



# Development Plan Examinations – guidance note for people who submitted representations

## 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 representation to a planning authority's proposed development plan. Annex 1 shows how the examination sits within the overall process of preparing a strategic or local development plan. The examination is a two stage process:

<b>Stage 1: Examination of conformity with the Participation Statement.</b>	<b>Stage 2: Examination of issues raised in representation.</b>
To ensure that consultation on the proposed plan has been carried out in accordance with the planning authority's stated intentions (as set out in its Participation Statement).	To enable the fair and proportionate examination of any unresolved issues and recommend whether any changes are required prior to approval or adoption of the proposed plan.

## 2. Who is involved?

2.1 The examination is carried out on behalf of Scottish Ministers by one or more appointed person(s) called reporter(s). It is administered by the Scottish Government's Directorate for Planning and Environmental Appeals (DPEA for short). The other parties include the planning authority who prepared the strategic or local development plan and all those 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. All these submissions are referred to as representations.

## 3. Your representation

3.1 It is likely that your correspondence on the proposed plan will be sent to Scottish Ministers 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. However, the examination is concerned only with unresolved issues. Reporters' have no remit to consider representations which are unrelated to the content of the proposed plan.

#### 4. Schedule 4 forms

4.1 The planning authority is required to group all the unresolved matters raised in representations under a relevant issue relating to the proposed plan. A summary of all the unresolved issues is then presented on a standard form along with the planning authority's response. These forms, called Schedule 4s, enable the examination to focus on the issues raised across all the various representations.

4.2 The specific matters you raised may be split between a number of issues and grouped with the views of others. The reporter's task is to reach conclusions and recommendations on each of the issues raised and presented by the planning authority. The forms are the key to an efficient examination. They are designed to guide the reporter through all the information required to reach his/her conclusions and recommendations on each issue.

#### 5. Documentation submitted by the planning authority

5.1 The following documents are provided to the examination by the planning authority:

Schedule 4 forms	The main issues report
Any supporting documentation/evidence	The report of the completed Habitats Regulations Appraisal of the plan, if required
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 approved structure plan or strategic development plan
The proposed action programme	Any adopted local plan(s) or local development plans for the area.
The monitoring statement	
The participation statement and report of conformity with the participation statement	

#### 6. What do you need to do?

6.1 Your representation is your evidence to the examination and you do not need to take any further action unless the reporter asks you for more information. You will be notified by either the planning authority or DPEA that the plan has been submitted for examination. However in order to ensure that the process remains fair to all parties

any unsolicited correspondence submitted to DPEA at this stage may be returned. In other words you should not make any further submissions at any stage unless you are requested to do so by the reporter. Paragraph 9.3 below details the limited circumstances where you may be asked for further input. In many cases you will simply be notified when the examination is complete and where its findings are published.

## 7. Commencement of the Examination.

7.1 The steps involved in commencement of the Examination are summarised below.

- Plan submitted to Ministers by the planning authority.
- Planning authority notified of appointment of a reporter.
- All necessary documentation outstanding submitted within 14 days of that appointment.
- For Strategic Development Plans - Scottish Ministers serve notice of the appointment of the reporter in a local newspaper and notify all those who submitted representations.
- For Local Development Plans - notification is the responsibility of the planning authority.
- Stage one of the examination commences when all documents have been received from the planning authority.
- Stage two of the examination commences when stage one is complete, but not before 28 days from the appointment of a reporter.

7.2 From this stage until completion, the process is administered through the DPEA and the examination is led by one or more reporter(s). It is anticipated that the examination should be completed within 6-9 months. Where the examination requires more than one reporter a lead reporter is appointed to manage the process.

### 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 point of contact for everyone involved.

## **8. Communication during the examination.**

8.1 Progress through the examination and all correspondence can be tracked on the DPEA web pages (*Include link*). The web site also includes an 'overview' that provides a monthly update on progress with the examination. To ensure the impartial position of the reporters all communications connected with the examination are handled through the administrative team.

8.2 As noted at 6.1 above further information or evidence should only be lodged where invited and it should specifically address the matters raised by the reporter. In the interests of fairness and efficiency the reporter is unlikely to be able to consider information that he/she did not request. Consequently, the administration team may return any unrequested communications about the content of the plan or the issues as raised in representation. However, they will be happy to help with any other queries you may have regarding the examination process.

## **9. The Examination**

9.1 **Stage 1: Examination of conformity with the participation statement.** The planning authority will submit a report of conformity with their participation statement to the DPEA. This 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 the web site to confirm that stage one is complete.

9.2 If the reporter is not satisfied that the steps in the participation statement have been carried out and conformity is not demonstrated he/she 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.

9.3 **Stage 2: Examination of unresolved issues to the proposed plan.** The reporter will assess all of the evidence before him or her in relation to each issue. For many issues this may be sufficient to allow the reporter to reach his/her conclusions/recommendations. However, there may be instances where further clarification or evidence is required. Experience to date indicates that some additional information will be required. There are a number of ways this information may be gathered; through site visits, written requests, hearing or inquiry sessions (see below)

9.4 The administration team are responsible for making the arrangements for the procedures listed below. 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 further 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 understood your position and does not need to ask you anything else.

**Site Visits** 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 he/she 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.

## 10. The Report of the Examination

10.1 The reporter will add his/her conclusions and recommendations to each of the schedule 4 forms that was 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.

## 11. Completion and Publication

11.1 DPEA will send the report of the examination to the planning authority. We will also publish the report on to the web site and notify everyone who submitted unresolved representations of its publication. For a strategic development plan, the report will be submitted to the Scottish Ministers, with a copy sent to the planning authorities and published on the web site. Examples of completed examination reports can be viewed at [\(include link\)](#).

## 12. Legislative and policy context

12.1 Full details of the legislative and policy context for strategic and local development plan examinations are contained within:

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

Planning Circular 1, 2009, Development Planning, sections 68-84

## 13. Next Steps

**13.1 Approval of Strategic Development Plans:** Following the examination it is for Scottish Ministers to approve, modify or reject the plan. The plan may be approved as a whole or in part. Ministers may choose to modify the plan setting out reasons for doing so.

**13.2 Adoption of Local Development Plans:** 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. 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.

Annex 1 Summary of development plan process.

<b>Plan Preparation and evidence gathering</b>	Publish Development Plan Scheme and Participation Statement
	Consult on main issues
	Consider all views in preparing Proposed Plan and Proposed Action Programme
	Publish Proposed Plan and Participation Statement
	Invite representations and undertake neighbour notification as set out in participation statement
	<b>Deadline for submission of all representations to the proposed plan</b>
<b>Prepare for Examination</b>	Planning Authority considers representations and prepares for examination assuming no further modification and remaining unresolved issues.
	<b>Commencement: Planning authority submits proposed plan and supporting documentation to Ministers. Reporter(s) appointed.</b>
<b>Examination</b>	Reporter examines conformity with participation statement. When



demonstrated reporter proceeds to assess unresolved issues.

Reporter examines unresolved issues, written requests for further information, possible site visits and hearings/inquiry as required.

Examination report published

Ministers reject, approve, modify strategic development plans.  
Planning Authority adopts local development plans including reporter's modifications (subject to limited exceptions).

**Approved or Adopted Plan is published.**

**Approval or  
Adoption**

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