

# Planning and Environmental Appeals (DPEA)

APPEAL TO SCOTTISH MINISTERS:  
NOTES FOR APPELLANTS SUBMITTING A  
PLANNING PERMISSION APPEAL  
USING FORM PPA



Scottish Government  
Riaghaltas na h-Alba  
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# Contents

Notes for appellant.....	4
Appeal or local review? .....	4
Deadline for making an appeal.....	4
Completing the appeal form.....	5
Page 1 of appeal form .....	5
Appellant(s) .....	5
Agent .....	5
Do you agree to all correspondence being sent by E-mail .....	6
Planning authority .....	6
Planning authority's application reference number.....	6
Site address.....	6
Description of proposed development .....	6
Date of application .....	7
Date of authority's decision .....	7
OS map grid reference or post code .....	7
Area of appeal site.....	7
Nature of Application .....	7
Appeal Against .....	8
Page 2 of appeal form .....	8
Statement of appeal .....	8
Raising of matters not before the planning authority.....	9
List of documents/ evidence .....	10
Page 3 of appeal form .....	10
Environmental impact assessment regulations .....	10
Question 1: .....	10

Question 2: .....	10
Question 3: .....	11
Questions 4 to 7: .....	11
EIA regulations and appeals in respect of approval of matters specified in conditions of existing planning permission.....	12
Appeal procedure.....	13
Page 4 of appeal form .....	14
Site inspection.....	14
Checklist.....	15
Page 5 of appeal Form .....	15
Other appeals .....	15
Declaration .....	15
What next? .....	15
Further information .....	16

## Notes for appellant

These notes relate to appeals to the Scottish Ministers under Section 47 of [the Town and Country Planning \(Scotland\) Act 1997](#) [the “Planning Act”] in conjunction with [The Town and Country Planning \(Appeals\) \(Scotland\) Regulations 2013](#) [the “Appeals Regulations”] in respect of decisions made by planning authorities on applications for planning permission, or in respect of the non-determination of such applications.

If you want to (a) appeal against a refusal of planning permission, (b) challenge conditions attached to a permission or (c) appeal against the planning authority’s failure to determine a planning application, you should use form PPA

### Appeal or local review?

Before you complete and submit this form, please ensure that you have the right to appeal to Scottish Ministers; in some circumstances the appropriate route to challenge the decision (or non-determination) is through the planning authority’s Local Review Body. The planning authority should have advised you which is the appropriate route for challenge in relation to your planning application but, if you are in any doubt, you should contact your planning authority to clarify this matter before completing an appeal form.

### Deadline for making an appeal

The Appeals Regulations state that an appeal must be made within the period of 3 months beginning with the date of the planning authority’s decision notice on the application. This means that your full appeal must be received by Planning and Environmental Appeals (DPEA) before the end of the third month. If the planning authority has not made a decision on your application and the date by which it should have done so has passed, you can make an appeal against non-determination of your application; in which case the 3-month period starts from the date by which the authority should have made its decision. Check with your planning authority if you are unsure of this date.

For example:

1. The date of planning authority's decision notice is 1 September – your full appeal must be received by DPEA on or before 30 November (note: 1 December would be the start of the fourth month, and so too late).
2. The planning authority has not made a decision on your application, and it should have done so by 15 March. You can make an appeal against non-determination, but the last day by which you can do so is 14 June. However, if you do not make an appeal against non-determination and wait for the planning authority's decision on your application, and you subsequently want to make an appeal against that decision, the 3-month clock will start again from the date of the decision notice.

The Scottish Ministers have no scope to accept and consider an appeal made after the deadline. This includes any incomplete appeal form or documents received before the deadline, but not fully documented by the time it passes. To avoid any risk of your appeal being turned away due to being out of time, we strongly advise that you make your appeal in plenty of time before the end of the 3 month period.

## Completing the appeal form

The notes below are intended to help you complete the appeal form. This form is mandatory and should be carefully completed to ensure your appeal is valid.

### Page 1 of appeal form

#### Appellant(s)

This section should be fully completed with the name, address and contact details of the appellant. The Appeals Regulations require that the appellant's name and address must be supplied.

#### Agent

This section needs to be completed if the appeal is being submitted by an agent acting on behalf of the appellant (e.g. planning consultant, solicitor, architect, friend). The

Appeals Regulations require that, where an agent is appointed, the agent's name and address must be supplied.

You must also confirm whether correspondence should be sent to the agent rather than the appellant by using the check box provided.

**Do you agree to all correspondence being sent by E-mail**

We seek to use electronic communications wherever possible. Please mark the appropriate Yes/No box to confirm whether you are content to receive correspondence by e-mail.

**Planning authority**

This will be the name of the council (or national park authority) who considered your application.

**Planning authority's application reference number**

Each planning permission application is given a unique reference number by the planning authority. This will feature on correspondence from the authority and on the decision notice. The Appeals Regulations require that the reference number must be supplied with your appeal.

**Site address**

To help us identify the location of the proposed development, you should provide the postal address or site name.

**Description of proposed development**

This should describe what development you wish to carry out on the site, and must be the same proposal which the planning authority considered i.e. you must not change the nature of your proposal for consideration at appeal.

## Date of application

This is the date on which the planning authority received your application (or any outstanding information) and so validated your application. The planning authority will have confirmed this date to you when acknowledging receipt of your application.

## Date of authority's decision

Where the planning authority has made a decision on your application, you should provide the date stated on the decision notice.

## OS map grid reference or post code

To ensure we have properly identified the location of your proposed works, you should provide either the ordnance survey national grid reference or the site's postcode.

## Area of appeal site

Please provide a note of the area of the site, either in square metres or in hectares.

## Nature of Application

There are 4 options in this section and you should select one of them, to demonstrate what you were seeking through your planning application:

- The first option is where you applied for full, or detailed, planning permission.
- The second option is where you have sought planning permission in principle - i.e. you have not provided fully worked up or detailed plans, but are seeking a decision on the principle of matters such as the type and scale of the development at the chosen location. (This was previously known as 'outline planning permission'.)
- If you have already obtained planning permission in principle, and you are currently seeking to appeal in relation to a subsequent application in terms of matters set out in a condition of your planning permission in principle, then you should mark the third box. (This approach had previously been known as approval of 'reserved matters'.)

Finally, the fourth option is to be used where you applied to the planning authority to change or delete a condition which was previously attached to a planning permission.

## Appeal Against

There are 3 options in this section and you should select one of them, to demonstrate what decision or action of the planning authority you now wish to appeal against.

- If you have received a notice from the planning authority stating that it has refused your planning application, and you want to challenge that decision, you should mark the first box.
- If you have not received a decision on your application within the timescale you were advised previously by the planning authority, and you wish to exercise your right of appeal rather than wait for the authority to make its decision, you should mark the second box.
- If the planning authority has approved your application, but has attached any condition(s) to the terms of the consent which you wish to challenge, you should mark the third box

## Page 2 of appeal form

### Statement of appeal

Your statement of appeal should include full particulars of your appeal and the matters you think ought to be taken into account, and all documents, materials and evidence upon which you intend to rely in your appeal must accompany this form. All matters which you intend to raise in the appeal must be set out in your appeal or in the accompanying documents.

The Appeal Regulations provide for the raising of additional matters or submission of further documents only in very limited circumstances.

For example, if, in its response to your appeal, the planning authority raises matters which had not previously featured in its decision on your application, you would have the opportunity to comment and submit additional documents on those matters. And if you are making an appeal against the non-determination of your application by the



planning authority, at that stage you will have an opportunity to respond to the planning authority's view (which would be unknown to you at the time you first make your appeal).

Other interested parties (who had previously expressed a view on your application) will be advised of your appeal to Scottish Ministers. If they provide further comments in respect of your appeal, you will be entitled to respond to those comments before a final decision is made.

Nevertheless, depending on the terms of the planning authority's (and any other party's) response to your appeal and the possible need for any further procedure (see below), the point at which you lodge your appeal might be your only opportunity to state your case, and so you must be content that you have raised all relevant issues.

## Raising of matters not before the planning authority

A key principle behind the process of making an appeal to Scottish Ministers is that the appeal should be based on the same proposal and the same information that was before the planning authority at the time that it considered your planning application.

Section 32A of the Planning Act makes it clear that a proposal is not to vary after an appeal has been made. This means that the proposal submitted at appeal must be identical to that considered by the planning authority.

Under section 47A of the Planning Act, parties involved in an appeal are not expected to raise any new matter during the appeal process that was not before the planning authority at the time it made its decision on the application unless they can demonstrate:

- that it could not have been raised before that time; or
- that it's not being raised before that time is due to exceptional circumstances.

This does not alter the legal entitlement to have the provisions of the development plan for the area or any other material considerations taken into account in the decision-making process

If you are considering raising new matters or evidence which did not feature in the planning authority's consideration of your application, you might want to consider

whether you should make a fresh planning application to the authority rather than appeal to Scottish Ministers.

The appeal form asks you to state whether you are seeking to introduce new matters which were not before the planning authority at the earlier stage and, if so, to explain why.

## List of documents/ evidence

As well as providing a full statement of your appeal at the outset, the Appeals Regulations require that all documents, materials and evidence that you intend to rely on in support of your appeal must be provided alongside your appeal form. To ensure we have received all of this information from you, please provide a full list of all supporting documents etc. in this text box.

When listing plans and drawings please quote the reference the planning authority gave them.

## Page 3 of appeal form

## Environmental impact assessment regulations

### Question 1:

“EIA report” and “environmental statement” are both expressions that refer to reports required by law to be submitted for some planning applications as part of an environmental impact assessment.

Environmental impact assessment is a legal requirement for developments that are likely to have significant effects upon the environment.

### Question 2:

The purpose of this question is to determine what regulations apply to the environmental impact assessment of your proposed development. The requirements for environmental impact assessment for planning applications are currently set out in the [Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#) (the 2017 EIA regulations). However, certain cases are still dealt with

under the [previous regulations made in 2011](#) (the 2011 EIA regulations). These are cases in which:

- an environmental statement was submitted before 16 May 2017 or
- a request for a scoping opinion or direction was made before 16 May 2017.

While the arrangements under the 2011 and 2017 EIA regulations are broadly similar, there are some differences. For this reason, it is important that the Scottish Ministers identify which regulations apply to an appeal.

Scoping - scoping is a process that is carried out at the request of someone proposing to apply for planning permission. It would only be carried out if environmental impact assessment is required for the proposed development. It is a process that determines the scope and level of detail requiring in an EIA report for the proposed development. A scoping opinion is issued by the planning authority and a scoping direction is issued by the Scottish Ministers.

### Question 3:

Screening - screening is a process for determining whether environmental impact assessment is required.

A screening opinion is issued by the planning authority and determines whether environmental impact assessment is required for the proposed development.

A screening direction is issued by the Scottish Ministers and determines whether environmental impact assessment is required for the proposed development, notwithstanding any previous screening opinion.

### Questions 4 to 7:

Schedule 1 development - this means development falling within one of the descriptions listed in [schedule 1](#) of the 2017 EIA regulations.

Schedule 2 - this means [schedule 2](#) of the 2017 EIA regulations. Column 1 of schedule 2 lists a number of descriptions of development types for which environmental impact assessment may be required. Column 2 lists thresholds relating to each of those development types.

All the following are [sensitive areas](#):

- sites of special scientific interest. Regarding these, see [Scottish Natural Heritage's \(SNH's\) website](#).
- land in respect of which a nature conservation order has been made under section 23 of the Nature Conservation (Scotland) Act 2004. See [SNH's website](#)
- European sites (including special areas of conservation, sites of Community importance, special protection areas). See [SNH's website](#).
- World Heritage Sites. See [Historic Environment Scotland's website](#).
- Scheduled monuments. See [Historic Environment Scotland's website](#).
- National Scenic Areas. See [SNH's website](#)
- National Parks
- Marine protected areas. See [SNH's website](#)

All developments falling within a description in schedule 1 of the 2017 EIA regulations require environmental impact assessment.

If a proposed development falls within a description in column 1 of schedule 2 of the 2017 EIA regulations and either:

- exceeds the threshold in column 2 of schedule 2 or
- is in a “sensitive area”

then it must be screened to determine whether environmental impact assessment is required.

If screening is required but no screening opinion or direction has been issued, then before they decide the appeal in respect of the proposed development, the Scottish Ministers must issue a screening direction.

## EIA regulations and appeals in respect of approval of matters specified in conditions of existing planning permission

If your appeal relates to the refusal or conditional grant of approval (or consent or agreement) required under a condition of existing planning permission (or planning permission in principle), then the following applies: Where the questions in this section of the appeal form refer to “the proposed development”, this means the development permitted under the planning permission that contains the condition under which you are seeking approval in your appeal.

Other points to note:

- Applications under section 42 of the Town and Country Planning (Scotland) Act 1997: Where an application is made to develop land without compliance with conditions of existing planning permission for schedule 1 development, then (for the purpose of completing the appeal form) the application must be treated as being for schedule 1 development.
- Urban development projects: This is one of the descriptions of development types listed in schedule 2. Although the schedule 2 description says that the category includes construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas, it is not limited solely to such projects or even to projects of a similar scale. Development of houses or even of tennis courts can be an urban development project.
- A project may fall into several of the schedule 2 descriptions of development types. It will require screening if any description and threshold in schedule 2 applies.

## Appeal procedure

The appeal process will be managed by the person appointed by Scottish Ministers to consider and decide your appeal. If, having received your appeal, the planning authority's response and any other correspondence received from any interested parties, the appointed person has sufficient information to be able to make a decision on the appeal, then that is what will happen.

However, the appointed person may consider it necessary to obtain some further information, perhaps just on a single issue/matter (rather than on the appeal as a whole), before reaching a final decision. There are several methods available to the appointed person to obtain this information:

- Inspection of the Site - The appointed person visits the site to view it and its surroundings. The appointed person will undertake an unaccompanied visit wherever possible. If an accompanied site inspection is necessary, there will be no scope to discuss the merits of the proposed development with the appointed person.

- Further Written Submissions - Parties will be invited to provide information on a specific issue in writing and each of these parties will then be entitled to respond to the written submissions provided by others.
- Hearing Session - This involves a discussion between the parties. This will be restricted to the specific matters identified for discussion, and will be led by the appointed person. Formal cross examination of hearing participants is not allowed.
- Inquiry Session - Where a more formal inquiry structure is needed, this session can be held to examine the specific matters identified by the appointed person. Cross-examination of witnesses is likely to occur in inquiry sessions.

If the appointed person decides that any further written submissions, a hearing session or an inquiry session is needed to consider a specific matter, both you and the planning authority will always be invited to participate, along with anyone else who the appointed person wishes to receive relevant information from.

While ultimately it is the appointed person's role to decide whether (and, if so, what) further procedure is necessary to inform the decision on your appeal, both you and the planning authority are entitled to express an opinion on which procedure (or combination of procedures) you think are appropriate. This section of the appeal form invites you to do so. It also provides an option (box 1) where you can express if you are content for a decision to be made without any further procedure.

Where there is to be some further procedure, you will always be advised of what is happening and of what might be expected of you.

## Page 4 of appeal form

### Site inspection

This section of the form seeks your assistance and opinion in relation to the accessibility of the site of your proposed development, to assist our preparations if the appointed person decides to inspect the site before reaching a decision.

Good bio-security practice helps prevent outbreaks and the spread of animal and plant pests which may affect agriculture, forestry, aquaculture and angling industries. It is helpful for the reporter to know in advance if there are any such issues they need to be

aware of before the carry out a site inspection. If there are, please give details in the comments box on the appeal form or provide on a separate sheet.

## Checklist

The appeal form is structured to guide you in making a full and valid appeal which will comply with the terms of both the Planning Act and the Appeals Regulations.

The checklist allows you to ensure that you have provided us with all the information we need to progress your appeal.

## Page 5 of appeal Form

### Other appeals

If you have any other related appeals currently with the Scottish Ministers concerning the same or neighbouring land, please provide the details on this part of the form.

### Declaration

To confirm that you are making an appeal to the Scottish Ministers in the manner set out on your form and supporting documents, please sign and date the form before you send it. If you are sending the form electronically, you can simply type your name and date - your e-mail address will act as an electronic signature.

### What next?

Once you are happy with the terms of your appeal, you should send the form and all supporting information to Planning and Environmental Appeals (DPEA), either by email, post or fax. The contact details are at the end of the form.

The Appeals Regulations also require that, at the same time as you send the appeal to us, you must send to the planning authority:

- a copy of the notice of appeal (the form);
- a list of all documents and other information relating to your appeal which you intend to rely on in support of your appeal (you will have provided this on page 2 of the form); and

- a copy of any documents or other information from that list which you have not already provided to the planning authority when it was handling your planning application.

## Further information

For further information about the planning appeals process, please see the [Scottish Government's Planning Circular 4/2013: Planning Appeals](#). This is available on the Government's website or can be obtained in hard copy by contacting the Scottish Government's Central Enquiry Unit on 0300 244 4000.

If you wish to discuss any aspect of the appeal form or the process, please contact Planning and Environmental Appeals (DPEA) on 0300 244 6668.

Written queries can be sent to us at either by e-mailing [dpea@gov.scot](mailto:dpea@gov.scot) or by post to Planning and Environmental Appeals Division, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR.

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