



The Scottish Government  
Planning and Environmental Appeals Division

# Development Plan Examinations Guidance note for people who submitted representations

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## 1. What is a Development Plan Examination?

**1.1** A development plan examination is a process, required by law, where there are 'unresolved Issues' raised in representations to a planning authority's proposed development plan.

**1.2** When planning authorities prepare their proposed development plans for their area they must provide an opportunity for people and organisations to make 'representations' (a statement with their views either objecting to, commenting on or supporting the development plan) . This opportunity to make comment allows people to say what changes they want made to the proposed plan before it is finally adopted. All these views communicating an opinion or registering an objection are referred to as 'representations'.

**1.3** Those points or topics raised in representations, which are not addressed (and which therefore remain in dispute) are called 'Unresolved Issues'. For example, representations from people who disagree with a policy or proposal contained in the proposed plan or who may raise concerns about a policy or a site which is shown for housing or other development in the plan. They may have suggested a site or policy be deleted or that a specific change should be made and the planning authority has disagreed and has not made any further changes to the plan.

**1.4** Any matters raised within these 'Unresolved Issues' must (by law) be assessed by a reporter who is appointed by Scottish Ministers. This assessment is called "the examination". The Planning and Environmental Appeals Division (DPEA) are responsible for this process.

**1.5** A reporter or team of reporters will consider the (Unresolved) Issues raised and decide whether to recommend any changes to the proposed development plan.

**N.B.** The examination is concerned only with those representations which remain unresolved and reporters' have no remit to consider representations which are unrelated to the content of the proposed plan.

## 2. The examination is a two stage process:

Stage 1: Examination of conformity with the Participation Statement.

When the proposed plan is submitted to DPEA the reporter must firstly examine the authority's conformity with the participation statement. This means that the reporter must firstly check that the authority carried out the steps necessary to involve and consult the public, in the way they said they would in their participation statement

[See Section 10](#) of this guidance note for more information.

Stage 2: Examination of Issues raised in unresolved representations.

Examinations are intended to enable the fair and proportionate examination of any unresolved Issues arising from representations on a proposed local development plan.

An Examination should identify any deficiencies in the proposed plan and recommend modifications to rectify these.

### **3. Who else takes part in a development plan examination?**

**3.1** The other parties who take part in a development plan examination include the planning authority who prepared the proposed development plan and all those people (and organisations) who submitted unresolved representations to it. You may have submitted your comments on the proposed plan to the planning authority through a letter, a petition or on a standard form.

### **4. Your Representation on the proposed plan**

**4.1** It is likely that your 'representation' on the proposed plan will be sent to Scottish Ministers (DPEA) when the plan is sent for examination. If you have written to express support for the plan then the planning authority may refer to this in its evidence.

### **5. Schedule 4 forms**

**5.1** A schedule 4 is a form which must be used by the planning authority to group together all the related (unresolved) matters raised in representations. These unresolved matters, when grouped together, are the 'Issues' for the examination. This grouping may be done by town or village, under a policy or site heading or by subject such as housing or transport.

**5.2** The schedule 4 form provides a 'summary' of the Issues raised and the planning authority will add its own response to the schedule 4 form (including its reasons for not making any further changes to the plan).

**5.3** The reporters task is to reach conclusions and recommendations on each of the Issues raised and presented by the planning authority. The schedule 4 form(s) are used as the framework for the report of the examination and are designed to guide the reporter through all the information required to reach their conclusions. The reader can view the Issues raised, the authority's response and (once the examination has concluded) the reporter's conclusions and recommendations for each Issue.

**5.4** Depending on how the matters raised have been grouped through each schedule 4 form, you may find different aspects of your representation are dealt with under a number of Issues. For example if you raised general matters about transport but specific matters on a housing site, you may find these matters are included and summarised within two separate forms and addressed under different Issues

## 6. Documentation submitted by the planning authority

**6.1** The following are the kinds of information provided to the examination by the planning authority. Please note this list is not exhaustive:

Schedule 4 forms	The Main Issues Report
Any supporting documentation/evidence	The report of the completed Habitats Regulations Appraisal of the plan, if required
Full copies of all unresolved representations to the proposed plan	Any documents submitted through representations on any unresolved Issues
The environmental report which details the strategic environmental assessment of the plan	Any adopted local plan(s) or local development plans for the area.
The proposed action programme	
The monitoring statement	
Participation statement and report of conformity with the participation statement	

## 7. What do you need to do?

**7.1** You do not need to take any action when the proposed plan is submitted for examination to DPEA. Your representation is your evidence and the planning authority will already have forwarded this to DPEA to be taken into account during the examination. You will be notified by the planning authority that the plan has been submitted for examination. You should not make any further submissions at any stage unless you are requested to do so by the reporter.

**7.2** It is only in exceptional circumstances that the reporter will ask you for anything more. In many cases you will simply be notified when the examination is complete and where its findings are published. If the reporter does require any information from any party they will ask for that information during the course of the examination.

## 8. When does the examination process start

**8.1** The steps involved in the commencement of the Examination are summarised below :

The proposed plan is submitted to Ministers by the planning authority.

The planning authority is notified of the appointment of a reporter.

All the necessary documentation outstanding must be submitted by the planning authority within 14 days of that appointment.

Notification is the responsibility of the planning authority.

Stage one of the examination begins once a reporter has been appointed and after they have examined, and are satisfied with, the authority's report of conformity with their participation statement. [See section 10.](#)

Stage two of the examination begins when stage one is complete, but not before 28 days from the appointment of a reporter.

**8.2** The examination process is administered through the DPEA and is led by one or more reporter(s). An examination should take around 6-9 months although this is largely dependent on the volume and complexity of the matters before the reporters. The time taken for each examination varies. Where the examination requires more than one reporter a lead reporter is appointed to manage the process.

### **8.3** The Examination Team

**Lead Reporter:** Appointed at the start of the process with responsibility for the efficient management of the examination in accordance with the legislative and policy framework.

**Other Reporters:** May be appointed at any time with responsibility for examination of those issues allocated to them by the lead reporter.

**Administrators:** A team of administrators based within the DPEA who are responsible for managing the day to day arrangements for the examination and providing a single point of contact for everyone involved.

## 9. Communication during the examination.

**9.1** Progress through the examination can be tracked on the [DPEA website](#) at the following link by inserting the case reference number into the [simple search](#) facility and then clicking go

**9.2** The web site also includes an 'overview' that provides a regular update on progress with the examination as well as details of the allocated case officer and appointed reporters. To ensure the impartial position of the reporters all communications connected with the examination are handled through the administrative team at DPEA. [Contact details](#) are provided at the end of this note.

## 10. Stage 1 : Examination of Conformity with the participation statement

**10.1** The planning authority will submit a report of conformity with their participation statement to the DPEA. This is a statement which should explain how the planning authority has implemented the steps set out in its Participation Statement to involve a wide range of people and organisations in the making of the Local Development Plan. It should set out what the planning authority did by way of publicity and public participation to conform with their participation statement. The reporter will then compare the evidence in the report of conformity with what the planning authority originally proposed to do in their participation statement. Where the reporter is satisfied that the planning authority has carried out the steps contained in their participation statement, the planning authority will be advised that conformity has been demonstrated and that the examination is progressing to stage 2. This will also be posted on our web site to confirm that stage one is complete.

**10.2** If the reporter is not satisfied that the steps in the participation statement have been carried out and conformity is not demonstrated they will report this to Scottish Ministers. The planning authority have 4 weeks to respond before Scottish Ministers decide whether further steps should be taken or if the reporter can proceed with the main examination. If further steps are required the planning authority must take action and report on these before resubmitting the proposed plan along with any further representations.

## 11. What form will the examination take ?

**11.1** The reporters will assess all of the evidence before them in relation to each Issue. For many Issues this may be sufficient to allow the reporter(s) to reach their conclusions and recommendations. However, there may be instances where further clarification or evidence is required. There are a number of ways this information may be gathered; through site visits, written requests, hearing or inquiry sessions. Further information about these processes are detailed below and in our Frequently Asked Questions section at [Annex 2](#) at the end of this note.



**Site Visits** A site visit may take place where the reporter requires familiarity with the area and the site. It is usually unaccompanied and can be carried out at any time during the examination. Where there are difficulties obtaining access or identifying particular features the reporter may invite the relevant parties, including the planning authority, to attend an accompanied site visit at a specified time and meeting place.

**Hearings** The reporter will invite attendance at the hearing from those they considers are best placed to provide the required information. Written statements may be requested in advance. These should respond to the matters raised by the reporter as specified in the letter of invitation. Parties should also provide a list and copies of all the documents on which they may wish to rely and advance notice of any person they may wish to speak on their behalf.

**Inquiries** A more traditional adversarial process which involves the presentation of evidence and cross examination of witnesses. Whilst not used in development plan examinations to date, an inquiry may be appropriate where there are a large number of parties involved and/or where the Issues arising are of a particularly complex or technical nature.

11.2 The administration team are responsible for making the arrangements for the procedures listed above. Where the reporter requires further information from you or wishes you to attend a site visit, hearing or inquiry, you will be sent a letter detailing the exact nature of the request and the required timescales. If no information is requested from you this does not mean that your concerns are being treated differently or with less weight. It simply means that the reporter has fully understood your position and does not need to ask you anything else.

## 12. The Report of the Examination

12.1 The reporter will add their conclusions and recommendations to each of the schedule 4 forms that were submitted by the planning authority. The reporter's role is to test the appropriateness and sufficiency of the proposed plan in the context of the Issues raised in representation. Other sites and approaches are only considered where the plan is demonstrated to fail this test. Modifications may be recommended without further recourse to the council or those who submitted representations. The reporter may rely on any evidence submitted to the examination. Any recommended modifications must be clearly justified and based on the appropriate level of consultation, environmental and other assessment.

## 13. What happens after the examination has finished?

13.1 Local Development Plans are adopted by the planning authority rather than approved by Scottish Ministers. DPEA will send the report of the examination to the planning authority. We will also publish the report to our website and notify everyone who submitted unresolved representations of its publication. The authority must accept the reporter's recommendations and modifications and they can refuse to do so only in a very limited number of circumstances. Full details of these circumstances are set out in section 238 of the [Town and Country Planning \(Scotland\) Act 1997](#) and the [Town and Country Planning \(grounds for declining to follow recommendations\) \(Scotland\) Regulations 2009](#)

13.2. Examples of previously [completed examination reports](#) are also available for viewing for convenience.

## 14. Data Protection

DPEA will process personal data in accordance with the GDPR. To find out more about what information is collected, how the information is used and managed please read the [DPEA's privacy notice](#)

## 15. Can we help?

If you feel that anything is unclear in the information we have given you, please get in touch with us. We are committed to providing a high quality service. One of the ways we can improve is by listening and responding to you. We welcome your comments on this guidance, or indeed any aspect of our service.

## 16. Disability and reasonable adjustments

Should you wish to participate in further procedure and consider that (as a result of any disability) reasonable adjustments may be required to facilitate that, please let us know. Any such response will be treated in confidence and only shared with other parties if necessary, and with your agreement. [DPEA Guidance Note 20](#) contains explains how we might be able to help.

## 17. DPEA Contacts

DPEA inbox – [DPEA@gov.scot](mailto:DPEA@gov.scot)

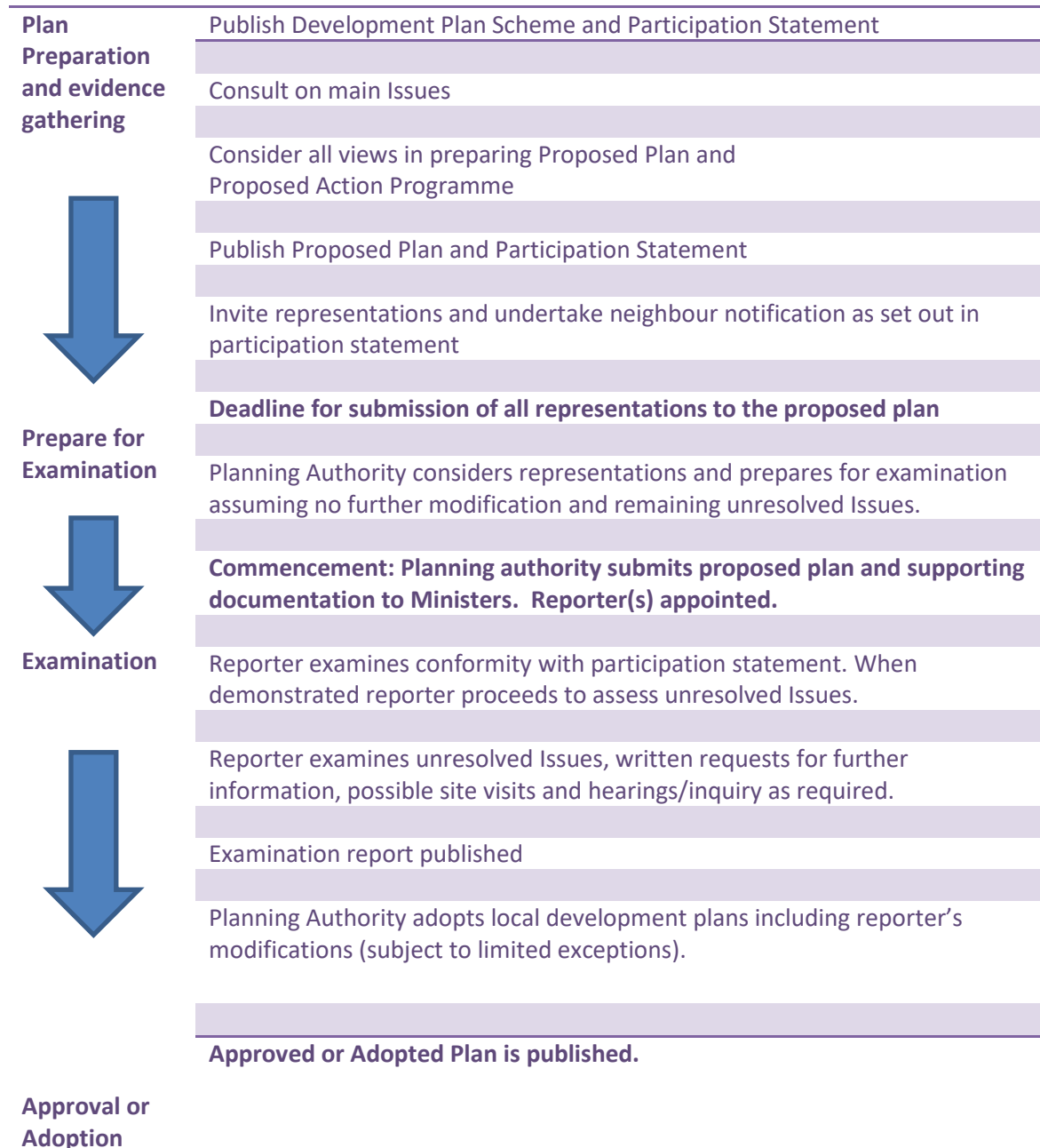
DPEA general enquiries line – 0300 244 6668

### **Postal Address**

Planning and Environmental Appeals Division  
Ground Floor  
Hadrian House  
Callendar Business Park  
Falkirk, FK1 1XR Annex 1 - Flowchart

Shows how the examination sits within the overall process of preparing a local development plan.

Summary of development plan process.



## Annex 2- Frequently Asked Questions

### **Q. Who has to prepare a local development Plan?**

**A.** Each of Scotland's 32 council areas and two national parks are required to produce a development plan.

### **Q. How will I find out when a development plan examination will take place?**

**A.** The examination will be advertised in local newspapers and those who made representations to the proposed plan will be individually informed by letter or by e-mail.

### **Q. I have read the schedule 4's which include a summary of my representation(s) but will the reporter see a full version of my views?**

**A.** Yes, the summary recorded within the schedule 4 forms will contain an account of the main points of your representation, however a full copy of all unresolved representations should also be included in the documentation submitted by the planning authority to the DPEA at the start of the examination. All the information from those who made representations and from the planning authority will be taken into account by the reporters when coming to their conclusions and making their recommendations.

### **Q. Why can't I send in further comments or information during the examination to further support my view?**

**A.** Scottish Ministers have made it clear that they expect the reporter to be able to reach their conclusions on each of the unresolved Issues on the basis of the information which is available at the start of the examination. So it is only in exceptional circumstances that the reporter will ask you for anything more. If the reporter feels they do not have all the information they need to make a proper assessment of an Issue they will decide who to ask the information from and the way in which it is gathered.

## **Site Inspection**

### **Q. Will I be notified if the reporter is visiting a site that I have made representation about?**

**A.** The majority of site inspections during a development plan examination are undertaken by the reporter unaccompanied. This is because the purpose of the site inspection is solely to allow the reporter to see the site for themselves and is not an opportunity for parties to discuss its particular merits with respect to the proposed plan. If the reporter does consider that an accompanied site inspection would be appropriate they will decide who may be required to attend and we would write to those relevant parties notifying them of the arrangements.

## **Oral Sessions**

### **Q. How is a hearing conducted?**

**A** The idea of a hearing is to enable meaningful discussion between the invited parties. The hearing is led by the reporter who will have prepared an agenda well in advance. We aim to make the procedure as straightforward as possible. The reporter will ensure that you know what is happening and will begin with introductions of those participating in the session and give some overall information about how the hearing will progress. Whilst the hearing will be held in public and any person can attend to observe only those relevant parties invited by the reporter will take part in the session(s). Some oral sessions held for cases are also webcast on our [webcasting site](#).

### **Q. When would a public inquiry be held?**

**A.** It is possible that an inquiry could be held. This is a formal and more legal process. The choice between a hearing and inquiry session is based on the best/most efficient method of obtaining the evidence or information required. An inquiry session might be appropriate if there is a dispute between parties on complex or technical matters and the evidence needs to be thoroughly tested by cross examination or where there is a conflict of professional opinion which might be better tested by cross examination. However this would be very unusual and to date no public inquiries have been held for local development plan examinations.

### **Q. Do I have a right to be heard at a hearing or inquiry?**

**A.** No, consideration of whether there is a need for a hearing session is driven by the need for the reporter to obtain further information and the reporter will determine what form the examination of the local development plan will take. If a topic or Issue is not earmarked for a hearing (or inquiry) session, or further written submissions, it does not signify that the reporters regard it as unimportant. It means that they already have enough written material on the Issue, or that it is an Issue best assessed with a site inspection, rather than by other means.

**Q. How will I know what is going to be discussed at a hearing or inquiry session?**

**A.** An agenda will be issued to participating parties at least 2 weeks before the hearing session takes place. The agenda will also be available to view on our website and will list specific questions or topics which require discussion, to ensure that parties have pre-warning of what information is sought, and sufficient time to prepare a response.

**Q. I have been invited to participate at a hearing session, do I need a professional representative or consultant or may I represent myself?**

**A.** You can represent yourself at the hearing session or you can have a representative to help you. The procedure is fairly informal and the reporter will ensure that you know what is happening. There is no requirement for you to be professionally represented at a hearing session. If you do decide to enlist the help of a representative you should provide advance notice of the person you wish to speak on your behalf.

**Q. Why was I not invited to participate in the hearing session ?**

**A.** Reporters can seek additional information from any party. It is for the reporter to decide who to seek information from whether by means of further written submissions or participation in a hearing session. If the reporter has not sought further information from you, or invited you to participate in an oral session, it means that the original representation which you submitted is comprehensive enough for them to fully understand your position.

**Q. I have been invited to participate at a hearing session but I can no longer attend on the date it is scheduled?**

**A.** We try to schedule a hearing session date which is suitable for as many parties as possible. As early as possible in the examination process parties are asked to 'save the date' for a potential hearing session giving as much notice as possible. If you are unable to attend you should advise the DPEA as soon as you can. Where possible you may wish to arrange for a representative to take your place.

**Q. Do I have to provide any documents for a hearing session?**

**A.** Written statements may be requested in advance of the hearing session. However , if you have been invited to take part in a hearing session, we will let you know what is needed in plenty of time. Written statements if they are needed, should respond to the matters raised by the reporter as specified in your letter of invitation. You will need to provide a list and copies of all documents on which you may wish to rely.

The notification inviting you to participate in the hearing session will explain the timescales for submitting documentation.

**Q. How will the matters of the day be recorded?**

**A.** No minutes of the hearing session are taken, however, the reporter will make their own informal notes. Hearing sessions may be webcast however and be available to view live or at a later date on our website. Webcasting is used as a means of ensuring openness and transparency of proceedings.

**Q. If the hearing session lasts all day, will refreshments be provided?**

**A.** No, only water is provided for those participating in the hearing session. You should arrange to bring your own lunch and refreshments for the day.

**Q. I am observing a hearing session, do I have to be present for the whole process?**

**A.** No, if you are simply observing a hearing session anyone with an interest can attend. There is no obligation to remain for the whole session in these circumstances.

**Q. How will I find out the outcome of the examination**

**A.** We will contact all those people who made representations to the plan and let them know that the examination is complete and where to view the report.

**Q. Where can I find out more information about development plan examinations**

**A** You can find out more information by following the attached links :

[Planning \(Scotland\) Act 2019](#)

[Development plans - Planning and architecture - gov.scot \(www.gov.scot\)](#)

[Scottish Government Circular 6/2013 Development Planning](#)

[Town and Country Planning etc \(Scotland\) Act 1997 – sections 12, 12A, 19 and 19A](#)

[Town and Country Planning \(Development Planning\) \(Scotland\) Regulations 2008, Regulations 18-23](#)

[Examining development plans - Planning and environmental appeals - gov.scot \(www.gov.scot\)](#)

## **Annex 3 - Glossary of Terms**

**Agent** – A person or business appointed to make a Development Plan representation (or in development management to make a planning application) on behalf of another person or organisation

**Allocated Site** – An area of land which has been identified in a development plan as being suitable in principle for a certain type of future development e.g housing

**Adopted Plan** – Local Development Plans are adopted by the planning authority rather than approved by Scottish Ministers. The reporter's recommendations are binding in all but a few limited circumstances. Once adopted, it is part of the development plan for the local area

**Circular** – A government publication setting out procedural matters and guidance

**Delegated** – A power conferred to reporters by Scottish Ministers, so that the reporter may take decisions on specified matters, or undertake an examination of a development plan on their behalf.

**Development Planning** – The planning system in Scotland is plan led. The plans set out how places should change into the future

**Development Plan** – A document which sets out the local authority's policies and proposals for the development and use of land in their area. It identifies where development should and shouldn't happen. Local development plans allocates sites, either for new development, such as housing or sites to be protected.

**Development Plan Examination** – An examination of the Issues raised in unresolved representations made by people on a proposed development plan document. Examinations are carried out by independent reporters (appointed by Scottish Ministers and based with the Planning and Environmental Appeals Division)

**Development Plan Scheme** –The local planning authority's scheduled programme for the preparation of new Development Plan Documents. A Development plan scheme which local authorities are required to publish annually, sets out the timetable for the key steps in preparing a review of a local development plan. (which must be completed every 5 years). The development plan scheme also contains the authority's participation statement (see below).

**Evidence base** - The information and data gathered by local authorities to justify the "soundness" of the policy approach set out in Local Development Documents, including physical, economic, and social characteristics of an area.

**Front loading** - Community involvement in the production of Local Development Documents to gain public input and seek consensus from the earliest opportunity

**Hearing** - A round-table discussion led by the reporter and undertaken in a structured way, but without the formality of a local inquiry



**Inquiry** (sometimes known as a Public Local Inquiry) – A more formal event than a hearing, involving the cross-examination of witnesses. Inquiries are presided over by a reporter, and may be held to discuss particularly complex planning matters

**Objection** : a term sometimes used to describe a comment against a particular policy or proposal. 'Representation' is a more correct term.

**Participation Statement** – a statement outlining how and when the planning authority will consult with and create opportunities for the community to be actively engaged in the process.

**Planning Authority** – The public authority (generally the council or national park authority) whose duty it is to carry out specific planning functions for a particular area including preparing local plans, determining planning applications and carrying out enforcement against unauthorised development

**Planning and Environmental Appeals Division** – Part of the Scottish Government which deals with a wide range of appeals from decisions of planning or local authorities. A key area of work includes the examination of local development plans.

**Planning policies** – contained in development plans or in supplementary planning guidance, these set out criteria against which planning applications are determined.

**Plan led system** - The principle that the decisions upon planning applications should be made in accordance with the adopted development plan, unless there are other material considerations that may indicate otherwise.

**Proposed Plan** - The proposed plan represents the planning authority's settled view of what the final adopted content of the plan should be and sets out the local planning authority's policies and proposals for the development and use of land and buildings in the authority's area.

**Report of the Examination** - A report issued by a reporter regarding the planning Issues debated at the independent examination of a development plan. The recommendations contained in reports into Development Plans will be binding upon local authorities except in limited circumstances

**Reporter** – An impartial decision maker appointed by Scottish Ministers to undertake the examination of local development plans.

**Representee** – a person who has made a representation to a proposed development plan

**Representation** – a formal statement/letter or proforma which communicates an opinion or registers an objection or note of support regarding a proposal in a development plan

**Schedule 4** – A form used by the planning authority to group together and summarise all the related matters raised in representations. Schedule 4's form the basis for the report of the examination with the reporter adding her/his conclusions and recommendations on each Issue.

**Site Visit** - A visit to an area or areas of land by a reporter considering a planning appeal or development plan examination. Such visits may be accompanied or unaccompanied.

**Statement of Conformity** – Explains how the planning authority has implemented the steps set out in its Participation Statement to involve a wide range of people and organisations in the making of the Local Development Plan.

**Statutory** - Required by law (statute), usually through an Act of Parliament.

**Submission** – The proposed plan, representations and other required documents which are submitted to the DPEA to be scrutinised through an examination by the independent reporter.

**Supplementary guidance** – Part of the development plan prepared and adopted by the planning authority to provide further information or detail on the policies or proposals that are in the local development plan, for example a master-plan for a site. Supplementary Guidance may cover a range of Issues, both thematic and site specific. Supplementary guidance is not subject to examination by a reporter.

**Unresolved Issues** – An umbrella term for all the points raised in representations to the proposed plan which remain in dispute.

**Written submissions**- A procedure by which representations on planning appeals, development plans and Development Plan Documents can be dealt with without the need for a full public inquiry or informal hearing.