

Dates of Meetings in 2008

26 Sep 8 Oct 12 Nov 28 Nov 10 Dec

NITHSDALE AREA REGULATORY COMMITTEE

Meeting of Wednesday 10 September 2008
at 10.00am in Council Offices, English Street, Dumfries

Members

Jack Groom (Chairman)	-	Nith
Gillian Dykes (Vice-Chairman)	-	Mid & Upper Nithsdale
Graham J Bell	-	North West Dumfries
Ian Blake	-	Abbey
John A Charteris	-	Lochar
Rob Davidson	-	Abbey
James H Dempster	-	Mid & Upper Nithsdale
Ivor A Hyslop	-	Lochar
Jeff Leaver	-	Lochar
John A Martin	-	Nith
Lorna J McGowan	-	Lochar
David J McKie	-	North West Dumfries
Ronnie Nicholson	-	North West Dumfries
Colin Smyth	-	Nith
Doug Snell	-	North West Dumfries
David Stitt	-	Abbey
John Syme	-	Mid & Upper Nithsdale
Michael J Thomson	-	Abbey
Alastair Witts	-	Nith
Andrew S Wood	-	Mid & Upper Nithsdale

Alex Haswell

Director of Chief Executive Service

**KEY CONSIDERATIONS IN DETERMINING APPLICATIONS
FOR PLANNING PERMISSION,
AS SET OUT IN SCOTTISH PLANNING POLICY 1: THE PLANNING SYSTEM**

1. Section 25 of Town and Country Planning (Scotland) Act 1997 requires that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

(a) Consider first whether the proposal is in accordance with the plan. If it is not, consider whether there are material considerations which would support a departure from the plan.

(b) If the application accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the application does not accord with the development plan it will be refused unless there are material considerations indicating that it should be granted.

2. The development plan is the most up to date approved Structure Plan together with the most up to date adopted or approved local plan.

There is an expectation that development proposals that are in accordance with the development plan will be granted planning permission. However, other considerations such as more recent expressions of policy and planning guidance may outweigh the policies of the plan, either in favour of, or against, the proposed development.

3. There are two main tests deciding whether a consideration is material and relevant:

- **it should serve or be related to the purpose of planning – it should therefore relate to the development and use of land; and**
- **it should fairly and reasonably relate to the particular application.**

The range of consideration which might be considered material in planning terms is in practice very wide and falls to be determined in the context of each case.

4. The degree to which an unacceptable proposal may be made acceptable by imposing conditions is a material consideration.

Conditions should only be imposed where they are:

- **necessary**
- **relevant to planning**
- **relevant to the development to be permitted**
- **enforceable**
- **precise**
- **reasonable in all other respects**

5. Information on planning decisions and the reasons for them is vital to public understanding of the planning system, particularly in cases where public interest has been expressed. At the core of the planning system is the democratic accountability of decision making.

There is a considerable onus on both Members and Officers of the Council to ensure that all decisions are reasonable and fully justified. Where Members wish to determine an application contrary to recommendation they must give reasons for doing so which are precise, specific and relevant to the application, as well as being reasonable and fully justified.

In certain specified circumstances the advice of statutory consultees is given considerable weight. Where the Council does not accept this advice it must notify Scottish Ministers who may call in an application for them to determine. Decisions contrary to such advice are subject to the same tests of reasonableness and must be fully justified.

Departures from the development plan are subject to Regulations governing procedure. Where an Area Committee, whether on Officers' advice or contrary to Officers' advice, are of the view that there is a reasoned justification for departing from policy, the application along with the Area Committee's recommendation will be determined by the Planning and Environment Services Committee.

6. Planning authorities have the power under Section 75 of the Town and Country Planning (Scotland) Act 1997 to enter into an agreement with persons having an interest in land in their area for the purpose of restricting or regulating the use of land, either permanently or during a prescribed period.

Requests for Continuation

The Planning and Environment Services Committee has agreed that this is a matter for the Committee's discretion, but should take into consideration the following guidelines.

These should normally be refused in the following circumstances:-

(a) Where the reason for request is the inability of the applicant, objector, agent or other party to attend a particular meeting. Their attendance is not essential to the Council's consideration of the application, and it can cause serious inconvenience to other parties who have taken the trouble to attend.

(b) Where an application is unacceptable in its present form, and continuation is proposed to allow for negation or amendment. In the interests of improved performance, the unacceptable application should be refused without further delay, and any further discussions of revisions carried out in the applicant's own time, prior to the submission of a new application, for which no fee is normally chargeable.

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1. **CIVIC GOVERNMENT (SCOTLAND) ACT 1982 PART V - MARCHES AND PARADES** - Report dated 31 July 2008 by Director of Chief Executive Service - *[Recommendations - Members are asked for their views on a proposal to: (1) make a submission to the Scottish Ministers that they consider making an order under Section 62 (11B) of the Civic Government (Scotland) Act 1982 to exempt from the public procession notification requirements all Common Ridings, Gala Days, Fun Day Parades and other similar traditional community events and Remembrance Day Parades; and (2) to contact COSLA to ascertain whether the local impact of the new notification requirements has been mirrored in other areas and if so whether a co-ordinated approach might be made to the Scottish Ministers that certain processions be exempted from the notification requirements.]*

2. **PLANNING APPLICATIONS –**
 - 2.1 **LAND AT LOCKERBIE ROAD, DUMFRIES** – Planning application for erection of a class 1 retail foodstore, petrol filling station, car parking, access, landscaping and associated works (08/P/30233) - *[Recommendation – Approve subject to conditions].*

 - 2.2 **LAND SOUTH OF WESTOVER, GREENLEA, COLLIN** - Planning application for erection of 4 dwellinghouses (08/P/30053) - *[Recommendation – Approve subject to conditions].*

 - 2.3 **SOUTH CARSE FARM, CARSETHORN** – Planning application for development of 3 no holiday chalets and shared septic tank and soakaway (08/P/30178) - *[Recommendation – Refuse].*

 - 2.4 **ADJACENT TO 55 GLENCAPLE AVENUE, DUMFRIES** – Planning application for erection of dwellinghouse (08/P/30359) - *[Recommendation – Refuse].*

3. **REQUEST FOR CONFIRMATION OF STANDARD TREE PRESERVATION ORDER NO. 1/3, 2008, LINCLUDEN DEPOT GARDENS, COLLEGE ROAD, DUMFRIES.**

4. **ANY OTHER BUSINESS DEEMED URGENT BY THE CHAIRMAN DUE TO THE NEED FOR A DECISION**