings for hire cars by full time reporters must be made through the office, as must any air travel.

12.21 For shorter journeys and longer public inquiries where there is little daily travel, it may be more economical for the Reporter to use a private car. Trains and taxis sometimes make a good combination for a programme of urban site visits.

12.22 The question of when to stay away from home is a matter for the Reporter's judgement. For a multi-day inquiry, it is in theory more economical to travel home for the night and return in the morning for distances of up to well over 50 miles. In practice, driving 100 miles per day on top of running an

inquiry can impose an unacceptable strain on the Reporter, especially if driving conditions are difficult. Thus, especially in winter, the Reporter would be well advised to give serious consideration to staying away if a journey of an hour or more each way is involved. It also makes sense to travel to the venue of an inquiry on the previous day, perhaps taking in site inspections en route, to allow plenty of time to view the site, find the venue, and make sure that all is in order on the morning of the inquiry. Similarly at the end of a very long day of inquiry, it may be inadvisable to undertake a long drive home.

12.23 Travel and subsistence expenses are claimed in accordance with the rules set out in the Scottish Government Staff Handbook and in Guidance on SCOTS. Subsistence is payable in excess of 5 hours, with a higher rate for absences in excess of 10 hours. Where an overnight stay is necessary, the subsistence allowance covers a period of 24 hours. Expenses should be claimed regularly and at least every month. The Reporter must complete the claim form in full. In early March Reporters should ensure that they have claimed expenses due for the preceding financial year.

12.24 Reporters' expenses for local plan inquiries, including day fees, travel, and subsistence, are paid by the planning authority. Thus a record of time taken should be kept for all work in connection with such an inquiry. For full time Reporters, the final itemised bill is submitted to the authority by the casework administrator. Self employed Reporters submit their own bills directly to the council.

12.25 Costs are also recouped on various other types of case, notably compulsory purchase orders and work for other government departments outwith the Scottish Government. Thus a note of time used and expenses incurred should be kept for these types of case.

### **Word-processing**

12.26 Reporters produce their own decision letters in final form, which they print on their printers using vanilla-coloured paper (reports should be on white paper). The signed master copy is then passed to the casework administrator for copying and distribution. Back up copies of all documents should be made for retention until issue.

12.27 Each self employed Reporter is expected to supply their own PC based word processor and are required to use Microsoft Word software.

12.28 Reports are signed by the Reporter. The casework administrator then makes arrangements for copying and binding. The master copy is sent with the file to the client division. The contents of the report are confidential to the client division until they decide to release it.

### **The Scottish Government IT policy**

12.29 The policy applies both to full-time Reporters hooked up to the SCOTS network and is also relevant to some extent to self employed Reporters who submit documents in electronic form, either by floppy disk or internet transfer, whether generated on their own PC or lap-top loaned by the Department.

12.30 The IT Code of Conduct is found on the Intranet. Reporters are expected to be familiar with, and must follow, that code.

12.31 There are a number of principles which are central to the policy and code:

- unauthorised software must not be loaded because only authorised software (i.e. given to you by the Scottish Government) has been tested and validated for use on the SCOTS network
- besides the risk of introducing virus, unauthorised software, even software produced by Microsoft, has caused the network to crash and has rendered individual PCs inoperable
- limited personal use of the Internet is permitted.
- no-one may register their E-mail address on a bulletin board without prior clearance
- individuals surfing the net have already caused serious disruption to the system, disciplinary action has been taken against them
- the use of unauthorised software and the use of the Internet for private purposes involve disciplinary offences
- action will be taken against the individuals involved, and their line managers, where their negligence is held to have facilitated the misuse
- the penalty may include summary dismissal
- the decision to take disciplinary action lies with Personnel, not the Directorate.

### **Data Protection and e-mails**

12.32 Personal data contained in e-mails is subject to the provisions of the Data Protection Act 1998. The Act defines "**personal data**" as information about a living individual who can be identified from that information, or from that and other information that the data controller. When you hold the information in electronic form you represent, for the purposes of the Act, the data controller, which is the Scottish Government.

12.33 The fifth data protection principle of the Data Protection Act 1998 states that personal data processed for any purpose or purposes shall not be kept for longer than is necessary for the purpose for which it is held. In general, e-mails containing personal data should **not** be held for longer than required and care should be taken not to unlawfully disclose such information when sending an e-mail outwith the Scottish Government. In addition the seventh data protection principle places upon the data controller (The Scottish Government) responsibility for ensuring that personal data is securely held and that there is no unauthorised or unlawful processing of such data. If personal data is indiscriminately held in e-mails there is a danger given the less formal nature of this electronic medium that personal data could be processed in contravention of the provisions of the Act. We should:

- Regularly review all e-mails containing personal data: Do **not** hold or retain such e-mails if there is no need or purpose for holding or retaining the data;
- If there is a need for the information to be held or retained print off and delete the e-mail and place the copy in a paper file;
- Be careful when sending e-mails outwith the Scottish Government not to unlawfully disclose personal data.

12.34 Never put in an email comments or information that may be misconstrued if read by someone other than the intended recipient.

### **Record Management Policy**

12.35 It is the Government's policy that electronic documents that **would** have been placed in a paper file had they been received or created in paper form should continue to be placed in such a file. If it is necessary therefore to retain personal data held in e-mails the message should be printed off, deleted and the paper copy placed in a paper file. (Paragraph 3.6 of the *Records Management*

*Manual*). This means that we are unable to hold, for the meantime, inquiry documents solely in electronic form.

## Freedom of Information

12.36 The Freedom of Information (Scotland) Act 2003 and the Environmental Information (Scotland) Regulations came into effect on 1 January 2005. Reporters' work may be covered by either FOISA or EIR, but all reporters should be aware of the requirements of both regulatory frameworks as they affect their work. Detailed guidance is available on the Intranet, and in paper form from the office.

## Office answering machine

12.37 The answering machine operates outside working hours. This enables Reporters to leave any **urgent** messages or requests with the office when the need arises after normal close of business and when the Reporter has no access to e-mail e.g. when at inquiry or away overnight on site visits. In the normal course of events, Reporters should, of course, continue to get in touch with the appropriate case officer during normal office hours. When leaving a message, please give both the date and time and a contact telephone number where possible, and also identify to whom your request should be addressed.

## Miscellaneous matters

12.38 Full time Reporters are supplied with a fax machine served by a dedicated telephone line for Scottish Government use. The telephone bill (fully itemised) is paid by the DPEA budget. It is subject to audit.

12.39 A stock of Ordnance Survey maps (1:50,000) is held in the office, together with an extensive collection of town street plans. Please return them promptly. **Only mark the maps in pencil**, and rub those marks out when they are no longer required. F/T Reporters are now able to view and interrogate digital maps directly from SCOTs terminals. Cameras are supplied to full time reporters to help as an aide- memoire at site visits. There is also a tape measure that can be borrowed.

12.40 The Scottish Government has a library where statutes, journals, and books can be borrowed. Appeal parties should supply approved structure plans and adopted local plans as necessary. Where this does not happen, the document can usually be consulted by contacting the appropriate territorial liaison officer in Planning Directorate. Many planning authorities now have the development plan available on their website.

12.41 Reporters are asked to take care of file documents, returning all loose items to their appropriate pouches and not writing on the documents except in pencil where necessary.

## **Proposal Details**

Proposal Name	100137438
Proposal Description	Residential development and associated works including landscaping, greenspace, parking, access arrangements and related infrastructure
Address	
Local Authority	Fife Council
Application Online Reference	100137438-001

## **Application Status**

Form	complete
Main Details	complete
Certificate of Ownership	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

## **Attachment Details**

Appeals against Refusals and other decisions	System	A4
C1 Planning Application Forms	Attached	A4
C2 Location Plan	Attached	A3
C3 Pre-Application Consultation Report	Attached	A4
C4 Design Statement 1 of 2	Attached	A3
C4 Design Statement 2 of 2	Attached	A3
C5 Indicative Development Framework Plan	Attached	A3
C6 Planning Statement	Attached	A4
C7 Landscape and Visual Appraisal 1 of 2	Attached	A3
C7 Landscape and Visual Appraisal 2 of 2	Attached	A3
C8 Transport Statement	Posted	A4
C9 Report on Railway Sound	Attached	A4
C10 Archaeological Desk-Based Assessment	Attached	A4
C11 Tree and Woodland Survey	Attached	A4
C12 Ecological Assessment	Attached	A4
C13 Engineering Assessment and	Attached	A4

Drainage Report		
C14 Initial Geological Mining and Environmental Appraisal	Posted	A4
C15 FC Housing and Neighbourhood Services Consultation	Attached	A4
C16 FC Environmental Health Consultation	Attached	A4
C17 SEPA Consultation	Attached	A4
C18 FC Harbours Floods and Coast Consultation	Attached	A4
C19 FC Natural Heritage Consultation	Attached	A4
C20 Scottish Water Consultation	Attached	A4
C21 FC Land and Air Quality Consultation	Attached	A4
C22 Aberdour Community Council Consultation	Attached	A4
C23 FC Urban Design Consultation	Attached	A4
C24 FC Transportation Consultation	Attached	A4
C25 Woodland Trust Consultation	Attached	A4
C26 FC Transportation Further Consultation	Posted	A4
C27 Network Rail Consultation	Attached	A4
C28 Response to Public Comments	Attached	A4
C28 Response to Public Comments Attachment	Attached	A3
C29 Letter to Case Officer	Attached	A4
C29 Letter to Case Officer Attachment 1	Attached	A4
C29 Letter to Case Officer Attachment 2	Attached	A4
C29 Letter to Case Officer Attachment 3	Attached	A4
C29 Letter to Case Officer Attachment 4	Posted	A3
C29 Letter to Case Officer Attachment 5	Attached	A4
C30 Strutt and Parker letter to Fife Council	Attached	A4
C31 Updated Indicative Development Framework	Attached	A3
C32 Updated Viewpoint Analysis	Posted	A3
C33 Economic Benefits Note 1 of 2	Attached	A4
C33 Economic Benefits Note 2 of 2	Attached	A4
C34 Committee Report	Attached	A4
C35 Decision Notice	Attached	A4

C36 Fife Housing Land Audit 2017	Attached	A4
C37 Fife Local Development Plan Examination Report	Attached	A4
Appeal Statement	Attached	A4
Appeal Document List	Attached	A4
Appeals_against_Refusals_and_oth- 2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Appeals against Refusals and other decisions-001.xml	Attached	A0