

RESPONDING TO A PLANNING APPLICATION

A guide by Diana Cairns of Planning Democracy

How will I hear about a new planning application?

You may hear about a new planning application in a number of ways, for example, it may be advertised in the local press, the developer may come to a meeting of the local community council to make a presentation, you may receive a neighbour notification notice or you may hear about it from a friend or neighbour.

1. Find out as much as you can about what is proposed.

You can do this by visiting the local authority planning office to view the plans and associated documents or by viewing the plans online on the local authority website.

Find out key facts such as:

- whether it is an outline or a detailed planning application
- the size and scale of the development
- its exact location
- what the intended function of building /land use is
- proposed hours of operation (if a business)
- who the applicant is
- by when objections need to be submitted.

There is now a hierarchy of development, with three categories of development:

- national
- major
- local.

The National Planning Framework 2 contains 12 national developments.

National developments are the top tier of the new hierarchy of developments introduced by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, which came into effect on 6 April 2009.

Below national development are major developments and local developments.

Whether a proposal is a major or a local development is dependent upon thresholds and criteria contained within the hierarchy. There are nine classes of major development; the classes and threshold for each are:



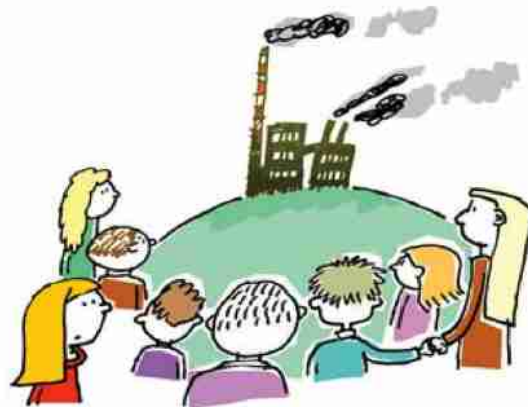
- All development under Schedule 1 of the EIA (Scotland) Regulations 1999.
- Housing proposals of 50 dwellings or more, or housing sites exceeding 2 hectares (ha).
- Business & general industrial, storage and distribution with a gross floorspace of 10,000m² or a site exceeding 2 ha.
- Electricity Generation where capacity is or exceeds 20 MW
- Waste Management Facilities where capacity is or exceeds 25,000 tonnes per annum, or for sludge treatment facilities where capacity of or exceeds 50 tonnes (wet weight) daily.
- Transport and Infrastructure where the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 km in length.
- Fish Farming where the surface area of water covered exceeds 2 ha.
- Mineral Extraction where the site area is or exceeds 2 ha.
- Other Development not falling wholly within one of the above classes where the gross floor space is or exceeds 5000m² or a site area exceeding 2 ha.

NB: a hectare is equal in size to about two rugby pitches.

Following the introduction of new legislation, from 3 August 2009, applications for national or major developments must comply with the new Pre-application Consultation process.

For major applications, developers must:

- submit a proposal of application notice to the planning authority and relevant community councils at least 12 weeks prior to the application being submitted;
- hold at least one public event, which must be advertised in the local newspaper at least seven days prior to the event;
- following consultation, submit a consultation report to the planning authority with the planning application.



It will be necessary to interpret and understand the plans and there may be supporting documentation such as traffic impact analyses, which will need to be scrutinised. This can be difficult, as many of these documents can be very technical but it is worthwhile putting out an appeal in the community for help from people who may have the requisite planning/technical knowledge. Do not however rule out the application of common sense and local knowledge, which can give local residents an advantage. If something in the plans seems illogical or erroneous, that's probably because it is!

It is well worth scrutinising the reports if you possibly can, as sometimes planning officers only give them a cursory glance. One traffic study for an application in Edinburgh was found to contain references to cycleways through Glasgow! This major error cast doubt over the validity of the rest of the study.

Developers may claim that they have carried out consultation and dealt with local residents' concerns but it is worth checking the consultation report to ensure it is an accurate representation of the community's views.

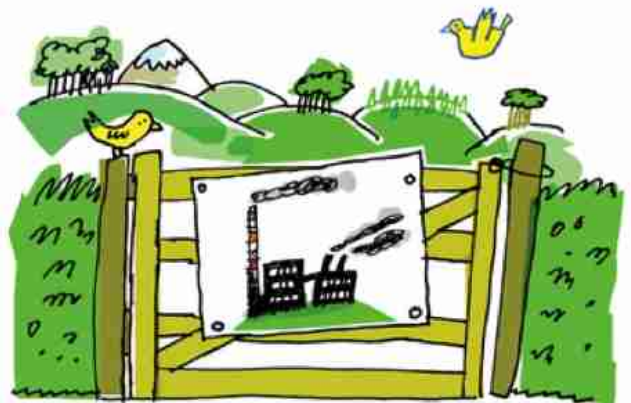
Work out why you object to this development and why others might as well. For objections to be taken seriously by the planning department, they need to be *material*, e.g. traffic generation, loss of amenity; environmental concerns such as noise/air/light/odour pollution; loss of vitality and viability of the local high street; impact on the conservation area; loss of important public views (loss of a personal view is not seen as material). This is not an exhaustive list so ask your local authority planning department to give you some guidelines.

2. Communicate/publicise

If you think the plans are of interest or concern to the local community, find a way of communicating your concerns. This can be done by leafletting, particularly the properties nearest to the site of the application, placing leaflets in public places, e.g. shops, libraries, community centres, pubs, etc. You could also call a public meeting but this may not be easy to do in the timescale within which you have to respond to the application. Also, the developers may be organising their own public meeting as part of the consultation process.

Community councils are statutory consultees for planning applications, so contact your community council to find out if they are objecting to the planning application. If timing permits, ask to go along and speak at a meeting so you can outline your concerns and ask for the support of the community council - they are there to represent the views of the community. An objection by the community council carries more weight than an individual objection so it pays to try and persuade them to support you.

Speak to people - find out who knows about it. Tell friends, neighbours and family in the local area and beyond, spelling out the possible ramifications of the plans. Ask them to tell their friends, neighbours and family too. Holding stalls in your local high street on a Saturday morning when there are a lot of people about is a good way to inform people about the plans. Have a supply of information for them to take away. Start a petition but bear in mind that you need as many letters of objection as possible to make an impact. In terms of importance given to them by local authorities, individual letters are seen as carrying most weight, followed by standard letters then petitions.



Make up a contact list so that people can leave their details with you. You can then set up an e-mail list for contacting people so that you can disseminate information quickly and easily. Include a box on the contact sheet that asks what help people could offer, for example, specialist knowledge or help with tasks such as leafletting.

Set up a website and make sure its address is clearly visible on your leaflets. Send the link to people you think might be interested. Set up a page on a social networking site such as Facebook and invite others to join. See if you can connect up with other like-minded people to set up a campaign group to fight the plans if you think it is appropriate.

Contact your local politicians to outline your concerns and ask for their support. You may find that some of them will wait to see which way public opinion is going before wanting to commit themselves.

If one of your local councillors is a member of the local authority planning committee, local authority guidelines may prevent them from expressing their opinion before the plans are discussed by the planning committee. If they take a stance before the planning committee meeting they may not be allowed to vote at the meeting. This does not stop you from making your views known to them of course. It is worth checking what your local council's policy is on this.



Get in touch with your local newspaper about your concerns. They are often looking for stories so may be happy to do an article about the proposed development and local feeling about it.

Organise a letter writing campaign to local and national newspapers to highlight your concerns and raise awareness.

See if you can get local TV/radio interested in covering your campaign.

Organise a protest, a publicity stunt or a demonstration if you think this would be appropriate. Be clear on what you are demonstrating about and try to get publicity in the local press. Make sure you get plenty of people there or it could end up a damp squib.

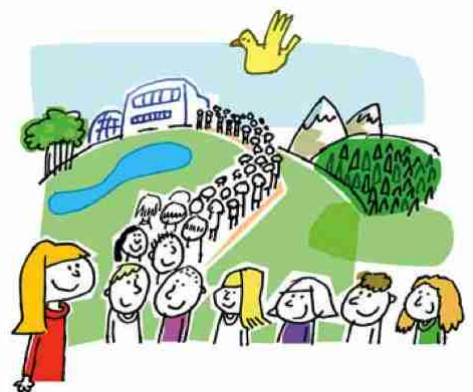
Remember though that no matter how well publicised your campaign, you cannot assume that everyone will know about the planning application.

3. Writing letters of objection

It is important to use the words "I object" in your letter, otherwise your letter may be taken merely as a comment by the planning department. Each person in your household should send an individual letter of objection to the planning application.

It is a numbers game, so encourage as many people as possible to object to the application.

To make it easy for people to object you could prepare a leaflet which gives clear and brief information about the plans, tells them how to object, the planning application number, where to write to, or appropriate e-mail addresses and by when they should submit their objection. Give them a few key points about the plans which they can then weave into an individual letter. Planning departments always set more store by individual letters, however brief, than they do by standard letters. The leaflet can be delivered to people's homes, left in public places or e-mailed round a contact list, preferably all three so you ensure the information reaches as many people as possible.



4. Follow up your objection.

A couple of weeks after the period for objections has closed, contact the planning department to find out how many letters of objection have been received. This should give you a good idea of the strength of objection to the plans. Ask the case officer to keep you informed of any developments, e.g. additional documentation being lodged by the developer, and when the plans are likely to be considered by the planning committee. In some cases the decision to grant or refuse permission for the plans may be a delegated decision, i.e. taken by the planning officer without going to the planning committee.

However, if there is a certain amount of interest in the plans the decision should be made at a planning committee meeting. You can check what the threshold is by contacting your local planning office. Your local councillor(s) can also ask for the plans to be heard by the planning committee.

For the applications that go to committee:

You can use the time during the period after lodging your objection and before the plans go before the planning committee to lobby all the councillors on the planning committee. (You can find out who is on the planning committee by phoning the local planning department or by looking on the council's website.) They are the ones who make the decision, so let them know why you believe the plans should be refused permission.



A good way to do this is by visiting all the planning committee councillors at their surgeries to explain your objections face-to-face. You will need to judge when the best time is to do this as councillors are busy people and don't always need a lot of detail. If you are part of a campaign group then the task can be divided between several people. It is a good idea to prepare a script to follow, which focuses on the key facts about the application and its likely impacts. Remember to concentrate on material considerations. The councillor may not be able to give you an opinion on the application and you should not ask them for one but you will have highlighted the public interest in the plans.

If it is not possible to visit the planning committee councillors (for example if they are spread over a wide geographical area) then you can lobby them by writing to them, either by letter or e-mail. You may wish to encourage others to do so as well, in order to demonstrate the strength of feeling against the plans.

When the plan is due to be considered by the planning committee you may receive a letter informing you of the date of the meeting at which it will be considered. However, it may not tell you what the council officer's report recommends, i.e. minded to grant or minded to refuse. You can find out the recommendation by contacting the planning department. It is best not to rely on the council to inform you of progress of the application so you may want to keep informed by contacting the planning department at regular intervals so that you hear about developments as soon as they occur.

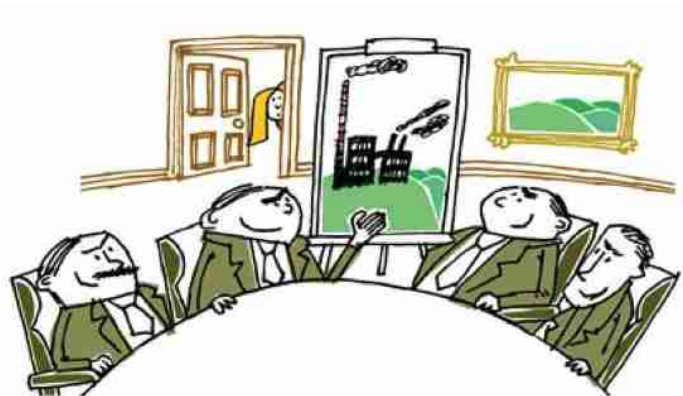
5. Preparing for the planning committee meeting

If you plan to attend the planning committee meeting at which the application will be considered then you may want to see a copy of the planning officer's report and recommendations. This will usually be made public about a week before the meeting although this may vary from local authority to local authority. Ask your local councillor(s) to keep you informed of when the report is likely to come out. If you are planning to speak at the committee meeting, you will definitely want to see a copy, specially if it contains a recommendation you disagree with.

If the officer's recommendation is to grant planning permission and you disagree with this then you can lobby the councillors who sit on the planning committee. Because of time constraints it will probably be easiest to e-mail them with key points about the plan and why you think it should be refused. It will help to give them a list of questions you want answered. The councillors can then pose the questions to the planning officers at the meeting, or to the developers if there is a hearing (see below).

If there is a lot of public interest in the application, it may be possible to ask for a hearing at the planning committee meeting, where both the developers and local campaign groups, or others such as the community council for the area, may be able to make presentations to plead their case. Not all local authorities may allow hearings so it is advisable to check what council policy is. If hearings are allowed, the decision about whether a hearing is admissible for a particular planning application will be at the discretion of the planning department but your local councillor(s) may be able to argue for a hearing on your behalf. If you are refused a hearing, one of your ward councillors may be able to speak on your behalf at the meeting.

If you are granted a hearing and several local groups are making presentations then co-ordinate what you are going to say so as to avoid duplication or omission of key facts or arguments. Keep your presentation brief and to the point (you will probably be restricted to five minutes) and provide visual aids such as photographs or models where appropriate. Rehearse your presentation and try and anticipate the sort of questions you may be asked. If possible ask someone to play the devil's advocate by asking you potentially awkward questions in order to make sure that you are as well prepared as you can be.



6. The day of the planning committee

If you want to attract maximum publicity for your campaign, you may want to stage a demonstration outside the council's offices where the planning committee meets. Try and use a gimmick to make your point, for example, a group opposing a waste transfer station application wore dust masks to show that they were concerned about the possible dust and smell emanating from the site. Contact local media: newspapers, television and radio stations to see if they will cover your demonstration.

Try and encourage as many local residents to come along to support you at the planning committee meeting. They will be able to hear what is said at first hand and it will show the planning committee that there is real concern about the application. Remember, public objection is a material consideration.

If you succeed in persuading the councillors to your point of view and they refuse planning permission you will feel a great sense of achievement but be aware that the developer may appeal, which could trigger a Public Local Inquiry taking you into another realm entirely.

If you are not successful then you will have no right of appeal, unlike the developers. The only possibility of having the decision revisited will be if you believe there has been a maladministration of the case or there is a point of law on which you can ask for a judicial review of the decision. You will need professional advice to pursue one of these options.

Good luck!

Planning Democracy is a community run organization that campaigns for a more people friendly and accountable planning system in Scotland.

Find us online at www.planningdemocracy.org.uk

We are a registered Scottish charity number SC041051.