# 70

# ELECTRONIC PLANNING SERVICE DELIVERY

SCOTTISH EXECUTIVE
Development Department

**Planning Advice Note**

**PAN 70**

# Electronic Planning Service Delivery

**PLANNING SERIES:**

- **Scottish Planning Policies (SPPs)** provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.

- **Circulars** which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.

- **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in SPPs and Circulars may be material considerations to be taken into account in development plan preparation and development control.

Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP. The term SPP should be interpreted as including NPPGs.

Statements of Scottish Executive location-specific planning policy, for example the West Edinburgh Planning Framework, have the same status in decision making as SPPs.

**Contents**                                                           **Paragraph**

**INTRODUCTION**

1.      The purpose of this Planning Advice Note (PAN) is to identify how new technology can improve the delivery of the planning service. It sets out the online information and services that need to be provided by the Scottish Executive, planning authorities and other organisations responsible for the efficient operation of the planning system. This document will be of interest to anyone involved in delivering e-planning systems and those who regularly use them.

**21ˢᵗ CENTURY GOVERNMENT**

2.      Communities and businesses expect continuous improvement in the delivery of public services. This means providing choice, convenient access and efficiency. For many people the internet has become the first point of access to services and information, and its use is predicted to increase. The Scottish Executive is encouraging greater public access to the web and increased awareness of the benefits of getting online – see the digital inclusion strategy *Connecting Scotland's People*. It has also made a commitment that all public services that can feasibly be provided electronically should be available by 2005.

3.      In planning we are seeking wider and more effective public involvement, and must therefore make use of new technology to provide access to information and enable people to participate when and how it suits them. New technology can also increase the efficiency of business processes, improve performance and bring better use of resources. It supports more efficient service delivery by allowing local authorities to set up telephone contact centres to process and direct enquiries. Paper-based interaction should, however, be maintained for customers who prefer this approach.

**E-PLANNING BENEFITS**

*User Benefits*

4.      Placing planning information online gives people convenient access to information about the future development of their area and enables them to engage effectively with the planning process. It reduces the need for people to travel to their nearest planning office to view a document and minimises the risk of individuals using outdated information. Online planning information and services can also assist in quicker, more transparent and better decision making. It can save on printing and postage costs associated with submitting an application or commenting on a planning issue. These benefits have the potential to deliver greater satisfaction amongst users of the planning service.

*Planning Authority Benefits*

5.      Good use of information and communication technology (ICT) can increase operational efficiency and speed up administrative processes within planning

authorities, for example by reducing the number of general enquiries and minimising duplication of effort, such as the need to retype submitted information. The use of electronic documents reduces the need for file storage and can contribute to savings on accommodation costs. Additionally, online publication of planning documents saves on printing and distribution costs. When e-planning projects are well managed they can also improve staff morale and increase motivation. Some of these benefits may be immediate, while some will be longer term.

## E-PLANNING GROUP

6.      This PAN draws on the work of the e-Planning Group. The group was formed by the Scottish Executive and planning authorities in 2001. It meets regularly to exchange information on e-planning progress and good practice, resolve common problems and explore software and service options. The group aims to:

- help coordinate the use of new technology in planning service delivery;
- increase the consistency and quality in e-planning service delivery;
- maintain links to related services, such as building standards;
- report to local authority Heads of Planning on e-planning progress; and
- work closely with the Definitive National Addressing (DNA) Scotland project and its planning services theme.

## E-PLANNING COMPACT

7.      The e-Planning Compact sets out the Scottish Executive's and planning authorities' agreed aspirations for an effective e-planning service and details the objectives for delivering planning information and services in the short, medium and long term. It is a mechanism for monitoring progress in both the Executive and planning authorities. Progress against the compact is reviewed at the meetings of local authority Heads of Planning every six months. Many planning authorities have already made good progress. A summary of e-planning progress, councils' declared intentions and e-planning milestones is maintained by the e-Planning Group and can be obtained from the Executive's Planning Division.

## REMOVAL OF LEGAL BARRIERS TO E-PLANNING

8.      The Town and Country Planning (Electronic Communications) (Scotland Order) 2004 came into effect on 28 July 2004. The purpose of this order is to remove the legal barriers which prevent some aspects of the planning system from being carried out electronically. This is the first order in Scotland to be made under Section 8 of the Electronic Communications Act 2000.

9.      The order allows for the use of electronic communications for certain procedures within the planning system. It covers all the key parts of the planning system, such as the planning application and appeals processes, advertisement consent, minerals consent and development planning. There are a number of exceptions to the order, for areas where electronic communication is considered

inappropriate, either because it cannot be assumed that electronic addresses of relevant parties would be known or available, or because criminal sanctions would apply in circumstances where there was failure to comply with certain notices, or where an interest in land may be affected. Examples are the neighbour notification process and the serving of enforcement and related orders. Further information on the order is available in SEDD Circular 3/2004.

10.    As Circular 3/2004 indicates, there is no expressed requirement within planning legislation for a signature and there is no legal definition within the Town and Country Planning (Electronic Communications) (Scotland Order) 2004 as to what is an electronic signature. It is for each planning authority to decide whether they will require an electronic signature on application forms and other communications submitted online. The Executive's understanding is that an electronic signature could be as simple as a typed name on a document transmitted electronically, and that it does not have to be a complicated scanned or digitally encrypted signature.


## MANAGING BUSINESS CHANGE

11.    E-planning initiatives will have the greatest long term benefit if they are part of a clearly defined vision for planning service improvement. Every planning authority is encouraged to develop an e-planning strategy which sets out concisely how and when they plan to implement the aims of the e-Planning Compact. This should be complementary to wider council e-government objectives.

12.    All e-planning initiatives need to be subject to a comprehensive, but proportionate, assessment through the development of a sound business case. Implementation should be supported by a project management approach with targets, milestones, clear allocation of responsibility and identification of the necessary resources. PRINCE 2 is the commonly accepted standard for ICT project management and helps ensure effective organisation, management and control of projects. Project management software can help in drawing up a project plan. A pragmatic approach to PRINCE will suit smaller projects. Further advice can be found at www.ogc.gov.uk/prince.

13.    Effective communication with potential users will be required throughout the development, implementation and monitoring stages of any e-planning project. In addition, marketing may be necessary to encourage use of online information and services. Planning authorities are encouraged to set aside time to train their own staff, developers, agents, consultees and community organisations in the use of the new technology.


## SCOTTISH EXECUTIVE PLANNING HOMEPAGE

14.    The Executive's Planning Homepage provides access to planning legislation, circulars, policy and advice. It is the central point of access to planning information and services, providing links to the websites of other planning service providers. This includes links to the websites of all local authorities and national park authorities.

Direct links will be established to local authority planning homepages prepared in accordance with the guidelines in this PAN. Additionally, links have been established with Planning Aid for Scotland and the Royal Town Planning Institute Scotland (RTPI).

## PLANNING AUTHORITY WEBPAGES

15.     It is important that planning homepages are consistent, particularly for users operating across a number of local authority areas. A model structure for a homepage is shown in Annex A. While planning authorities need to adhere to corporate styles, they are encouraged to follow this model as far as possible. Planning authority webpages will be the first place many users look for planning information and services. Planning authorities, therefore, need to ensure that developing and maintaining their webpages is a central part of their workload.

16.     'Planning' should always be included in any A-Z search facility. Increased consistency between public sector planning websites can also be achieved by using domain names which include the suffix /planning. A brief introduction to the planning system on planning homepages will help those with little previous exposure to the service. There is potential to link to the guide to the planning system on the Executive's planning homepage, if a comparable document has not been developed. Further advice on this subject is provided in paragraphs 72 and 73.

## DEVELOPMENT CONTROL

### *Casework Recording Systems*

17.     All planning authorities should continue to develop their internal development control casework tracking and monitoring systems. A range of systems are available, which vary in the platforms they use, price and functionality, particularly Geographic Information Systems (GIS) integration and web enablement. In general, planning casework systems are used to:

- record information on applications, including the site boundary;
- handle enquiries, investigations, complaints, appeals and enforcement;
- issue letters and information;
- access information on customers, cases and site history;
- monitor performance and collate management information; and
- review and allocate staff case loads.

18.     These systems have an essential role in monitoring the use and effectiveness of planning policies over time, thus helping improve policy formation.

### *Online Casework Information*

19.     Planning authorities hold information about applications for their own use. Much of this information is of interest to the wider public, customers and stakeholders of the planning system. A number of authorities have therefore allowed

access to planning casework information on computers at their reception areas. Others have gone a step further and developed systems that give direct access to relevant development control casework information via the internet. These online systems are popular with applicants and agents as they enable them to keep track of progress with applications. They also enable citizens and businesses to find out themselves what is happening in an area, reducing the amount of time staff spend dealing with general enquiries, and ensuring that information is accessible, open and transparent.

20. Online systems should show the following information for every application:

- name of the applicant, and applicant's address where no agent is used;
- name and address of any agent;
- date of the application;
- address of the application;
- description of the proposal;
- the decision by the planning authority;
- any appeal decision;
- type of application, such as listed building consent;
- application reference number;
- current status;
- planning authority case officer;
- the relevant Community Council;
- the relevant Ward; and
- important dates, such as committee dates.

21. Ideally the online casework system will allow property searches by street name, post code or through an interactive map base. This enables people to quickly find the planning casework information they are interested in. Looking to the future, planning authorities are encouraged to develop systems that electronically notify people of applications within specified locations.

22. Planning authorities need to be confident that their casework data is reliable before allowing it to be accessed online. Data cleansing of back office systems can be resource intensive, but inaccuracies can undermine a casework system. Codes and abbreviations may need to be amended to help users of online services understand what is meant.

*Case Study 1:* Stirling Council has developed a system that allows access by the public into the 'live' planning casework database. It provides a range of information, including application details, important dates, applicant details, agent details and associated documents. It allows users to search for a particular planning application and includes an online representations form. The system went live in February 2003 and has already received acclaim from community organisations for the greater accessibility and transparency it brings to the development control process.

*Displaying Applications Online*

23.    The Scottish Executive encourages planning authorities to display planning applications online. This should include all relevant documents such as plans, drawings, transport, environmental and other assessments and supporting statements. Where it is already available, this service has proved to be very popular with councillors, citizens and businesses who no longer need to travel to view applications. It is particularly useful in rural areas where the travel distances are greatest. It provides access 24 hours a day, 7 days a week, so users can view proposals at a time that suits them. This service also allows statutory and non-statutory consultees to view applications online and may save the effort and expense of copying applications and distributing them to interested parties.

24.    At present this online service is generally achieved by scanning paper based applications, which can be resource intensive. As planning authorities start to receive applications online, however, the need for scanning will reduce because applications will already be electronic files.

25.    Each planning authority should decide how long planning applications ought to be made available online – some may want to remove the applications once the decision has been made, others may consider it appropriate to leave applications online to minimise requests for file viewing after a decision has been made. If for any reason plans, drawings and other documents associated with a planning application are removed from an online casework system this should be made clear to users and alternative arrangements for viewing set out.

**Case Study 2:** East Lothian Council scans in all its planning applications, links them to a workflow management system and places them online. The software provider that the council uses has an online 'which form?' calculator, that can help applicants determine the form(s) they need to complete, and a planning fees calculator, which provides an indication of the charge applicants can expect to pay.

**Case Study 3:** Shetland Islands Council has developed its own system to allow users to view case details and see planning application documents and drawings as Portable Document Format (PDF) files. The resolution of scanned images has been kept low to cope with the slow telephone connections. Integration of the website with a geographic information system has facilitated online searching. Details of planning decisions, including conditions or reasons for refusal are displayed, which is particularly useful for objectors and consultees. They intended to carry out most consultations by email in the near future.

*Online Planning Register*

26.    Planning authorities are required by law to keep a planning register, which must be made available for public inspection[1]. An electronic planning register may be able to link with data held on a casework information system, but it should be clear to

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[1] Schedule 5 of the General Permitted Development Order (GDPO) identifies what information should be kept on the planning register. Schedule 7 of the Town and Country (Electronic Communications) (Scotland) Order 2004 amends the GDPO to allow the use of an electronic register by planning authorities.

users that they are viewing the official planning register. Where the planning register is kept electronically, planning authorities need to ensure that the information can be accessed and reproduced on paper if required. If the planning register is available in electronic and paper format, it is important that both versions contain the same information.

27. Circular SODD 21/1984 recommends that planning authorities keep a non-statutory planning register for Notices of Proposed Development. Government departments will warn planning authorities if for security reasons all or part of the notice should not be made available for public inspection or entered into the register, either in paper format or electronically. The Executive intends to remove Crown immunity from planning control, and planning legislation and guidance will be produced in due course to address the handling of information involving national security sensitivities.

### *Online Weekly List*

28. The non-statutory weekly list is a record of all validated applications received by a planning authority within a seven day period. It is generally an extract from the planning register which is used to inform citizens, businesses and organisations such as community councils. All planning authorities should provide their weekly list online, and include the following information:

- name of the applicant, and applicant's address where no agent is used;
- name and address of any agent;
- date of the application;
- address of the application;
- description of the proposal;
- type of application, for example listed building consent;
- application reference number;
- planning authority case officer; and
- likely method of determination, such as delegated.

29. Since the weekly list has strong resonance amongst users of the planning service, where planning authorities develop an online casework system, it is recommended that they either continue to provide a weekly list or provide a mechanism for interactively creating a report which replicates the weekly list.

### *Online Application Forms*

30. Most planning authority homepages in Scotland already provide planning application forms online. The Executive encourages planning authorities to make their full range of application forms available online. Providing these forms online reduces the need for individuals to contact the planning authority and have forms sent out by post, saves staff time, cuts postage costs and speeds up the planning process.

31. There are different ways to place planning application forms online, but the most simple is to make them available as Portable Document Format (PDF) files. PDF software allows the creation of forms with text boxes, buttons, check boxes,

combo boxes, list boxes and signature fields. This reduces the need to complete the forms by hand or with a conventional typewriter. For an example see the Scottish Executive Inquiry Reporters Unit (SEIRU) online appeals form.

### *Online Application Submission*

32.    A number of planning authorities are in the process of establishing systems that allow forms to be completed online and then submitted electronically to the authority with plans and documents attached. Online intelligent forms allow validation of the information entered, which helps reduce the number of errors. Online submission enables data to be transferred automatically to back office casework systems, minimises manual data entry and reduces the need to scan documents.

33.    In the white paper *Your Place, Your Plan*, the Executive announced its intention to examine the feasibility of developing standard application forms and making them available online. The introduction of standard forms may require changes to the Planning Act, the GDPO and PAN 48 on Planning Application Forms. The Executive is currently examining the feasibility of developing online standard planning application forms.

### *Online Payment of Planning Fees*

34.    Software providers have developed fee calculators that guide applicants through a series of questions that establish the level of planning fees. This facility can increase consistency in fee calculation, prevent duplication of effort and ease the implementation of fees level changes. The Executive is investigating the feasibility of adding a planning fees calculator to its planning homepage.

35.    A range of companies can provide secure online payment facilities using credit or debit cards. Many councils are developing online payment facilities on a corporate basis. Some planning authorities have used these systems to allow applicants to pay their planning fees online, thereby reducing the need for applicants to send in a cheque or pay at reception. All planning authorities are encouraged to develop this kind of electronic fee payment option. In doing so, they need to ensure that systems are in place to allow planning fees to be refunded where necessary. Additionally, the payment of planning fees is a useful way to authenticate the identification of applicants.

### *Online Location Plan Production*

36.    Individuals should be able to create a location plan for a planning application online. Most planning authorities offer a location plan production service, although it normally takes a few days before the location plans are available for use. A number of commercial services enable people to purchase location plans online. Some allow people to annotate the location plans online, others simply provide basic location plans, which can be annotated on the client's computer. It may be easier, and more cost effective, for planning authorities to link to the website of commercial providers of location plans, rather than developing this service inhouse.

### Online Representations

37.     Most planning authorities already accept representations on planning applications by email, provided that the correspondent includes a full name and postal address. The Town and Country Planning (Electronic Communications) (Scotland) Order requires that name and postal address information is included with email communications to enable planning authorities to establish the identity and location of each representation. At present, most planning authorities notify individuals or groups who have made representations of the decision by post. In the future, where parties choose to use electronic communications, and provided they include a postal address for identification, planning authorities will be able to notify them of decisions by email.

38.     Planning authority websites are encouraged to provide guidance on what is, and what is not, a valid planning issue, information on how representations are dealt with, and advice on how name and postal address information is handled. They should also provide an email address where representations can be submitted.

39.     Email representations should be treated in the same way as representations sent by post. All representations should be acknowledged and those submitting them advised that their comments will be open to public view. The practice of making representations available for public inspection varies between planning authorities. The Executive's white paper *Your Place, Your Plan* states the intention to pursue the proposal that representations be made publicly available. Planning authorities who make representations available online need to ensure peoples' identities are protected. They should be aware that they could be held legally responsible for the content of their website and should have procedures in place to ensure the removal of obscene, illegal or defamatory comments. The Executive's intends to issue guidance on making representations available for public inspection. Planning authorities also need to ensure that they accord with their council's policy on disclosure of information.

40.     We encourage planning authorities to develop online systems that allow users to comment directly on an application they are interested in via an electronic form. This can help structure representations and ensure the correct information is provided. Planning authorities are encouraged to develop systems that enable these representations to be automatically uploaded into back office casework systems and for the sender to receive an automated confirmation receipt.

### Online Consultation

41.     The White Paper 'Your Place, Your Plan' states the Executive's policy intention of making the results of consultations on planning applications available to the public as soon as they are made. Making consultation responses available online enables greater openness and transparency, but there are issues surrounding handling of confidential and sensitive comments. It is therefore the Executive's intention to issue guidance on this issue.

*Online Enforcement*

42.    Planning authority websites are encouraged to provide guidance on what is, and what is not, a valid enforcement issue, information on how enforcement complaints are dealt with, and advice on how name and postal address information is handled. Websites need to provide an email address where enforcement complaints can be submitted. Name and postal address information must be included with email enforcement complaints to enable the planning authority to establish the identity and location of the complainant.

43.    Some planning authorities have developed an online enforcement complaints form, which can help structure complaints and ensure the correct information is provided. Wherever possible the information in the online form should be automatically uploaded to the authority's casework system and an automated confirmation receipt sent out.

44.    Some planning authorities have developed systems that enable online access to information on enforcement action, such as alleged planning breaches that are under investigation and formal enforcement action. In such cases, the substance of valid complaints can be made publicly available, but the names and addresses of complainants should be kept confidential.

> **Case Study 4:** Market Harborough Council and Wandsworth Borough Council have started to provide online access to enforcement information, which helps raise awareness of informal and formal enforcement action. These systems have been developed as demonstration projects for Planning and Regulatory Services Online (PARSOL).

45.    The service of notices relating to enforcement is exempt from the Town and Country Planning (Electronic Communications) (Scotland) Order. This means that such notices must be served on paper rather than by electronic means.

*Extra Online Information*

46.    Planning authorities are encouraged to make committee reports and agendas available online. Many local authorities already do this on a corporate basis. Planning authorities should also seek to provide online access to additional information such as supplementary planning guidance and masterplans. This will help disseminate information to communities and businesses so it can be taken into account before planning applications are submitted. See paragraph 57 on the publication of information under the Freedom of Information Act.[2]

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[2] Schedule 5 of the General Permitted Development Order (GDPO) identifies what information should be kept on the planning register. Schedule 7 of the Town and Country (Electronic Communications) (Scotland) Order 2004 amends the GDPO to allow the use of an electronic register by planning authorities.

**APPEALS - Inquiry Reporters Unit**

47.     The [Scottish Executive Inquiry Reporters Unit](#) (SEIRU) website provides general information on the appeals process and access to relevant documentation. Appeal forms can be downloaded from the site, completed online and then posted to SEIRU. Explanatory notes that help guide people through the completion of the forms are also provided. It is good practice for planning authority homepages to provide a hyperlink to the SEIRU website, as shown in the model planning homepage ([see Annex A](#)).

48.     SEIRU has developed a system that allows the progress of appeals to be monitored online and decision letters downloaded. It is considering what additional information could be posted on its website to help the citizen and agents, and also reduce the day-to-day demands by phone and post on casework staff within the Unit. The Unit's objective is to be able to receive appeals electronically and to maintain and share e-case files. As part of this work the systems that will be needed, and the related workflow, are being investigated. In addition, it is considering the means of delivering an online planning appeals search facility using the unique national addressing system that will be offered by DNA Scotland.

**DEVELOPMENT PLANNING**

*Local Planning Online*

49.     The Scottish Executive's Partnership Agreement states that we will strengthen the involvement of communities in the planning system and speed up decision making. An important part of this is improving the interaction of communities and businesses with the local plan process. The internet offers the potential to improve awareness of local plans and enhance consultation during their preparation. Planning authorities can improve the local plan process by providing the following online:

- information on the purpose of the local plan;
- information on the local plan area;
- a copy of the local plan at each stage of the process;
- background and issues papers;
- any amendments to the local plan;
- the timetable for preparation of the local plan;
- information on how to engage with the local plan process;
- information on the local plan inquiry;
- a summary of representations and responses;
- relevant committee reports; and
- contact details and addresses.

50.     Some planning authorities already allow local plan representation forms to be downloaded, others allow the forms to be completed online and the information automatically entered into a database. Additionally, some authorities have developed

systems which automatically send out confirmation receipts of representations. Planning authorities can improve online consultation by providing:

- an email address where representations can be submitted;
- guidance on what is, and what is not, a valid planning issue;
- information on how representations are dealt with; and
- information on how name and postal address information is handled.

**Case Study 5:** Aberdeenshire Council allowed local plan representations to be submitted online. They were automatically transferred into a database during the preparation of the Aberdeenshire Local Plan. Individuals could log onto the online consultation system to view their representations. This system allowed efficient consultation and saved staff time on data entry.

**Case Study 6:** Moray Council used an interactive mapping tool during the consultation on the Moray Local Plan. It allowed users to add their own labels to the draft proposals map. The map could then to can be emailed 'to a friend', to the planning authority or others, along with any comments.

51.     The e-Planning Compact encourages all planning authorities to display their local plans online. Most planning authorities have their local plan written statements available online. All planning authorities are also encouraged to place local plan proposals maps online. There are a range of techniques that can be used to achieve this, including graphic files and webserver technology. Various technical options are explored in Annex B.

52.     Planning authorities are increasingly digitising their local plan proposals map directly onto their GIS. Some authorities are digitising the maps with Ordnance Survey Landline or MasterMap, rather than the commonly used 1:10,000 scale raster mapping. This enables a high level of precision to be achieved. The resultant certainty can help prevent protracted deliberations over site boundaries during the development control process. The downside is the additional time it takes to digitise the maps and the increased number of maps required for the paper version.

53.     Most planning authorities display their local plan on their own website. Some have chosen to use external companies to host a local plan website. It is possible to design the external website to follow the authority's corporate style and to connect it back to the planning homepage via hyperlinks. Companies will generally charge an annual fee for hosting a website and individual fees for updating and amending plans.

### *Structure Planning Online*

54.     All the Structure Plan Core Teams have a website with relevant information about the structure plan. To improve accessibility to structure plans, a printable version of the document should be provided online. Where the structure plan has been prepared jointly, but there is no Structure Plan Core Team, one planning authority tends to take the lead in placing information online – the other planning authority/authorities link to their site. Structure plan homepages should include links

to the Executive's planning homepage and the homepages of relevant planning authorities. It is good practice for each structure plan homepage to also provide:

- information on the structure plan area;
- information on the purpose of the structure plan;
- a copy of the structure plan at each stage of the process;
- the timetable for preparation of the structure plan;
- information on how to engage with the structure plan process;
- a summary of representations and responses;
- background and issues papers;
- relevant committee reports;
- Scottish Ministers' modifications; and
- contact and address details.

55.    In addition, it is useful for structure plan websites to provide:

- an email address where representations can be submitted;
- guidance on what is, and what is not, a valid planning issue;
- information on how representations are dealt with; and
- information on how name and postal address information is handled.

56.    Structure plan key diagrams are less detailed than their local plan counterparts and therefore easier to display online in a clear and understandable way. It may, however, be possible to include interactive features on the key diagram, such as links from the diagram to the relevant part of the written text.

> **Case Study 7:** Ayrshire Joint Structure Plan and Transportation Committee has an innovative online system which displays housing land supply information. This provides access to specific site information and Ordnance Survey mapping. The search facility allows the user to select by individual site or by community. Pan and zoom buttons are provided to scale and centre the mapping.

## INFORMATION ISSUES

### *Freedom of Information*

57.    The Freedom of Information (Scotland) Act (2002) will be fully implemented in January 2005. The Act introduces a statutory right for all to access information held by Scottish public authorities. Providing information online will help planning authorities meet the requirements of the legislation. Planning authorities should be aware of their obligations under the Freedom of Information Act and seek legal advice as necessary. Further information can found at www.itspublicknowledge.info.

58.    Planning authorities should also be aware that Section 62 of the Freedom of Information (Scotland) Act 2004 provides the power for Scottish Ministers to make the Environmental Information (Scotland) Regulations 2004, which gives certain

rights to access environmental information. These regulations will also come into force in January 2005.

## *Data Protection*

59.    The Data Protection Act 1998 came into force on 1 March 2000. The Act provides citizens with certain rights in respect of personal data held about them. These include the right of access to such data, a right to prevent processing likely to cause damage or distress and a right to take action to correct or destroy inaccurate data held about them. The Act also requires public bodies who share information about individual citizens to comply with the data protection principles when processing such information. Planning authorities should seek legal advice as necessary.  Further advice can be found at www.dataprotection.gov.uk.

60.    The GDPO requires planning authorities to keep a planning register. The information in the planning register, which includes name and address details, must be available to the general public and is therefore in the public domain. In the interests of openness, planning authorities should make it clear to people at the initial point of contact how the information that they are providing will be used, who will see the information and why this is needed. For example, it is good practice to include an appropriate data protection declaration on planning application forms.

## *Copyright*

61.    Under the Copyright, Designs and Patents Act 1988, copyright protection automatically arises when any piece of original work is fixed in a tangible medium or expression. Copyright in electronic materials is no different from copyright in any other format.  Sections 46 and 47 of the 1988 Act make special provision in relation to statutory inquiries and material open to the public or on an official register. Planning authorities should be aware of the provisions of the 1988 Act and are advised to seek legal advice on how it applies to the delivery of the planning service online.

## *Standards & Interoperability*

62.    Common standards help to support systems integration and improve efficiency. Many councils have already started to use agreed standards to ensure interoperability between the information management systems used by different council departments, for example linking planning, building standards, estates and environmental health information together. Most local authorities are doing this on a corporate basis by developing a BS7666 compliant land and property gazetteer, in cooperation with DNA Scotland. This means that all address based data is collected to a standard format and is readily exchangeable. Continued development of standards and metadata will help data transfer between local authorities, statutory consultees and central government, and has the potential to improve the quality of information available for policy development.

63.    The UK Cabinet Office has developed an e-government interoperability framework that provides standards for application across the public sector. The aim is to adopt common usable standards which are well supported by the marketplace,

for example XML. The UK e-Government Unit has published and continues to update the Government Metadata Framework (e-GMF) which sets standards for metadata, which is used to tag documents with descriptive information. Standards to allow information exchange and better access to government services are provided on the UK Govtalk website. The Scottish Executive is involved in consultations about all these standards and advocates their adoption across the public sector in Scotland – this is set out in the OpenScotland Information Age Framework.

*Sharing Experience*

64.     Practical support and shared experience in developing electronic systems is available through the e-Planning Group. In England and Wales, the Planning and Regulatory Services Online (PARSOL) project, which is supported by the Office of the Deputy Prime Minister (ODPM), has been developing a range of guidelines, standards, schemas and toolkits to help local authorities in building efficient and transparent online planning and regulatory systems. The information on the PARSOL website will be of interest to those involved with e-planning in Scotland.

## CUSTOMER & STAKEHOLDER REQUIREMENTS

65.     Consideration of user requirements is essential to any e-planning project. The ICT skills of users will vary as will the sophistication and performance of the ICT equipment being deployed, so it is important that online e-planning systems are easy to use and operate satisfactorily on home computers and dial-up connections.

66.     Download times need to be considered, particularly when placing a proposals map online. A judgement has to be made on the length of time people will find acceptable to wait for a proposals map to be downloaded, this will be a particularly important issue in areas where the telecommunications network is less advanced. Most graphic file formats allow you to choose the level of compression. Reducing the size of files increases the download speed but reduces image quality. This has resulted in some planning authorities deciding to split a document into separate files. Zipped files can be used to save time downloading large documents, although unzipped files should also be provided, as not all users have the required software to read them.

## ELECTRONIC RECORDS & DOCUMENTS MANAGEMENT

67.     Electronic Records and Documents Management (eRDM) enables information to be retrieved instantaneously and facilitates effective sharing and exchange of data. It can improve accountability and transparency in decision making and assist public sector organisations in meeting the requirements of Freedom of Information legislation. Electronic storage of records can create savings through reduced demands for physical storage space. It can also reduce the risk of files being damaged, lost or misfiled, and supports increased administrative efficiency. Many planning authorities are introducing eRDM systems to replace the microfiche methods previously used to archive planning casework.

68.    There is a wide range of eRDM suppliers. Most of the systems are web enabled and have the potential to interface with existing development control casework systems. Some suppliers have eRDM systems that are already compatible with a range of development control systems.

69.    Emails or electronic files can be saved directly to an eRDM system. Paper-based information must, however, be scanned before it can be added to the system. This is the most labour intensive and expensive part of eRDM, particularly given the size of some planning applications, with environmental statements and A0 plans. Increased electronic communication and online submission of applications should reduce the amount of scanning required.

70.    Some planning authorities have decided to outsource all scanning – usually with a standard charge levied per application. Others have opted to have the initial application scanned commercially and then scan all subsequent correspondence and amendments inhouse, with associated hardware and staffing costs. Other planning authorities have decided to do all the scanning inhouse or through corporate eRDM programmes.

71.    The National Archives of Scotland supports the development of UK standards for eRDM. They can provide advice and guidance to public bodies who are developing eRDM systems, see www.pro.gov.uk/recordsmanagement.


**WEBSITE DESIGN & MANAGEMENT**

72.    There needs to be a clear understanding on where the responsibility lies for designing and managing a planning authority's website. The staff responsible for the site should develop and maintain webpages that are rich in authoritative and up-to-date information. They need to ensure that the website is developed under the direction of senior management and that all parts of the organisation consider their web presence, and take ownership of their part of the site.

73.    The website contents should be accessible, well written and cater for the needs of a wide range of visitors. Publication online should generally be simultaneous with publication in other media, such as hard copy. Attaching a 'display by' date and where there is one a 'remove by' date will help ensure that the site is kept up-to-date. Regular editing and proof reading will be required. It is good practice to ensure that the main sections of the website are accessible within one click from the homepage and that no information is more than 2 or 3 clicks away. The dynamic nature of the internet makes it necessary to carry out frequent monitoring of the performance and use of the website.  In addition, it is important that regular and authoritative reports about visitor numbers and experience are available. Further information on website design and management is available from the UK e-Government Unit, and from the Local Authority Website (LAW) project.

*Guidelines for Accessibility*

74.     It is essential that information on the web is available to everyone in Scotland regardless of web browsers used or physical characteristics of users.  Information on web usability for people with disabilities can be obtained from the Web Accessibility Initiative or the Royal National Institute of the Blind (RNIB).


**GEOGRAPHIC INFORMATION**

75.     Geographic Information (GI) is any information that can be spatially referenced. It is commonly in the form of map-based data, although databases containing location-based information can also be incorporated.  Planning authorities have historically held and utilised large amounts of spatial information and have subsequently developed extensive GI data stores. These regularly contain the following information:

| | |
|---|---|
| • OS data and aerial photography | • Land cover data |
| • Planning application boundaries | • Pre-application discussion details |
| • Enforcement complaints and notices | • Development plan proposals map |
| • Listed Buildings | • Conservation Areas |
| • Scheduled Monuments | • Article 4 Directions |
| • National Scenic Areas | • Tree Preservation Orders |
| • Housing land supply | • Industrial land supply |
| • Vacant and derelict land | • Contaminated land |
| • Flood risk areas | • Safeguarding zones |
| • Areas of Great Landscape Value | • Sites of Interest for Nature Conservation |
| • Greenspace | • Rights of Way |
| • Administrative boundaries | • Electoral boundaries |

76.     Geographic Information Systems (GIS) are used to store and manipulate geographic information. In its simplest form GIS can be used to improve presentation of map-based information and aid visualisation of data. However, the power of GIS lies with the advanced analytical capabilities which can be used for informing planning decisions and policy development. GIS enable spatial patterns and temporal trends to be identified and allow investigation of data interactions. Recent technological developments have made web-based GIS valuable mechanisms for local authorities to make their information available via intranet or internet sites. The Executive promotes the continued enhancement of GIS and the increased availability of geographic information online.

## 3D VISUALISATION

77.     Three dimensional (3D) computer generated visualisation is an effective way of engaging with communities and assessing the visual impact of development proposals. There are a number of Computer Aided Design (CAD) and GIS software packages that allow 3D models to be created. These packages allow impressive virtual worlds to be created and explored by users. They also provide a means of experiencing proposed changes in an easily interpreted 3D environment.

78.     There are an increasing number of examples of such technologies being used both to aid visual impact assessment of development proposals and to stimulate feedback to consultations, for instance Edinburgh World Heritage Trust has created a CAD model of the Old Town and part of the New Town to help assess the impact of new developments.

*Computer Aided Design (CAD) software used to assess the impact of development proposals in Edinburgh.*

## MOBILE TECHNOLOGY

79.     Many planning authorities are already exploring the potential of mobile technology. Laptops, particularly when they can dial-up and log onto a corporate server, can assist remote working and reduce the need to take lengthy documents and plans onsite. Handheld or tablet computers allow officers to access information and record comments while onsite. The use of digital cameras enables images taken at site inspections to be saved in casework recording systems. There are also opportunities offered by Global Positioning Systems (GPS) and other mobile GIS technology. The potential uses of mobile technology will increase as the technology reduces in price and the available bandwidths improve.

## RESOURCE AND FUNDING OPTIONS

80.     There are examples of planning authorities developing small scale innovative e-planning project on low budgets and with small teams. In most instances, however, e-planning services require planning authorities to make sizable commitments in terms of financial and staff resources. E-planning has become a mainstream part of the planning service and needs to be properly resourced.

81.     In most instances, planning authorities have used a combination of sources to fund e-planning improvements. The main source of funding has been from internal council funding sources. The Executive's Modernising Government Fund (MGF) has also been a key source of funding for e-planning improvements. The Executive's research on fees and costs of planning will examine the costs of providing an electronic planning service. Other potential funding sources are outlined below.

## Partnership Working

82.    Partnership enables ICT costs, staff resources and risks to be shared between organisations. Partnership working arrangements may be between adjoining planning authorities or with authorities that are more distant but at the same point in e-planning service development. Partnership with a statutory consultee may be another effective way of spreading costs and risks. Existing collaborative partnership arrangements for e-planning include Forth Valley GIS and the arrangements within structure plan teams. The Executive is keen to encourage partnership working and, through the e-Planning Group, hopes to promote this across Scotland's planning authorities and other organisations involved in the planning service.

> **Case Study 8:** Salisbury District Council, West Dorset District Council and Dorset County Council have developed the Planning & Licensing Website, which is an interactive online service for the submission, viewing and tracking of planning and licensing applications. Roles were divided between the partners - Salisbury Council took the lead on design, content and defining functionality, while West Dorset Council used its inhouse developers' skills to deliver the site and to manage integration, including coding and testing. Also of interest is the Welland Partnership.

## Local Authority Resources

83.    Many e-planning objectives are closely linked to local authority corporate e-government objectives, so it may be possible to deliver e-planning service improvements through corporate initiatives. For example, in many councils eRDM systems are being implemented corporately. Planning staff should ensure strong working relationship with corporate ICT departments and web development teams. This will help ensure that corporate ICT development takes account of the needs of the planning system. There may also be opportunities to work in collaboration with other parts of the council, such as building standards, economic development, transport, licensing and environmental health.

## Fee Earning Services

84.    Some planning authorities have developed fee earning services based on their unique geographic information holdings, such as information held on land and property. Planning authorities need to be aware of the risks involved in funding projects this way, as similar services are often provided by the private sector.

## Transaction-Based Funding

85.    One funding option is to cover hardware, software, development and change management costs through a transaction-based model. Private sector companies provide e-planning services in return for a charge per transaction, such as each time a planning application is processed electronically. The attraction of this approach is that it is revenue funded and spread over several years – a particular benefit to planning authorities with no prospect of funding from capital sources. The downside can be the high costs per transaction.

**Case Study 9:** City of Edinburgh Council's Planning and Building Control Portal online planning system was launched by the Deputy Minister for Communities. The portal gives real time online access to the wealth of data in the planning authority's back office systems and allows plans and associated documents to be displayed online. Representations on live applications can be submitted online. The council has also developed the electronic Property Enquiries Certificates (e-PEC) system, which produces a property enquiry certificate that shows information about the status of a property.
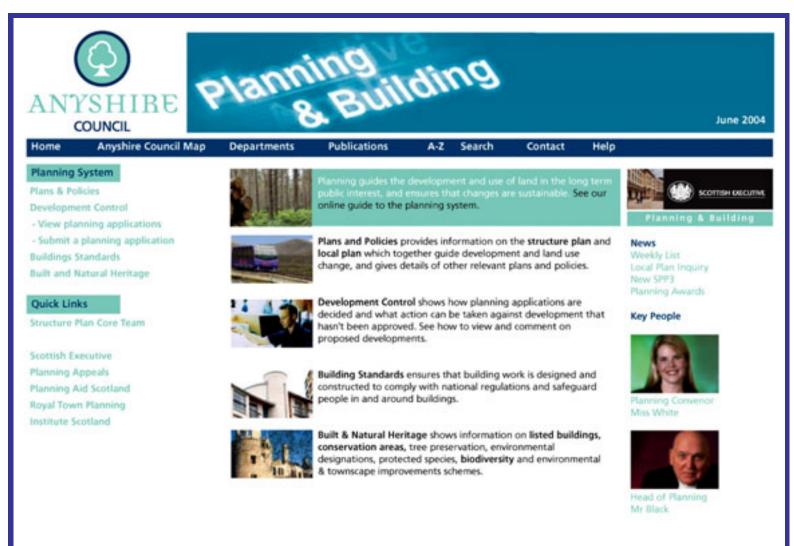
## CONCLUSION

86.     The planning service needs to ensure that individuals, communities, businesses and other stakeholders have access to the planning information and services they need, and can get involved in a way and at a time that suits them. Planning already has more internet hits than almost any other local or central government topic. E-planning is a crucial part of the planning modernisation agenda. Commitment to continuous service improvement is required to grasp the opportunities of new technology and help to increase the effectiveness of the planning system.

## NOTES

87.     Enquiries about the content of this advice note should be emailed to graham.jones@scotland.gsi.gov.uk, postal addressed Planning Division 3, Scottish Executive, Development Department, 2-H, Victoria Quay, Edinburgh, EH6 6QQ. Tel: 0131 244 7550.

**ANNEX A – MODEL PLANNING HOMEPAGE**

**ANNEX B – DISPLAYING DEVELOPMENT PLANS ONLINE**

*Portable Document Format (PDF)*

1.   It is straightforward to convert proposals maps into PDF and then attach them to a website. Downloaded PDF maps have the advantage that they appear identical to the paper copy. Planning authorities need to ensure that the image is legible when users zoom in to view individual sites. The quality of the map may be deficient when a PDF is created from a scanned paper map, so wherever possible the PDF should be create straight from GIS. It is possible to add hyperlinks on the PDF maps to bring up the related policies.

*Joint Photographic Experts Group (JPEG)*

2.   JPEG is a graphics file format developed by the Joint Photographic Experts Group (JPEG) committee. It is rare that additional facilities such as search, zoom or pan are incorporated into online proposals maps which are displayed as JPEGs. As with PDF, planning authorities need to ensure that the image is legible when users zoom in to view individual sites and where possible should create the JPEG straight from GIS.

*GIS Internet Map Server*

3.   There are a range of software solutions that allow proposals maps to be displayed, queried and analysed online using GIS. This technique for presenting proposals maps online allows users to interact with the maps through GIS functions such as zoom, pan and identify.

4.   When using this presentation technique all layers of the proposals map should be visible in the first instance. Users can then be given the option of displaying individual layers. Other information can be added such as aerial photographs, planning application boundaries or points, ward boundaries, conservation areas, school catchments etc. Although, to avoid confusion a disclaimer should be included which clearly states when the information being displayed is not the local plan.

5.   The proposals map should be as large onscreen as possible. It is also best practice to have the key on view at all times – one solution is to have a separate window for the key. Navigation from the proposals maps to the written statement should be made as easy as possible. It is good practice to have hyperlinks to the relevant policies in the written statement displayed beside the online proposals map, thus allowing users to move quickly between the maps and the written statement. It is also helpful to include a search facility that allows users to display a particular area by entering a postcode or location, or selecting it from a drop down list.

6.   The maximum level that the proposals map can be zoomed to will be dictated by the precision of the digitising, for example whether it was digitised using 1:10,000 raster mapping or the large scale vector mapping such as Ordnance Survey Landline or MasterMap.

***Scalable Vector Graphics (SVG)***

7. SVG is a language for describing two-dimensional graphics and graphical applications in Extensible Markup Language (XML). It is attracting considerable interest as an effective way of displaying mapping information on the web, although it has not yet been used to show development plans in Scotland, see the link below:
http://www.scotland.gov.uk/stats/SIMD2004/map.asp

# Planning Information Online

Data Protection Guidance for Planning Authorities

1st Edition, September 2008

# Table of Contents

## 1. INTRODUCTION

The Scottish Government is committed to improving the planning system by: strengthening the involvement of communities; speeding up decisions; reflecting local views better, and; allowing quicker investment decisions. Planning can make an important contribution to the delivery of the Governments key objective of increasing sustainable economic growth.  The Planning etc. (Scotland) Act 2006[1], has introduced far reaching changes designed to modernise the planning system.

E-planning is an integral part of Planning's modernisation and culture change. New technology has huge potential to make the planning service more transparent, accessible and efficient.  The Scottish Government has been working with planning authorities since 2001 to coordinate the use of new technology in planning service delivery.  It has committed £10.5m in funds to support the design and roll-out of a common, integrated e-planning system for planning authorities across Scotland.  The aim is to provide a speedier, more accessible and more efficient option for planning applications, appeals and development plans.

The vision for e-Planning is to manage the transition from primarily paper-based to electronic processes throughout the planning system.  The aim is to drive efficiencies from the planning process, enhance citizen facing services, offer greater choice and convenience of access and to ensure this is delivered consistently across Scotland.

Planning Advice Note 70: *Electronic Planning Service Delivery* identifies how new technology can improve the delivery of the planning system. It sets out the online information and services that need to be provided by the Scottish Government, Planning Authorities and other organisations responsible for the efficient operation of the planning system.

The Town and Country Planning (Electronic Communications) (Scotland) Order 2004 came into effect on 28 July 2004[2]. The Order, made under sections 8 and 9 of the Electronic Communications Act 2000, allows for the use of electronic communications for certain procedures within the town and country planning system. It does this by amending existing legislation to remove legal impediments to the use of electronic communication and storage for planning purposes.  Information on the order is available in SEDD Circular 3/2004[3].

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[1] http://www.opsi.gov.uk/legislation/scotland/acts2006/pdf/asp_20060017_en.pdf
[2] http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040332.htm
[3] Planning Circular 3 2004: The Town and Country Planning (Electronic Communications) (Scotland) Order 2004

## 2. PURPOSE OF THE DOCUMENT

With the move to a greater use of electronic communication in the planning system and greater publication it is important that authorities ensure that personal information is processed in strict compliance with the Data Protection Act 1998. Therefore it is important that there is an increased awareness amongst planning authorities of the importance of complying with the Data Protection Act 1998[4] when publishing information online and this guidance is intended to assist planning authorities in that process. This guidance applies to the Scottish Government's Directorate for Planning and Environmental Appeals and may also provide advice to Planning Authorities on making information available online through their Online Planning Information Systems.

The Information Commissioner's Office (ICO) provides general advice on the processing of personal information and how to comply with the Data Protection Act. This guidance has been prepared in collaboration with the ICO to accord with the Data Protection Act 1998, the relevant Planning Legislation and should also be used in conjunction with guidance already issued by the ICO.

By following this guidance note, Planning Authorities should have the confidence that they are making every effort to comply with the Data Protection Act when making information publicly available via the internet.

Further information can be found on the Information Commissioner's website at: www.ico.gov.uk. Advice can also be obtained from the Scottish office of the ICO at Scotland@ico.gsi.gov.uk.

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[4] Data Protection Act 1998 (c. 29)

## 3.  INFORMATION TO BE PUBLISHED ON THE INTERNET

Planning Authorities have a legal duty to make available certain details relating to planning applications and regulations allow for this information to be made publicly available on the Internet.[5]  Following the introduction of the Town and Country Planning (Electronic Communications)(Scotland) Order 2004, the current General Development Procedure Order (GDPO) allows most of the statutory procedures to be carried out electronically and the intention is that the new Development Management Regulations should be similarly e-enabled. Planning Authorities are, and will, be acting lawfully in making planning applications available on the Internet.

### 3.1  E-Planning and Data Protection

The e-Planning Programme will deliver a key change in the way the planning system is delivered through the provision of a range of online services to users.  It will create an end-to-end e-Planning service which will be transparent with all applications, plans and progress updates viewable online.

With the move to have more planning information accessible online, there is a responsibility on all staff who are handling, storing and publishing planning information to ensure that it is done correctly and in line with data protection legislation. All information received by planning authorities will need to be captured, and where necessary, redacted to ensure that information published online through their online planning information system does not breach the Data Protection Act.

Not all of the information relating to an application or appeal will be personal data relating to the applicant, appellant or third parties.  Neither will all of the information or correspondence accompanying a planning application form part of the planning register.   However, with the move to a more e-enabled planning system it is essential that planning authorities carefully consider how much information is published on the web, and the guidance below should be followed as a matter of good practice.

### 3.2  Submission of Planning Applications and Appeals

Through the Scottish Government's Online Application and Appeals system, applicants, agents and appellants will be able to submit their application or appeal, associated documents and payment electronically to planning authorities back office systems.

Changes introduced by the Planning etc. (Scotland) Act 2006 and the Town and Country (Scotland) Act 1997 as amended allow Scottish Ministers to prepare statutory standard planning application forms.  Work on standard application forms

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[5] Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (GDPO)

has been taken forward through the ePlanning Programme, in developing standard application forms for electronic submission of planning applications.

The advice provided by the Information Commissioner confirms that *applicants and objectors should be made aware of which elements of their personal information will be published on the internet.*

It **must** be made clear to people which information there is a legal requirement to publish and which information there is an option to publish. Planning Authorities should ensure that this advice is included in any hard copy application forms or guidance provided to applicants and it should also be clearly stated on the Local Authority's website. For example, Authorities may wish to state: *"Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website."* A clear and concise statement should be included in any correspondence, consultation letters, online advice and forms, and in press and site notices.

Where people wish to make a representation on planning applications, Planning Authorities must ensure that the same message is communicated clearly. Planning Authorities should provide guidance on what issues can be taken into account in making representations, information on how representations are dealt with, and advice on how name and postal address information will be handled. For example, authorities may wish to communicate that all comments submitted will be available for anyone to see through their Online Planning and Information System but any telephone numbers, email addresses or signatures will be removed. It should also be made clear to those making representations that if an appeal against the proposal is submitted to the Scottish Government's Directorate of Planning and Environmental Appeals (DPEA), they will also publish their comments on the web.

3.3  List of Applications

Weekly lists of planning applications are prepared by all Planning Authorities. They are primarily used to inform community councils and others of the planning applications received that week.

Currently there is no requirement for this information to be published online. Rather it is seen as good practice in terms of openness and transparency within the planning system. In line with the Scottish Government's commitment to promote greater involvement in the planning system for all and to allow for the provision of public services electronically, the new section of 36A in the 1997 Act, places a duty on every planning authority to publish a list of applications and proposals of application notices for pre-applications. The terms "publish" includes making it available by electronic means.

This has implications for planning authorities in regards to data protection and authorities should ensure only those requirements set out in planning legislation are made publicly available on the internet. The current information requirements which the list must include are:

- the reference number given to the application by the planning authority;
- the site location;
- the name and address of the applicant or agent; and,
- a description of the proposed development.

Through powers made under the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act, new Development Management Regulations will set out the statutory requirement for what is to be published and will require the planning authority to publish the list of applications on their website.

Should authorities wish to publish information beyond the statutory requirement set out in planning legislation, it is their responsibility to ensure that any information published is compliant with the Data Protection Act 1998, and other relevant legislation.

Authorities have the option of seeking legal guidance where clarification is required to ensure they do not contravene the relevant legislation regarding information disclosure. Advice can also be sought from ICO.[6]

3.4  Planning Registers

Section 36(1) of the Town and Country (Scotland) Planning Act 1997 requires planning authorities to keep a register containing information on applications for planning permission, their approval of applications and the manner in which the applications have been dealt with.

Once commenced, the changes made by section 12 of the Planning (Scotland) Act 2006 will require planning authorities to provide a full record of the relevant factors considered in determining each application, including all documents relating to the application and considered in the decision making process, the reasons for the decision, and the material considerations to which regard was had when making the decision. Authorities will have to provide an explanation of how the application has been dealt with and provide a copy of the notice informing the applicant of the authority's decision.

New Development Management Regulations will prescribe the content of the Register for planning permission applications and planning authorities should ensure that this statutory requirement is met. Should Planning Authorities wish to publish any information beyond what is prescribed in Regulations, they should ensure that it complies with the Data Protection Act.

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[6] Advice can also be sought from ICO through the Scotland office on 0131 225 6341.

## 4.  Publishing Applicant and Objector Details

4.1  Publishing Personal Data on the Internet

Planning Authorities should take extreme care when publishing personal information on their websites and avoid publishing personal data such as telephone numbers, email addresses and signatures.  A letter from the ICO to all Scottish Local Authorities in October 2007 stated:

*telephone numbers, e-mail addresses and signatures should not be made public. Attention should also be paid to the removal of sensitive personal information (e.g. relating to criminal history or state of health) where such information is provided as part of the application process.*[7]

Where the publication of personal data is involved e.g. signatures, planning authorities must comply with the eight data protection principles laid down in the Data Protection Act 1998. In doing so, planning authorities are committed to respecting the public's right to privacy and to protecting personal information.  These require that information must be:
1. Processed fairly and lawfully
2. Obtained and used only for limited lawful purposes
3. Adequate, relevant and not excessive
4. Accurate and kept up to date
5. Kept for no longer than necessary for the purposes for which it was collected
6. Processed in line with the rights of data subjects under the Data Protection Act 1998.
7. Kept secure by technical and management measures
8. Not transferred to countries outside the European Economic Area without adequate protection

Whilst current application forms are in use, it is recognised that applicants details may be available publicly on the web whilst the application is viewable through weekly list and planning authorities online planning information systems.

As good practice and for compliance with the Data Protection Act, the online application and appeals system will make planning applicants and appellants aware that the information they submit through the system, plus any accompanying maps, drawings and documentation *may* be published on the web.

Planning Authorities **must** ensure that any information received through the online application and appeals system is redacted accordingly before publishing to the web. Where planning authorities receive paper forms and associated documents, they should ensure that this information is also redacted before scanning and making

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[7] Information Commissioner's Office, October 2007

available on the web. Precautions should also be taken before making such documents available through other means.

All representations to planning applications should be acknowledged and those submitting them advised that their comments will be open to public view. When making representations available online Planning Authorities **must** ensure peoples' identities are protected. They should be aware that they could be held legally responsible for the content of their website and should also have procedures in place to ensure the removal of any obscene, illegal or defamatory comments. Planning authorities also need to ensure that they accord with their council's policy on disclosure of information.

With regards to applications, appeals and representations, planning authorities should seek to avoid any harmful consequences that might arise as a result of publishing information online. As a minimum, planning authorities should seek to ensure that the following is removed:
1. signatures (internal and external),
2. email addresses,
3. phone numbers..


Any personal information collected in order to comply with the diversity monitoring requirements of the Race Relations (Amendment) Act 2000 should not be published. The information should only be made available to the public in summary and in an anonymous way.

When planning authorities are publishing information online, they should ensure that only those documents relevant to the public interest are shown at a given point in time. Where personal information is involved, this will help ensure that the planning authority is complying with the fifth data protection principle i.e. keeping the information for no longer than necessary for the purposes for which it was collected. This does not affect any individual's right to access all the documents on the Statutory Register as this can still be access at the Planning Authority office, if necessary.

**Privacy Statement/ Fair Processing Notice**

In fulfilling their responsibilities under the Data Protection Act, planning authorities should publish a privacy statement (or fair processing notice) on their website which should be accessible from the home page and other relevant pages of the website.

An example of a privacy statement can be found at:
http://www.planningportal.gov.uk/england/professionals/en/1097521227444.html

ICO is currently working on guidance on fair processing notices which will be published later this year and which will be available on the ICO website.

## 4. COPYRIGHT

It is probable that the following should be considered as "literary works" for the purposes of the Copyright Designs and Patents Act 1988:

- Drawings, CAD drawings and site plans.
- Additional information and reports accompanying the application.
- Objectors' comments.
- Supporters' comments.
- Where there is an appeal to the Planning Inspectorate, the appellant's case and other person's representation.

The owner of the copyright has the exclusive rights to copy the work, to issue copies of the work to the public and to communicate the work to the public. Unless otherwise permitted, for a planning authority to make such information available on its website without permission of the owner of the copyright (usually the author of the letter, drawings, plans etc) may constitute an infringement of the owner's copyright. Public downloading of the information may also be an infringing copyright of the work.

In order to mitigate the risks associated with infringing copyright the following actions are suggested:

- Consider including a form of words which clearly indicates that those making planning applications and comments to planning applications that the information they provide will be published on the planning authority's website.
- Utilise a "click accept" facility on the website which clearly prompts the user to view and accept or reject the terms and conditions of using the website.
- Planning authorities should consider including a clause in the terms and conditions specifically relating to copyright. An example form of words is detailed below:

*"Plans, drawings and other material submitted to the local authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). You may only use material which is downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans. Further copies must not be made without the prior permission of the copyright owner."*

Ordnance Survey maps, and maps created from Ordnance Survey material are subject to Crown copyright. It is therefore recommended that the use of the mapping is limited to an allowance to view and download for private and non-commercial purposes only. It should be made clear that mapping may not be further sub-licensed, sold, demonstrated, lent, or otherwise transferred or exploited without prior written permission of Ordnance Survey. Ordnance Survey shall not be held liable for the map material not being fit for your purposes or applications.