

**From:** [Redact  
**To:** [Redacte[

**Subject:** Sisting of NPF4 Policy 16 exceptional release appeals  
**Date:** 26 April 2023 13:31:22  
**Attachments:** [Redacted  
]  
**Importance:** High

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Colleagues,

Ministers have now recalled PPA-400-2147 for their own determination (direction attached for information). This is one of Robert's exceptional release housing cases in West Lothian. The case was selected for recall due to an opinion of senior counsel submitted in that case, which directly challenges the application of all elements of Policy 16 prior to adoption of 'new style' LDPs.

I have decided, and informed the Chief Planner and the Minister, that we ought now to sist all like cases pending a Ministerial decision in the recalled case. This is because we mustn't prejudice or otherwise undermine the ministerial decision by issuing related appeal decisions in advance of that. The decision also reflects the need to protect scarce public resource, which could quickly be consumed by further appeals to the Inner House.

Attached is a spreadsheet of live 10+ housing cases, with those that I'm aware of and currently think need to go into sist highlighted in orange. Could you all please check this for additions or deletions and let me know?

I include below suggested wording for issuing to affected parties. We should sist any case where an argument about exceptional release, based on the application or otherwise of Policy 16 is in contention, and where ongoing process has gone as far as it sensibly can pending the ministerial decision. Please do speak to me or an ACR about deciding which cases ought now go into sist, and any need to tweak the standard wording below to suit the specific circumstances of each case.

All best,

Scott

I am writing to advise you that Ministers have now recalled a residential development appeal in West Lothian (PPA-400-2147) for their own determination. Submissions in that case directly challenge the application of all elements of NPF4 Policy 16 prior to adoption of 'new style' LDPs. Ministers consider that this raises national issues in terms of the application of NPF4.

Recalling the appeal for Ministers' own determination will provide an opportunity for Ministers to set out, in their decision letter, more detail on how the policy should be applied.

DPEA currently has before it other appeals which will now need to be placed in sist pending the issue of the Ministerial decision in that case. This is because decisions by individual Reporters in those other cases mustn't prejudice or otherwise undermine the pending ministerial decision.

The Reporter in this case, in consultation with the Chief Reporter, has decided that this case will now be placed in sist pending issue of the Ministerial decision. Once that is issued, parties in this case will have the opportunity to comment on the Ministerial decision prior to determination of the appeal.

DPEA apologises for the unavoidable delay in this case. Please do not hesitate to contact me if any further information is required.

**Scott Ferrie**

Chief Reporter

Planning and Environmental Appeals Division (DPEA)

Scottish Government

Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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Case Ref	Lead Authority	Site Address	Case Detail	Case Status	case overview	Lead Reporter	Appellant company	target date	Intentions issued
PPA-400-2126	West Lothian Council	Clarendon Farm, Manse Road, Linlithgow, EH49 6QR	Failure Of The Planning Authority To Give A Decision On Planning Application 0328/P/21: Proposed Residential Development, Access, Open Space, Landscaping And Associated Works On Land At Clarendon Farm, Linlithgow.	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision/report is being finalised and will be issued as soon as possible.	Stephen Hall	Gladman Developments Ltd	02/03/2022	
PPA-250-2368	Fife Council	Land To The East Of Red Path Brae, Orchard Terrace, Kinghorn, KY3 9XP	Planning Permission In Principle For Residential Development, Including Affordable Housing, Access, Landscaping, Open Space And Associated Engineering Work On Land At Mid Mire, Kinghorn, Fife (Upto 140 Units)	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision/report is being finalised and will be issued as soon as possible.	Trudi Craggs	Gladman Developments Ltd	28/05/2022	
PPA-400-2136	West Lothian Council	Land East Of New Calder Mill Road, Mid Calder, EH53 0AJ	Residential Development (Of Approximately 125 Homes) With Associated Infrastructure, Landscaping And Engineering Works	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision/report is being finalised and will be issued as soon as possible.	Trudi Craggs	Robertson Homes Ltd	12/07/2022	
PPA-320-2161	North Lanarkshire Council	173 Mill Road, Shotts, ML7 5DD	Residential Development Of 61 Dwellinghouses (Including Changes To Levels)	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision/report is being finalised and will be issued as soon as possible.	Stephen Hall	Dean Cochrane	18/09/2022	
PPA-390-2082	Stirling Council	Land North West Of And At Burnside Works, Main Street, Thornhill, FK8 3PR	Employment And Residential Use (Approximately 70 Units) Including Affordable Housing	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Sinead Lynch	Inverdunning (Thornhill) Ltd	25/09/2022	
PPA-390-2083	Stirling Council	Land At Blairforkie Drive., Bridge Of Allan, Stirling, FK9 4PH	Erection Of 46 No. Dwellings Comprising 34 Private And 12 Affordable Dwellings With Associated Access And Landscaping	Allocated to reporter	<b>**Case Update – 16/03/2023**</b> The decision is being finalised and will be issued as soon as possible.	David Buylla	Allan Water Homes Ltd.	01/12/2022	
PPA-400-2147	West Lothian Council	Land North Of B792, Mossend, West Calder, EH55 8PU	Residential Development With Associated Infrastructure, Landscaping And Engineering Works.	Allocated to reporter	<b>**Case Update – 08/03/2023**</b> Inquiry and/or hearing sessions were held. Following receipt of the parties' closing submissions, the reporter will go on to determine the appeal.	Robert Seaton	Miller Homes Ltd	30/01/2023	
PPA-230-2387	City of Edinburgh Council	Land 131 Metres Southeast Of 119 Ferniehill Drive, Edinburgh, EH17 7DD	Residential Development (Up To 150 New Homes) And Associated Works	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Elsbeth Cook	Taylor Wimpey UK Limited and BL Chesser Limited	04/03/2023	
PPA-400-2131-1	West Lothian Council	Drumshoreland Garden Community Land North Of Old Clapperton Hall Cottages, East Calder, West Lothian, EH52 5PE	Planning Permission In Principle For A 108Ha Mixed Use Development Including Residential Development (Dwellings And Flatted - Upto 1800 Homes), Local Centre (Including Class 1, Class 2 And Class 3 Uses), Community Facilities (Including A Primary School), Ancillary Development, Public Open Space, And Associated Works And Infrastructure	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision is being finalised and will be issued as soon as possible.	Michael Shiel	Elan Homes (Scotland) Ltd	16/03/2023	
PPA-400-2132-1	West Lothian Council	Drumshoreland Garden Community Land North Of Old Clapperton Hall, East Calder, West Lothian, EH52 5PE	Planning Permission In Principle For A 58Ha Mixed Use Development Including Residential Development (Dwellings And Flatted - Upto 400 Units), Local Centre (Including Class 1, Class 2 And Class 3 Uses), Community Facilities, Public Open Space, And Associated Works And Infrastructure (Eia Development)	Allocated to reporter	<b>**Case Update – 07/03/2023**</b> The decision is being finalised and will be issued as soon as possible.	Michael Shiel	Elan Homes (Scotland) Ltd	16/03/2023	
PPA-400-2148	West Lothian Council	Land At Burnhouse Farm, Burnhouse, Dechmont, West Lothian, EH52 6NB	Planning Permission In Principle For A 12.3 Ha (Around 160 Homes) Residential Development With Associated Infrastructure, Landscaping And Engineering Works	Allocated to reporter	<b>**Case Update – 10/02/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Robert Seaton	Springfield Properties PLC	20/03/2023	
PPA-290-2067	Midlothian Council	Land At Junction Of Pentland Road And The A701, New Pentland, Midlothian, EH20 9NY	Proposed Mixed-Use Development Comprising Class 2, Class 8, Class 9, Class 10, Sui Generis (Mixed Use Of Retirement Flats And Assisted Living/Extra Care Flats), Affordable Housing And Associated Works. 3.78Ha. Retirement Flats For The Elderly Comprising An Indicative Capacity Of 42 Units.	Allocated to reporter	<b>**Case Update – 02/03/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Sue Bell	Pentland Park Marine Ltd	17/04/2023	

Case Ref	Lead Authority	Site Address	Case Detail	Case Status	case overview	Lead Reporter	Appellant company	target date	Intentions issued
PPA-260-2144	Glasgow City Council	Site At Beith Street/Castlebank Street, Glasgow, G11 6PU	Erection Of Residential Development With Ancillary Resident's Facilities, Access, Parking, Landscaping, Drainage, Engineering/Infrastructure Works.(424 Residential Units)	Notice of Intention Issued	<b>**Case Update – 05/01/2023**</b> The reporter is minded to grant permission subject to a legal agreement being reached. The final decision has therefore been deferred for the period detailed in the Notice of Intention to allow the conclusion of that agreement.	Rosie Leven	KR Developments Group Ltd	21/04/2023	05/01/2023
PPA-340-2151	Perth and Kinross Council	Land 70 Metres West Of Innerdownie, Crook Of Devon, KY13	Erection Of 10 Dwellinghouses, 6 Garages And Associated Works (Approval Of Matters Specified In Conditions Of 18/01855/lpl)	Allocated to reporter	<b>**Case Update – 02/02/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Andrew Fleming	Shand Architecture	24/04/2023	
PPA-230-2402	City of Edinburgh Council	24 & 25 Seafield Road East, Edinburgh, EH15 1ED	Residential Led Mixed-Use Including Classes 1, 2 And 4, Development With Associated Infrastructure.	Allocated to reporter	<b>**Case Update – 29/03/2023**</b> The decision/report is being finalised and will be issued as soon as possible.	Rob Huntley	Manse (Seafield) LLP and J. Smart & Co. (Contractors) PLC	11/05/2023	
PPA-120-2059-1	Angus Council	North East Of Garth Farm, Kirriemuir Road, Turfbeg West, Forfar, DD8 3FH	Proposed Erection Of 245 Dwelling Houses, Including 25% Affordable Homes With Associated, Roads, Drainage And Landscaping	Allocated to reporter		Robert Seaton	Guild Homes (Tayside) Limited	01/06/2023	
PPA-270-2265	Highland Council	Land 80M East Of Balvonie Cottage, Inshes, Inverness, IV2 5JZ	Residential Development (Up To 130 Houses) With Associated Infrastructure	Hold Expired	<b>**Case Update – 21/10/2022**</b> The reporter(s) is minded to grant permission subject to a legal agreement being reached. The final decision has therefore been deferred for the period detailed in the Notice of Intention to allow the conclusion of that agreement. Further written information has also been sought. Further details are available from the procedure notice on the case file.	Alison Kirkwood	Springfield Properties PLC	15/06/2023	21/10/2022
PPA-190-2088	East Ayrshire Council	Land Adjacent To Holm Farm, B7081 From Mote View To Gatehead, Crosshouse, KA2 0BQ	Proposed Residential Development Of 39 No. Detached And Semi-Detached Houses	Allocated to reporter	<b>**Case Update – 21/04/2023**</b> This appeal has been allocated to a reporter. The period for written submissions from members of the public has ended. The authority has provided its response to the appeal and the applicant is now entitled to comment. The reporter is looking at the documents and submissions, and will consider what, if any, further procedures are necessary in order to consider this appeal. Further details will be forthcoming in due course.	Andrew Fleming	Dawn Homes	15/06/2023	
PPA-300-2069	Moray Council	Land At Barhill Road, Buckie, AB56 5AF	Residential Development (Of Approximately 101 Homes) Including 1No Retail Unit And Landscaping And Associated Infrastructure	Notice of Intention Issued	<b>**Case Update – 06/03/2023**</b> The reporter is minded to grant permission subject to a legal agreement being reached. The final decision has therefore been deferred for the period detailed in the 2nd Notice of Intention to allow the conclusion of that agreement.	Trevor Croft	Springfield Properties PLC	16/06/2023	25/05/2022
PPA-340-2154	Perth and Kinross Council	Land 70 Metres East Of 3 Losset Park, Losset Road, Alyth, PH11 8BT	Erection Of 20 Dwellinghouses And Associated Works	Allocated to reporter	<b>**Case Update – 14/04/2023**</b> This appeal has been allocated to a reporter and a response from the authority is due on 24 April 2023. Interested members of the public are entitled to make representation. Any representations received by the deadline of 1 May 2023 will be passed to the planning authority and agent/appellant for their comments.	Lorna McCallum		26/06/2023	
PPA-230-2407	City of Edinburgh Council	Granton Harbour, West Harbour Road, Edinburgh, EH5	Mixed-Use Development Comprising Houses, Flats And Commercial Units; Surrounding Roads, Public Realm Areas And Infill Of Land (Plot 35A)	Allocated to reporter	<b>**Case Update – 04/04/2023**</b> Further written information has been sought. Further details are available from the procedure notice on the case file.	Philip McLean	Edinburgh Marina Holdings Ltd	27/06/2023	
PPA-210-2095	East Lothian Council	Land At Windygoul, Elphinstone Road, Tranent, East Lothian, EH33 2DT	Erection Of 171 Houses, 24 Flats, 14 Business Units (Class 4, 5, 6), 1 Retail Unit (Class 1), Restaurant (Class 3) / Bar (Sui Generis) And Associated Works	Not yet ready for allocation to reporter	<b>**Case Update – 18/04/2023**</b> The appeal has been registered and the planning authority have been asked for their response to the appeal. The period for interested members of the public to make representation ends on 16 May 2023. Any representations received by the deadline will be passed to the planning authority and agent for their comments.		Mactaggart & Mickel Homes Ltd	11/07/2023	

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**PLANNING APPEAL: RESIDENTIAL DEVELOPMENT WITH ASSOCIATED  
INFRASTRUCTURE, LANDSCAPING AND ENGINEERING WORKS, ON LAND  
NORTH OF B792, MOSSEND, WEST CALDER, WEST LOTHIAN (PPA-400-2147)**

**DIRECTION THAT APPEAL WILL BE DETERMINED BY THE SCOTTISH  
MINISTERS**

The Scottish Ministers, in exercise of the powers conferred on them by paragraph 3(1) of Schedule 4 to the Town and Country Planning (Scotland) Act 1997, hereby direct that they will determine the above-mentioned appeal instead of a person appointed by them.

Ministers have given this Direction as the appeal raises national issues in terms of the application of National Planning Framework 4. Ministers therefore recall the appeal for their own determination.

A copy of this Direction has been served on the appellant, the planning authority and any other parties as required by paragraph 3(2) of Schedule 4.

ELAINE RAMSAY  
26 April 2023

**From:** [David Henderson](#)  
**To:** [Redacted]  
**Subject:** Sist appeals  
**Date:** 26 April 2023 13:57:00

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Hi

A number of housing cases are about to be sisted.

You will get an instruction from the reporter re wording.

No letters should go out until Colin issues the recall direction to the main parties on a case he has – Colin will advise when ok to issues sist letters.

Happy to discuss.

David

**David Henderson**

Head of Performance and Administration  
Planning and Environmental Appeals Division (DPEA)  
Scottish Government

Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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Email: [Redacted]

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DPEA Twitter: [@DPEAScotland](https://twitter.com/DPEAScotland)



**From:** [Redact  
**To:** [Redacted]  
**Subject:** FOR INFORMATION ONLY - FW: Sisting of NPF4 Policy 16 exceptional release appeals  
**Date:** 26 April 2023 13:44:00  
**Attachments:** [Redacted  
[Redacted]  
[Redacted]  
**Importance:** High

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Hello,

Due to PPA-400-2147 being recalled, there is a possible wider impact on other cases as outlined in Scott's email content below – this therefore possibly impacts on:

PPA-400-2126 – Claire's case  
PPA-250-2368 – Christine's case  
[Redacted]

(I've added in who these cases belong to for ease)

These cases will be decided on for sists to be applied, Reporters will advise casework officers in due course, but thought it best that you are made aware of the reasons behind this, so that you can support the team going forward.

Many thanks,  
Lorna

**Lorna Dunn**

Section Manager  
Planning and Environmental Appeals Division (DPEA)  
Scottish Government

Postal Address: Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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DPEA Twitter: [@DPEAScotland](https://twitter.com/DPEAScotland)



Working a hybrid work pattern. Days of work: Monday to Thursday, Friday is my non-working

day.

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**From:** Scott Ferrie [Redacted]

**Sent:** 26 April 2023 13:31

**To:** [Redacted]

**Subject:** Sisting of NPF4 Policy 16 exceptional release appeals

**Importance:** High

Colleagues,

Ministers have now recalled PPA-400-2147 for their own determination (direction attached for information). This is one of Robert's exceptional release housing cases in West Lothian. The case was selected for recall due to an opinion of senior counsel submitted in that case, which directly challenges the application of all elements of Policy 16 prior to adoption of 'new style' LDPs.

I have decided, and informed the Chief Planner and the Minister, that we ought now to sist all like cases pending a Ministerial decision in the recalled case. This is because we mustn't prejudice or otherwise undermine the ministerial decision by issuing related appeal decisions in advance of that. The decision also reflects the need to protect scarce public resource, which could quickly be consumed by further appeals to the Inner House.

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DPEA apologises for the unavoidable delay in this case. Please do not hesitate to contact me if any further information is required.

**Scott Ferrie**

Chief Reporter  
Planning and Environmental Appeals Division (DPEA)  
Scottish Government

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of Scotland**



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**From:** [Redacted]  
**To:** [Redacted]  
**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]  
**Date:** 26 April 2023 16:46:00  
**Attachments:** [Redacted]  
]

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Hi Claire,

Further to this, Scott has now provided the form of words below to issue to parties. Please issue this to the council and the appellant in this case. And also place the case on sist for the time being.

I am writing to advise you that Ministers have now recalled a residential development appeal in West Lothian (PPA-400-2147) for their own determination. Submissions in that case directly challenge the application of all elements of NPF4 Policy 16 prior to adoption of 'new style' LDPs. Ministers consider that this raises national issues in terms of the application of NPF4.

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DPEA apologises for the unavoidable delay in this case. Please do not hesitate to contact me if any further information is required.

Many thanks

Steve

**Stephen Hall**

Reporter

Planning and Environmental Appeals Division (DPEA)

Scottish Government

Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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**From:** Claire Seidel [Redacted]

**Sent:** 25 April 2023 09:39

**To:** Stephen Hall [Redacted]

**Subject:** FW: PPA-400-2126 [BURGES-WORK.FID10277421]

Good morning Steve,

Please see email below regarding the ongoing appeal.  
I will await your instruction/ possible response you may be able to provide.

Kind Regards

Claire

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**From:** Chris Glendinning [Redacted]

**Sent:** 24 April 2023 08:48

**To:** Claire Seidel [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Hi Claire,

Are there any further developments with regard to the DPEA update on major housing appeals?

Kind regards,

Chris

---

**Chris Glendinning**

Solicitor

Burges Salmon LLP

[Redacted]

[www.burges-salmon.com](http://www.burges-salmon.com)



---

**From:** [Claire.Seidel@gov.scot](mailto:Claire.Seidel@gov.scot) [Redacted]

**Sent:** 13 April 2023 12:01

**To:** Chris Glendinning [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Caution: External Email

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Hello Chris,

I'm afraid that I am not in a position at this stage to provide any further information on the scope or content of the update.

Kind Regards

Claire

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**From:** Chris Glendinning [Redacted]

**Sent:** 12 April 2023 17:57

**To:** Seidel C (Claire) [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Noted, thanks Claire.

So that we can properly update our clients, I would be grateful if we could perhaps clarify a couple of points with you.

We are agents on a number of live housing appeals. I assume that the update relates to all "major" (as defined in the 2009 Regulations) housing appeals currently before the DPEA, and that no such appeals will be determined in advance of the update being issued?

I note also that the update is to be issued by the DPEA. It would be helpful to understand the scope of the update, and in particular if this relates solely to procedural matters and the timescales for decisions, or if it is intended to provide guidance on the approach to such appeals?

Kind regards,

Chris

---

**Chris Glendinning**

Solicitor

Burges Salmon LLP

[Redacted]

[www.burges-salmon.com](http://www.burges-salmon.com)



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**From:** [Claire.Seidel@gov.scot](mailto:Claire.Seidel@gov.scot) [Redacted]

**Sent:** 12 April 2023 12:09

**To:** Chris Glendinning [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Caution: External Email

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Good afternoon Chris,

I can confirm that the DPEA expects to be in a position to provide an update on the handling of major housing cases such as this over the next couple of weeks.

Many Thanks

Claire

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**From:** Chris Glendinning [Redacted]

**Sent:** 11 April 2023 08:44

**To:** Seidel C (Claire) [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Hi Claire,

Can you please advise as to whether there is any update regarding the Decision Notice for this appeal?

Kind regards,

Chris

---

**Chris Glendinning**

Solicitor

Burges Salmon LLP

[Redacted]

[www.burges-salmon.com](http://www.burges-salmon.com)



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**From:** [Claire.Seidel@gov.scot](mailto:Claire.Seidel@gov.scot) [Redacted]

**Sent:** 28 March 2023 16:38

**To:** Lynsey Reid [Redacted]

**Subject:** PPA-400-2126

Caution: External Email

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Afternoon Lynsey,

I can confirm that the reporter advised that a decision in this case should issued within the next couple of weeks.

Regards

**Claire Seidel**

Case Officer

Planning and Environmental Appeals Division (DPEA)

Scottish Government

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DPEA Twitter: [@DPEAScotland](https://twitter.com/DPEAScotland)



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**From:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: Sist appeals  
**Date:** 27 April 2023 08:48:34  
**Attachments:** [Redacted]

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Morning all,

Further to Lorna's e-mail this morning please use APP39a for issuing letters with the wording provided from the reporter.

Subject line – "Case on hold pending Ministers' decision on a housing case"

Please also change your case overview to – " Case currently on hold pending the outcome of a recalled residential development appeal in West Lothian (PPA-400-2147) that Ministers have now recalled for their own determination."

Any question please shout.

Thanks Emma

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**From:** Lorna Dunn [Redacted]

**Sent:** 27 April 2023 08:36

**To:** [Redacted]

**Subject:** RE: Sist appeals

Thank you Colin,

So, everyone else who has received instruction from Reporters re their cases going into SIST, should ensure that these letters are sent out today. Remember to put the SIST in for 3 months initially.

Many thanks,  
Lorna

**Lorna Dunn**

Section Manager

Planning and Environmental Appeals Division (DPEA)

Scottish Government

Postal Address: Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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Working a hybrid work pattern. Days of work: Monday to Thursday, Friday is my non-working day.

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**From:** Colin Bell [Redacted]  
**Sent:** 26 April 2023 16:41  
**To:** David Henderson [Redacted]

**Subject:** RE: Sist appeals

Hi

E-mails have been sent to the main and interested parties today. The 185 postal letters to interested parties have been printed but won't be posted till tomorrow.

Cheers

**COLIN BELL | CASE OFFICER**

Planning and Environmental Appeals Division, Scottish Government, Ground Floor,  
Hadrian House, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

Phone [Redacted]



Follow us on Twitter for Appeal and Decision Updates

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**From:** David Henderson [Redacted]  
**Sent:** 26 April 2023 13:57  
**To:** PLEA : Admin Section [Redacted]  
**Subject:** Sist appeals

Hi

A number of housing cases are about to be sisted.

You will get an instruction from the reporter re wording.

No letters should go out until Colin issues the recall direction to the main parties on a case he has – Colin will advise when ok to issues sist letters.

Happy to discuss.

David

**David Henderson**  
Head of Performance and Administration  
Planning and Environmental Appeals Division (DPEA)

Scottish Government

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**From:** [Scott Ferrie](#)  
**To:** [Redacted]  
**Subject:** RE: Sisting of NPF4 Policy 16 exceptional release appeals  
**Date:** 27 April 2023 15:10:00  
**Attachments:** [Redacted]

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Folks,

Further to yesterday's message and just following up on cases I've not heard back from you on, I've had a quick look at cases not yet identified for sist. From what I can see on CMS, I think the following need to go into sist:

PPA-320-2161	Steve
PPA-210-2095	Not yet allocated, sist when initial exchanges complete

I think the following cases are unlikely to go into sist:

PPA-340-2151	Andrew
PPA-230-2402	Rob
PPA-190-2088	Andrew
PPA-300-2069	Trevor

I'm not sure about the following case:

PPA-260-2144	Rosie
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Could you all confirm asap?

All best,

Scott

**Scott Ferrie**

Chief Reporter  
Planning and Environmental Appeals Division (DPEA)  
Scottish Government

Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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DPEA Twitter: [@DPEAScotland](https://twitter.com/DPEAScotland)



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**From:** Scott Ferrie  
**Sent:** 26 April 2023 13:31  
**To:** [Redacted]

**Subject:** Sisting of NPF4 Policy 16 exceptional release appeals  
**Importance:** High

Colleagues,

Ministers have now recalled PPA-400-2147 for their own determination (direction attached for information). This is one of Robert's exceptional release housing cases in West Lothian. The case was selected for recall due to an opinion of senior counsel submitted in that case, which directly challenges the application of all elements of Policy 16 prior to adoption of 'new style' LDPs.

I have decided, and informed the Chief Planner and the Minister, that we ought now to sist all like cases pending a Ministerial decision in the recalled case. This is because we mustn't prejudice or otherwise undermine the ministerial decision by issuing related appeal decisions in advance of that. The decision also reflects the need to protect scarce public resource, which could quickly be consumed by further appeals to the Inner House.

Attached is a spreadsheet of live 10+ housing cases, with those that I'm aware of and currently think need to go into sist highlighted in orange. Could you all please check this for additions or deletions and let me know?

I include below suggested wording for issuing to affected parties. We should sist any case where an argument about exceptional release, based on the application or otherwise of Policy 16 is in contention, and where ongoing process has gone as far as it sensibly can pending the ministerial decision. Please do speak to me or an ACR about deciding which cases ought now go into sist, and any need to tweak the standard wording below to suit the specific circumstances of each case.

All best,

Scott

I am writing to advise you that Ministers have now recalled a residential

development appeal in West Lothian (PPA-400-2147) for their own determination. Submissions in that case directly challenge the application of all elements of NPF4 Policy 16 prior to adoption of 'new style' LDPs. Ministers consider that this raises national issues in terms of the application of NPF4.

Recalling the appeal for Ministers' own determination will provide an opportunity for Ministers to set out, in their decision letter, more detail on how the policy should be applied.

DPEA currently has before it other appeals which will now need to be placed in sist pending the issue of the Ministerial decision in that case. This is because decisions by individual Reporters in those other cases mustn't prejudice or otherwise undermine the pending ministerial decision.

The Reporter in this case, in consultation with the Chief Reporter, has decided that this case will now be placed in sist pending issue of the Ministerial decision. Once that is issued, parties in this case will have the opportunity to comment on the Ministerial decision prior to determination of the appeal.

DPEA apologises for the unavoidable delay in this case. Please do not hesitate to contact me if any further information is required.

**Scott Ferrie**

Chief Reporter  
Planning and Environmental Appeals Division (DPEA)  
Scottish Government

Ground Floor, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR

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DPEA Twitter: [@DPEAScotland](https://twitter.com/DPEAScotland)



**From:** [Redacted]  
**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]  
**Date:** 12 April 2023 11:40:00  
**Attachments:** [Redacted]  
]

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Hi again Claire,

So we've just had that meeting. It looks likely that there will be a standard letter going out, perhaps next week, to all appellants in major housing cases, and possibly sisting these cases. In the meantime, please respond to say: The DPEA expects to be in a position to provide an update on the handling of major housing cases such as this over the next couple of weeks.

Thanks

Steve

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**From:** Seidel C (Claire) [Redacted]  
**Sent:** 12 April 2023 09:02  
**To:** Hall SM (Stephen) [Redacted]  
**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

That's no problem Steve.

Kind Regards

Claire

---

**From:** Hall SM (Stephen) [Redacted]  
**Sent:** 12 April 2023 08:57  
**To:** Seidel C (Claire) [Redacted]  
**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Morning Claire,

The decision is finished, and sitting as a draft on CMS. But Scott has instructed us not to release any cases where housing land supply is a factor until a line has been agreed on how to interpret the new NPF4. There is a meeting about this this morning, and I'll try and find out if there is a standard line we should be giving out to appellants waiting for their decisions. I'll get back to you later on this.

Steve

---

**From:** Seidel C (Claire) [Redacted]  
**Sent:** 12 April 2023 08:08  
**To:** Hall SM (Stephen) [Redacted]  
**Subject:** FW: PPA-400-2126 [BURGES-WORK.FID10277421]

Morning Steve,

Please see email below.

They have already been advised at the end of March it would take a couple of weeks.

I can see there's a decision in the documents however I haven't had notification to issue it as yet .

Let me know if you wish for me to respond to them.

Many Thanks

Claire

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**From:** Chris Glendinning [Redacted]

**Sent:** 11 April 2023 08:44

**To:** Seidel C (Claire) [Redacted]

**Subject:** RE: PPA-400-2126 [BURGES-WORK.FID10277421]

Hi Claire,

Can you please advise as to whether there is any update regarding the Decision Notice for this appeal?

Kind regards,

Chris

---

**Chris Glendinning**

Solicitor

Burges Salmon LLP

[Redacted]

[www.burges-salmon.com](http://www.burges-salmon.com)



---

**From:** [Redacted]

**Sent:** 28 March 2023 16:38

**To:** Lynsey Reid [Redacted]

**Subject:** PPA-400-2126

Caution: External Email

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Afternoon Lynsey,

I can confirm that the reporter advised that a decision in this case should issued within the next couple of weeks.

Regards

**Claire Seidel**

Case Officer

Planning and Environmental Appeals Division (DPEA)

Scottish Government

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