

PAN 40 Revised 2001

DEVELOPMENT CONTROL



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DEVELOPMENT CONTROL

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Planning Series:

- **National Planning Policy Guidelines (NPPGs)** provide statements of Scottish Executive policy on nationally important land use and other planning matters, supported where appropriate by a locational framework.
- **Circulars**, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change.
- **Planning Advice Notes (PANs)** provide advice on good practice and other relevant information.

Statements of Scottish Executive policy contained in NPPGs and Circulars may, so far as relevant, be material considerations to be taken into account in development plan preparation and development control.

This PAN summarises the Scottish Ministers' understanding of the effect of legislation and Circulars although the summaries do not carry statutory authority in themselves and legal advice should always be taken in case of doubt.

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Introduction

1. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The aim is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Development control is the process through which decisions are made on applications for planning permission. Scottish councils currently decide over 43,000 applications for planning permission and other related consents each year. The public and others must be given the opportunity to make their views known and to have them considered in the decision making process. It is essential that decisions are made promptly, seek to ensure high quality development on the ground and respect individual rights. High standards of customer care and management are key components of successful delivery of the development control service.

2. This best practice advice builds on the experience of planning authorities in providing a high standard of service in development control. Many examples of good service delivery can be identified, but there is scope for further improvement. The advice should be of interest to all those involved in the development control process, particularly councillors, planning officers, applicants, consultees and the general public.

3. The Scottish Ministers attach a high priority to the provision of a high quality development control service. Speed of decision making is only one indicator of a good development control service. Providing a high quality service requires clear and transparent procedures, efficient working practices and ensuring that development adds to the quality of our surroundings.

Planning Audit Unit

4. The Scottish Executive's Planning Audit Unit was set up in 1997 to work with planning authorities to establish the underlying reasons for contrasting development control performance and to identify best practice in handling planning applications. This PAN has been updated to take account of changes in legislation, recent research findings and the lessons learnt from the development control service audits. (See Annex). The best practice checklists and most of the examples have been drawn from the 17 audits conducted since 1997.

Effectiveness

5. Relevant and up-to-date development plans are a pre-requisite for efficient, sound and consistent development control decisions. In some areas the development control service has been frustrated by a lack of up-to-date plans. Applicants, investors, decision-makers and the public need information and some certainty about what types of development will be permitted, where it will be permitted and the standards that are sought. The audits have also found that there is scope for more effective working relationships between development planning and development control staff. Development control staff should be given opportunities to contribute to policy formulation and policy staff need to review the cumulative impact of decisions on the relevance and effectiveness of the policy framework. The need for complete, up-to-date plan coverage is essential.

Quality

6. Achieving quality in development control applies to:

- the decision making process;
- the service offered to customers; and
- the resulting development.

These are of equal importance and must be addressed by councillors, officials and users of the service. Each aspect is a key strand of the annual Scottish Awards for Quality in Planning awarded by the Scottish Ministers in association with the RTPi in Scotland. Local design awards have a role to play in encouraging higher quality development.

In 1996 **Argyll and Bute Council** introduced local design awards to encourage good standards of design in developments. The awards are made annually and judged by a panel of planning officers, councillors and experts. Awards are open to all categories of planning applications from large new build projects to shop front alterations. The awards make an important contribution to the Council's strategic objective of sustaining and improving the quality of the environment. The design awards were nationally commended in the 1999 Scottish Awards for Quality in Planning.

Performance targets and indicators

7. Delays in reaching decisions on planning applications have been of longstanding concern to many involved in the development process. There is a statutory duty for planning

applications to be decided in 2 months from the receipt of a valid planning application (4 months where an Environmental Statement is required). Decisions on complex or controversial schemes are likely to take longer and indeed dialogue and negotiation can avoid refusal of planning permission and a subsequent appeal, as well as leading to better quality development. The 2-month period can be extended with the written agreement of the applicant.

Figure 1: Targets set by the Scottish Executive in NPPG1 (Revised)

Type of Application	2 months	3 months	4 months
All Applications	80%	85%	-
Householder Applications	90%	95%	-
Major Applications	-	-	80%

8. NPPG1 sets out the targets for the length of time taken to determine different types of application. Authorities should aim to meet these targets. In the case of major development proposals, the applicant/agent and the council should seek to agree a timetable for handling the application.

9. As a basis for monitoring the performance of the service, six-monthly returns from planning authorities to the Scottish Executive provide data on the type and size of application, time taken, level of delegation, development plan departures, agriculture and forestry notifications and enforcement action. The Accounts Commission for Scotland collects and publishes information on some key development control indicators on an annual basis.

10. Local development control charters should provide a basis for service standards. Charters should concentrate on key areas of service delivery, particularly those identified as important by users of the service. It may also be beneficial to have separate charters for different aspects of the planning service. The Convention of Scottish Local Authorities (COSLA) prepared a model local charter for development control in Scotland that can be adapted to local circumstances. Indicators and targets should be included in local Development Control Charters.

City of Edinburgh Council published an enforcement charter in 1999. It sets out service standards relating to the different aspects of enforcement, explains how the service operates and sets out priorities for action. The tools available to officers are listed, together with information on timescales and the complaint procedure. The Charter contains a list of relevant contacts and is available in Braille, tape, large print and community languages.

Best Value

11. Best Value is the process through which councils work for continuous improvement in service delivery. It aims to ensure that the cost and quality of services are of a level acceptable to customers. Points with a direct bearing on the development control service include:

- reviewing performance using core measures such as average time taken, workload, volume of appeals, proportion of appeals sustained or dismissed, and cost;
- reviewing performance in relation to national and local targets; and
- assessing procedures to identify and address strengths and weaknesses.

12. Performance indicators are important in monitoring development control service delivery and allow comparative benchmarking with other authorities. In addition to outputs, comparisons may also extend to processing methods and inputs. The findings of best value reviews should be made available to staff, other authorities and interested organisations to allow for comment and comparison.

The city councils of **Aberdeen, Dundee, Edinburgh and Glasgow** compare their development control services within a benchmarking group, meeting regularly to discuss performance statistics, service quality and ways in which the service can be improved. Other councils have made similar arrangements. Sharing information and exchanging ideas helps each authority to make improvements in their service delivery.

RESEARCH FINDINGS:

Costs of the Planning Service in Scotland (SE CRU 1999) ¹

This study investigated the costs involved in the delivery of the planning service by Scottish local authorities and suggested a common framework for cost accounting in the future. Costs were found to vary with the volume of activity undertaken and are generally higher in rural areas. There is little information about the costs involved in processing different types of applications. Around 50-70% of total development control costs relate to the determination of planning applications, but for some authorities, determination costs are not recovered by fees. The introduction of time recording is essential for providing accurate financial information.

13. Cost is an important element of the best value process. The factors involved in costing the operation of development

¹ Copies of research reports are available from The Stationery Office Bookshop, 71 Lothian Road, Edinburgh, EH3 9AZ. Summaries are available at www.scotland.gov.uk/cru

control are discussed in the research report 'Costs in the Planning Service' (see above).

The Service

14. The development control service must satisfy three main groups.

- **Developers** seek an efficient, effective and economical service that provides speedy and consistent responses and decisions.
- **Members of the Public** expect a service that operates effectively and consistently, offering a high standard of customer care and access to information on the progress of applications and the guarantee that their views are taken into account in the decision making process.
- **The Scottish Executive** must be satisfied that it is being operated fairly, openly and consistently, in line with national policy and with high standards of service and outcomes on the ground.

15. Achieving quality requires a commitment from councillors and management to work together. This section considers the separate roles and responsibilities of councillors, officers and users of the service.

Councillors

16. Councillors have the key responsibility to create the conditions within which a high quality development control service can operate. It is for councillors, and particularly the convenor of the relevant committee(s) to ensure that:

- the service is properly staffed and equipped;
- arrangements are in place for monitoring performance and minimising delay;
- elected members are kept well informed of the overall position on applications in progress and of cases that are taking longer than two months to decide; and
- arrangements are made for appropriate decision making to be delegated to officers or members of a sub-committee.

Committees and delegation

17. Committee cycles and support arrangements should be geared to meeting the requirement for decisions to be made within 2 months.

18. To expedite decisions and to allow elected members to focus on applications raising major policy issues or matters of general public concern, decision-making responsibilities should be delegated to officials, as appropriate. Delegation of decision making is particularly appropriate for applications that are consistent with the development plan or which raise no objection from consultees or the public. It is important that councils keep schemes of delegation under review to ensure that opportunities for more streamlined decision making are taken and that elected members are satisfied with their level of involvement in decisions.

Most councils make extensive use of delegation to officers in uncontroversial cases. For example, in **Inverclyde** the Director is authorised to decide all applications with the exception of specified categories (e.g. development plan departures and refusals). In **Aberdeen** there is a formal Scheme of Delegation and approximately 80% of planning applications are decided in this way. Applications that conform to adopted policies and to which no objections have been lodged may be delegated. Officers decide that a case can be determined under delegated powers, the case is then discussed at weekly team meetings attended by Team Leaders who will then issue decision letters. Councillors receive a weekly list of delegated decisions.

Decision making

19. When making planning decisions councillors should at all times consider the following:

- decisions must be made in accordance with the development plan unless material considerations indicate otherwise (sections 25 and 37(2), Town and Country Planning (Scotland) Act 1997);
- councillors represent the interests of the local community in planning matters, but the planning authority must take into account any view on planning matters expressed by neighbours, local residents, consultees and others; and
- it is essential that those who take part in the development control process are satisfied that their views have been considered in reaching a decision.

20. Councillors should seek to ensure consistency in their decision making, particularly concerning the application of policy and be aware of the implications for policy of decisions on individual applications. The situation should be monitored and reviewed regularly. Councillors should also be aware that where a decision is taken contrary to officers' recommendations, the officers may be unable to defend that decision in the event of an appeal. Where an appeal is made, councillors may be required to appear at a Public Local Inquiry to explain why the advice of officers has been rejected. If the appeal is successful and it is shown that the planning authority has dealt with the matter unreasonably, then the costs of the appeal can be awarded against the council.

Site visits

21. For some cases a site visit by elected members may be of value in informing the decision. Ways should be sought to avoid delays resulting from site visits. Alternatives include using photographs, slides or other illustrations at committee meetings to improve understanding of the application in its wider context. Site visits must serve a clear purpose and should not be used as a means of delaying a decision on a difficult or controversial application. Planning authorities should consider drawing up guidelines for the conduct of councillors during site visits.

Conduct

22. COSLA and the Executive are issuing advice on conduct for councillors dealing with planning matters. The purpose is to help councillors establish a consistent approach to their planning responsibilities. The public has the right to expect councillors to act in a transparent and open way and to expect that all decisions will be made in the long-term community interest.

Training

'A Guide to Training in Planning for Councillors,' Scottish Executive (September 2000)

23. Training is necessary for all councillors involved in the planning process. It applies both to those who are directly involved in making planning decisions and to councillors who may become involved in the process when representing the interests of their constituents. COSLA, Royal Town Planning Institute (RTPI), Scottish Society of Directors of Planning (SSDP) and the Executive have published a training framework.

24. All councillors, whatever their role in planning matters, should seek to develop a clear understanding of their role and responsibilities. Members should be familiar with the key principles and elements of the planning system and should

keep up-to-date with changes in policy and legislation. Officials have an important role in developing a training programme for councillors.

Management

25. A successful development control service requires clear management direction and commitment. Managers must promote a positive approach to service delivery, ensure that resources are optimally deployed and seek opportunities for improvement to the service. They must also ensure staff are aware of what is expected of them. Clear, up-to-date and specific job descriptions supported by a system of performance appraisal can be particularly valuable in linking service objectives to individual duties and responsibilities.

26. Dialogue within the development control team is essential. Regular management and staff meetings to discuss cases, performance, concerns, and wider issues are important. An emphasis on team working and communication is key to delivering and improving performance, reviewing procedures and implementing new practices. Team meetings can be used to update staff on current planning issues and offer the opportunity to exchange ideas and information and to discuss problems. Flexibility is important, as is making use of and improving the skills and experience of all staff in the development control section.

27. The culture within the service should be positive and encourage innovation at all levels. Management should be easily accessible and open to ideas about change. Constant change can be demotivating but there is considerable scope for introducing small changes in working practices and procedures that can assist in the more efficient delivery of the service and improve staff morale.

28. Management should seek to develop a system that allows:

- planners to take more responsibility for delegated cases;
- team leaders to concentrate on progress chasing and consistent application of policy rather than the details of application processing; and
- managers and Heads of Service to focus on the overall management of the service rather than becoming regularly involved in casework.

Glasgow City Council received a 1998 Award for Quality in Planning for its development control quality management initiative. Multi-disciplined groups were established to review specific areas of operation and their reports were developed into best practice procedure notes for all staff. A management team work plan circulated to staff showed tasks set and progress towards completion. As a result of the inclusive approach initiatives were implemented across the whole service including support staff. This led to significant improvements in statutory performance and performance indicators. Shared ownership of the process by staff and an ethos of shared responsibility were key to these improvements. This must be sustained to ensure on-going success.

Service Plans

29. Service plans are an important element in the management of the development control service. The service plan should set out the action to be taken to improve the standard of service and the indicators against which success can be measured. Standards should be regularly monitored and have the support and commitment of councillors.

In **Stirling** the Service Plan 1999 - 2000 was drawn up with inputs from customers and is directed at elected members, communities, employees and partner organisations. It sets out detailed and specific targets and performance indicators. A synopsis of the service training plan was included to show how employees will be supported in gaining the skills and experience needed to meet the Council's expectations and objectives.

Case management

30. The case handling process should be well defined and procedure notes produced to assist all staff. These notes should cover issues such as standard letter and report formats, consultation procedures, how to deal with representations received and use of conditions. Clear and well-understood procedures can be a significant aid to improving efficiency.

31. On receiving new cases team leaders should set decision date targets and allocate the case to a planning officer. Decision date targets are important in enabling planning officers to prioritise their work and to manage their time effectively. Supervision of the caseload of each planner is essential. Weekly meetings are the most common method of doing this and should combine supervision of cases with professional support and advice. Internal weekly lists to advise on the progress of all cases are also a useful tool. Although

Heads of Service should avoid day to day involvement in routine casework, it is important that they are notified of significant cases as soon as possible.

Householder applications and enquiries

32. A significant percentage of planning applications is householder applications. In some councils the figure is as high as 70%. Ensuring that these applications are handled efficiently can make a significant contribution to meeting performance targets. Simple and clear enquiry forms are useful when deciding if a proposal is development and whether it is permitted development or will require planning permission. A nominated planning officer or team to deal only with householder applications will often improve the speed with which applications are decided. A similar approach can be appropriate for all minor applications.

East Lothian improved their overall performance from 45% (October 1996 – September 1997) to a post audit high of 77% (October 1999 – September 2000) of decisions within 2 months. Much of this improvement was due to changes in the way householder applications are handled.

Decentralised arrangements

33. Decentralisation of the development control service is both necessary and desirable in geographically larger authorities. Such arrangements present particular challenges in respect of harmonisation and consistency of service within and between teams and area offices. Headquarters staff have an important role to play in providing a strategic overview of policy, providing support and cover, consistency of procedures, specialist advice, implementation and review of performance standards and budgetary control. When applications are referred from area offices to the central office, applicants should be informed and the relevant area office kept up-to-date with progress of the application.

Highland Council provides its planning service through a network of 8 decentralised offices. This enables decisions to be made at a local level, by local area committees, advised by officials with local knowledge and experience.

Checklist 1: Management	
COMMON PROBLEMS	BEST PRACTICE
<ul style="list-style-type: none"> ▪ Senior management seem distant and removed from development control staff ▪ Poor communication between staff and management ▪ Poor performance against targets ▪ Lack of co-ordination between development control and development plan policy ▪ Lack of co-ordination between area offices and headquarters ▪ Inconsistent advice and decisions between teams or area offices ▪ Management input coming late in the decision making process ▪ Head of Service has time taken up by casework ▪ Difficulty in accessing expert advice e.g. on urban design 	<ul style="list-style-type: none"> ▪ Head of Service holds quarterly meetings with all staff ▪ Regular staff meetings and discussions ▪ Develop shared understanding of the factors contributing to current level of performance as a basis for action ▪ Secure a closer two-way working relationship through meetings and interchange of information ▪ Clear lines of communication established ▪ Up to date policy guidance and agreed management direction ▪ Cases of interest to management should be identified as soon as possible ▪ Head of Service notified early about significant applications, but avoids direct involvement in routine casework ▪ Sources of relevant advice clearly identified and available across teams and area offices

Support Staff

34. Administrative and technical support staff are a vital part of the team and have a central role to play in the successful delivery of the development control service. Staff must be well organised with clear roles and deployed to make effective use of their skills. Adaptability is crucial, as is on-going training of existing and new team members. In larger offices there will invariably be a need for a supervisor with direct line management responsibility for support staff.

35. To unburden professional staff from some administrative work, management should consider extending the role of support staff to routine tasks such as the retrieval of decision notices for copying, acknowledgement of objections and minor planning enquiries at the front desk. Technicians are a useful resource and can advise on straightforward applications, monitor developments, carry out much of the processing of housebuilder and advertisement applications and prepare material for committee meetings.

In **Aberdeenshire** support staff in every office play an effective part in the development control process, taking on responsibility for fielding some enquiries and assisting with form filling. In the central service centre an administrative co-ordinator for the clerical, typing and access staff takes general office management pressure off the Service Managers.

Checklist 2: Staffing	
COMMON PROBLEMS	BEST PRACTICE
<ul style="list-style-type: none"> ▪ Over-burdened staff ▪ Delays caused by annual leave ▪ Constant interruption from reception or the telephone causing stress and delay ▪ Planning officers over-burdened with admin tasks ▪ Clerical staff lack management ▪ Duplication of tasks 	<ul style="list-style-type: none"> ▪ Staff numbers and skills to reflect volume and complexity of casework and associated demands ▪ Leave absences covered ▪ Introduce rotas for dealing with general enquiries ▪ Support staff should be used to free up the time of the professional officers ▪ Consider appointment of supervisor ▪ Responsibilities of each member of staff clarified

Information and Communication Technology

36. The use of Information and Communication Technology (ICT) by planning authorities in Scotland has increased significantly. Most of the advances in recent years have been in internal use of technology such as the introduction of computerised case handling systems, development of Geographic Information Systems (GIS) and the introduction of

electronic communication (e-mail). The exploitation of web technology is becoming increasingly important for planning authorities, particularly in terms of public access to information. The sharing of information electronically between planning authorities and expanding the use of GIS can also be helpful. The on-going maintenance of existing ICT provision should not be overlooked.

37. As part of the Modernising Government: 21st Century Government for Scotland agenda, the Digital Scotland initiative commits all public services to be available electronically by 2005. A corporate approach to the adoption and exploitation of ICT is key to success, as is the commitment of adequate resources, both financial and human. It is essential to have staff with the skills to use the technology effectively. Training, therefore, must be a key element of corporate ICT strategies.

East Renfrewshire gives details on the Internet of all the planning applications it receives. These set out the case reference number, registration date, ward, grid reference, intended decision method (delegated or committee), address of site, description of proposal, applicant and agent, and provide an ordnance survey based plan on-screen for the area concerned.

The **Forth Valley Geographic Information Service** was formed as a joint development and support team to be the data custodian of geographic information, and provide a cost effective service, for Clackmannanshire, Falkirk and Stirling Councils. The service can assist development control staff in monitoring new housing developments and creating specific maps as required.

Training and information for staff

38. The skills of all staff should be maintained and improved and everyone should be kept up-to-date with current planning issues. Clearly worded desk instructions offer a useful framework to staff in dealing with casework. Internal training sessions encourage the exchange of information and knowledge and are cost effective. Regular assessments of training needs of each member of staff are necessary. Officer involvement in organisations such as COSLA working groups and Planning Officer Forums can benefit both individuals and the development control service generally.

In **Dundee City Council's** planning service, regular internal training sessions are held covering a range of relevant issues including national policy and advice and ICT. Where possible internal expertise is utilised and shared.

Specialist skills and advice

39. The availability of advice from specialists is an essential resource for development control officers. It can cover topics such as archaeology, conservation, ecology, noise, landscape design, regeneration and urban design. It can be provided in-house, shared with other departments or councils, or sourced from consultancies and qualified advisers. Arrangements should be made to ensure that specialist advice can be obtained quickly to inform decision making.

Links with Development Planning and other departments

For further information on development plans see PAN 37: Structure Planning and PAN 49: Local Planning.

40. Strong communication links between the development control service and development planning are vital to an effective service. The processes should complement each other. Development plan policy directs development control decision making and development control experience should inform policy development. Furthermore, the implementation of policy through development control is an important means of monitoring the effectiveness of the plan. Management and officers should seek to foster close co-operation between these aspects of the planning process.

41. Close links with other council departments such as building control, environmental health and roads and highways should be developed. Historic Scotland and bodies such as Scottish Environment Protection Agency and the water authorities are regularly consulted on applications and it is important to review periodically the working arrangements to identify where improvements might be made.

Performance monitoring

42. Regular monitoring of performance is essential. Monitoring should not only be of overall levels but also of teams and individuals. Information on performance is not an end in itself, but can assist in identifying how individuals and teams are contributing to the overall service.

In **Moray** accessibility to information about performance has been improved through the use of a computerised case monitoring system, and a culture has developed in which staff accept the use of this information. Performance statistics are available for all officers individually and these are regularly reviewed. The issue of performance has assumed a higher priority and is now reflected in improved performance levels.

Users of the Service

43. Users of the development control service and the general public have the right to expect:

- planning applications to be decided promptly, without extra costs incurred through unavoidable delay;
- easy access to information about applications which are likely to affect them;
- an up-to-date development plan on which decisions are based;
- consistent decision making, with applications granted as a departure from the development plan adequately justified;
- constructive and prompt answers to planning queries; and
- complaints to be thoroughly investigated.

Customer care

44. Authorities should ensure that help and information are widely and readily available to all who come into contact with the service. Planning authorities should ensure that the needs of women, ethnic minorities and vulnerable groups, including children, older people and those with disabilities, are met in the decision making process. All enquiries should be dealt with promptly and courteously. The standards the public can expect should be clearly specified in the local development control charter.

45. Access to the service and to information on current cases is important to the quality of service provided. The authority's planning office should be easy to reach on foot and by public and private transport. The needs of minority groups and users with disabilities should be accommodated, including access to information in alternative formats such as Braille, large text and audio and where appropriate alternative languages such as Gaelic, Urdu, Punjabi, Arabic and Chinese. The quality and availability of assistance to all the people who may require information at the planning office or by telephone should be given special attention.

RESEARCH FINDINGS:

Quality Assessment in Development Control (SE CRU 1997)²

The research sets out a method for monitoring quality in development control which relates to the needs of customers in the widest sense: applicants, consultees, interested members of the public and the wider community. This should be used to judge how far planning authorities are meeting their service and development objectives and to take steps to remedy any shortcomings. The monitoring and review process requires: systematic collection of information on the operation of development control; regular review of this information by customers through user groups; and regular review meetings of senior development control staff and the convener of the development control committee.

46. The Planning Reception will usually be the first point of contact for users of the service. It is therefore important that a high standard of service is offered at this point. Technical and support staff should be able to answer straightforward queries. Other queries, for example on policy issues, should be directed to a professional planner. Information available at reception should include copies of the development plan, the weekly lists, copies of current applications, guidance leaflets, application forms and the service charter. Notice boards in the reception area can be used to display applications that are currently being advertised. A meeting room available for private discussions is a particularly useful resource.

47. Duty rotas are often useful to ensure that at least one planning officer is available to answer queries and give advice to the public without the need for an appointment. This also allows other officers to work undisturbed. A similar rota for telephone enquiries can be helpful. An in/out board should be provided and used by all staff.

48. Authorities may consider whether special arrangements should be made to serve communities for which the main planning office is relatively inaccessible. Options include displaying a weekly list of applications and providing a local access point for people to talk to planning officers or to see application documents. Libraries and other public buildings can be suitable bases with telephone and data links and visiting staff where appropriate. Trained assistance should generally be available where planning documents are being consulted.

49. Written guidance for the public should be clear and easy to understand, explain how the planning process works and cover issues such as how to make an objection and appearing at committee. Written and illustrative information should be

² Copies of research reports are available from The Stationery Office Bookshop, 71 Lothian Road, Edinburgh, EH3 9AZ. Summaries are available at www.scotland.gov.uk/cru

attractively presented in plain language, and kept up-to-date.

50. Complaints from the public should be dealt with swiftly through an agreed procedure. It is important that a complaints officer within the Planning Department is identified rather than all complaints going directly to the Head of Service. Where there may be grounds for a claim of maladministration against the planning authority in relation to the decision making process, the matter may be referred to the Local Government Ombudsman.

Checklist 3: Customer care	
COMMON PROBLEMS	BEST PRACTICE
<ul style="list-style-type: none"> ▪ Reception staff only able to give limited help ▪ Reception staff unaware if planners are in or out of the office ▪ Applicants unaware of progress of applications ▪ Poor communication between the development control service and customers ▪ Delays in dealing with complaints ▪ Customers do not find it easy to get application forms 	<ul style="list-style-type: none"> ▪ Staff provided with training on the planning system ▪ In / out board introduced and used by all staff ▪ Timetable for major applications agreed. Applicant informed of case officer on receipt of valid application. Developers informed when applications are referred from area offices to Headquarters ▪ Customer care questionnaire sent out with all decision notices and a customer focus group which meets periodically ▪ A dedicated complaints officer identified ▪ A dedicated contact line for application forms is helpful. Electronic forms could be made available on disk or the internet

51. Monitoring customer care should be an on-going priority. Possible methods include the use of questionnaires that can be sent out with all decision notices to provide a continuing indication of customer satisfaction.

RESEARCH FINDINGS:

Contact and Complaint Handling by the Planning Service (SE CRU 1997)³

The research provides best practice advice on the handling of planning complaints. Indicators of satisfaction for regular users of the system are: the ease of access by person and by telephone; the speed of response by telephone and correspondence; staff understanding, helpfulness and knowledge; and the quality of information available. Planning authorities should set standards and targets which meet the expectations of users and communicate these standards. Performance against the targets should be monitored and procedures amended as necessary. Authorities should have a named complaints officer and reduce the number of formal complaints stages to a maximum of two. The use of IT for more consistent handling and analysis of all non-routine contacts is encouraged.

Applicants

52. It is important that applicants and their agents recognise how they can contribute to an efficient service. Pre-application discussions should help in identifying the issues that the planning authority will need to address in reaching a decision. As a result applicants should be clear on what information is required to accompany the application to assist the authority in processing the case. It is essential that, to help minimise delays in processing, applicants submit all necessary information relating to an application at the outset. Applicants should also aim to respond promptly to requests for additional information.

Correspondence

53. All correspondence from the development control office should be written in plain language and include the name, telephone number and email address of the case officer. Officer details should also be on weekly lists and committee reports. Where an application is unlikely to be decided in 2 months, the applicant's written agreement should be sought to extend the time period for determination.

Consultees

54. Targeted consultation has a role in identifying relevant considerations but delays can arise from consultees not replying on time. Consultees, including community councils, have a duty to respond within the timescale set by the authority. It may be necessary for consultees to change their practices in order to meet these targets. Regular meetings between statutory consultees and the authority can be helpful in speeding up the consideration of minor cases or in setting parameters for consultation. Consultees should be able to set out categories of cases in which they are especially interested

³ Copies of research reports are available from The Stationery Office Bookshop, 71 Lothian Road, Edinburgh, EH3 9AZ. Summaries are available at www.scotland.gov.uk/cru

and wish to be consulted upon. When consulted on high priority cases, consultees should make every effort to respond promptly.

Community Councils

For further information see PAN 47: Community Councils.

55. The Scottish Executive is keen to see community councils play their part in considering planning issues of local concern. Agreements should be reached between planning authorities and community councils to facilitate their role as a statutory consultee on planning applications, by seeking to ensure that community councils receive the information they need in time for them to comment effectively. Community councils will have to make sure they are organised in a way that enables them to respond promptly to planning consultations. They can do this by appointing an individual to co-ordinate the council's views or forming a sub-committee that meets more regularly than the full council.

Scottish Borders has a large number of community councils and great effort is made to ensure that the views of the community councils are considered in the development control process. A good working relationship is encouraged by the Council's annual seminar with community councils, which focuses largely on development control issues.

User forums

56. Workshop sessions or forums with developers and community groups can help the planning staff improve their understanding of customer requirements and offers the opportunity for customers to give views on the quality of the service and scope for improvement. An informal liaison group involving elected members can be a positive forum for discussion on design issues.

In **Dundee** the Building Quality Forum of elected members, community representatives and development professionals meets regularly to discuss development issues. This is a positive innovation by the council to encourage dialogue between themselves and customers of the planning service.

Processing planning applications

57. The process of deciding a planning application involves a number of stages. This section identifies these stages and key elements of best practice.

Avoiding delay

58. At each stage of determining planning applications there are possibilities of delay, not all of them in the direct control of the planning authority. Some of the main causes of avoidable delay are:

- submission of insufficient or inaccurate information by the applicant;
- committee meetings on an inappropriate cycle;
- complicated procedures for routine tasks;
- inappropriate level of staff, lack of cover for absences;
- insufficient or poorly organised administrative support; and
- inadequate computer hardware, software and training.

Good management should aim to identify problems throughout the process and eliminate delay where possible.

Pre-application discussions

59. Pre-application discussions can be valuable in clarifying the issues which then must be addressed in the application for planning permission and the potential areas of uncertainty or tension. Although discussions do not always speed up the decision making process, they can assist with more efficient handling of applications, for example by clarifying the planning authority's information requirements, thereby reducing the likelihood of additional requests or the need to impose conditions. Pre-application discussions can be particularly important as part of an integrated approach to handling inward investment projects.

60. Pre-application discussions will usually involve the planning service and the developer, although in some circumstances it may be appropriate to involve other parties such as the transport department and statutory consultees. For major development proposals, early involvement of Historic Scotland and other relevant bodies, for example Royal Fine Arts Commission, SEPA or Scottish Natural Heritage, can be helpful. Discussions should be tailored to meet the needs of each case but there is a need for overall consistency in how they are dealt with. Planning authorities should produce written guidance on how pre-application discussions should proceed. All discussions should be recorded and the same planning officers involved in discussions should have the responsibility for processing the submitted application. Records of meetings

should set out the main areas of agreement and disagreement and be agreed with all parties involved. As a matter of good practice, records should be kept of any contact and discussion where advice specific to a site is given.

61. Applicants should be aware of the policy framework within which the planning authority operates and be clear that statutory consultation procedures must still be followed once an application is submitted. Pre-application discussions do not offer guarantees but they should provide greater certainty of outcomes.

Renfrewshire Council uses its Geographic Information System (GIS) to record all pre-application discussions. This allows details to be retrieved if there are subsequent applications or enquiries. Applicants are also invited to state on their application for planning permission if they have had pre-application discussions about the proposal and the development control officer involved.

RESEARCH FINDINGS:

The role of pre-application discussions and guidance in planning (SE CRU 2000)⁴

The study examines the current arrangements for pre-application discussions and the experience and perceptions of planning authorities, service users and statutory consultees. The key benefit of pre-application discussions is that they are flexible and responsive to individual needs and circumstances. Planning authorities should prepare guidance setting out agreed principles on how pre-application discussions will be handled. Applicants desire a corporate view and lack of communication between planning and roads departments is a common problem. Development briefs and other guidance should complement rather than replace discussions. All parties should be open and willing to consider options to make a proposed development acceptable.

Application forms

62. It is the responsibility of councils to ensure that their application forms meet statutory requirements. Application form guidance notes written in plain language and a checklist can reduce the incidence of incomplete or invalid applications. Delays can be reduced if application forms are correctly completed. Staff should be available at all times to discuss exactly what information will be required.

⁴ Copies of research reports are available from The Stationery Office Bookshop, 71 Lothian Road, Edinburgh, EH3 9AZ. Summaries are available at www.scotland.gov.uk/cru

Fife has separate forms for Householder Applications, general applications and Listed Building, Conservation Area and Advertisement consents. They are colour coded in a self-carbonising set of four. Application forms are issued with a Guide for Applicants folder which contains comprehensive guidance on how to fill in the forms, a site ownership certificate, neighbour notification certificates and notices, a request form for an OS map extract and information about fees.

Validation and registration

63. On receiving an application, the authority should aim to decide if the application is valid within 2 working days. Planning authorities have 7 days from receipt of a valid application to place it on the planning register.⁵ To be valid, a planning application must be:

- completed on the authority's form and describe the development to which it relates;
- accompanied by a plan that identifies the land involved, and any other plans or drawings needed to describe the proposal;
- accompanied by any additional copies of the form requested by the authority;
- accompanied by the relevant notification certificates; and
- accompanied by the appropriate fee.

64. Applicants should be informed at once if their application is not valid and provided with a clear explanation of what is required to complete the submissions and an offer of assistance.

65. The two-month determination period begins on the day a valid application is received by the planning authority, not the day the planning authority decides it is valid. It is therefore essential that checks on the validity of applications are made as soon as possible from when they are received.

⁵ Every planning authority must keep a register of current applications recording the method of determination (Section 36(1) Town and Country Planning (Scotland) Act 1997)

Development Plan departures

For further information see PAN 41: Development Plan Departures.

66. Potential departures from development plans must be identified early in the process so that people may be given adequate opportunity to comment. Potential departures must be advertised and the period for comment passed before committee can consider the proposal.

Requesting more information

67. More information may be required on valid applications before a decision can be reached. It is very important to identify such needs and inform applicants as quickly as possible. When asking for extra information authorities should advise applicants that delay in responding will delay the processing of their application, possibly beyond the 2-month period. The information sought from applicants should be proportionate and should not put unnecessary burdens on applicants.

For further information see PAN 58: Environmental Impact Assessment, PAN 57: Transport and Planning and NPPG 8: Town Centres and Retailing.

68. Certain proposals may require an Environmental Impact Assessment (EIA) in accordance with the Environmental Impact Assessment (Scotland) Regulations 1999. These are typically projects of a complex nature with a range of possible and significant environmental effects, which may occupy extreme sites or sensitive locations. Where an EIA is required it must be taken into consideration when the application is being determined. The planning authority must notify the applicant of the need for an Environmental Statement within 3 weeks of registration, unless an extension of that period is agreed by the applicant. Transport Assessments and Retail Impact Assessments may also be requested. Pre-application discussions should be used to clarify when such assessments are appropriate. Planning authorities should, as far as possible, avoid requesting assessments at a late stage in considering applications.

Advertising

69. The advertisement of applications should be arranged promptly to allow the normal two week period for comment to take place within the two month target period for determination.

RESEARCH FINDINGS:

Advertising planning proposals (SE CRU 2000)⁶

The research discusses the cost and effectiveness of advertising planning proposals in Scotland. It is clear that a minimum level of advertising is desirable to complement neighbour notification and most authorities advertise 21-40% of applications. The main benefit of newspaper advertising is that it should enable a greater number of members of the public to be aware of and become involved in the planning process. The actual numbers responding to advertisements is perceived to be low and there are differences in the readership of local newspapers between urban and rural areas. It is considered to be desirable for authorities to have the flexibility to advertise as they consider necessary.

Weekly lists

70. Weekly lists serve a number of valuable functions, both internally and externally. External lists are used to inform the public and organisations such as community councils of the applications received that week by the planning authority. The name and contact details of the case officer and the likely method of determination should be included. Internal weekly lists can be used to follow the progress of cases, to manage caseloads of individual officers and inform councillors of delegated decisions.

North Lanarkshire distributes weekly lists by e-mail to all interested parties. The list shows if a case is delegated or will receive attention by the committee and supplies the name and contact details of the case officer.

Post-application changes

71. If the planning authority considers that the substance of an application has changed, new neighbour notification (and where appropriate owner notification and advertisement) will be required. The main consideration will be the nature and extent of the difference in planning terms between the original and the amended proposal. Where the substance of the proposal has been altered, the application should be withdrawn and a revised application submitted. Planning authorities should be prepared to refuse permission rather than wait indefinitely for amendments.

Consultation and consultees

72. Consultations should be carried out simultaneously to make efficient use of time. The consultation process should be standardised so that all planning officers across a department follow the same procedures. Consultees relevant to a

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particular application should be identified as soon after registration as possible. All effort should be made to secure timely and relevant responses from consultees in order to avoid delay.

73. Under Article 15(3) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 planning authorities can determine applications if a consultee has not replied within the period of notice (always at least 14 days). Consultees should be informed of this.

Objections and representations

74. People have the right to be informed of planning applications likely to affect them and they should be confident that their views will be given due weight when decisions are made. Objections and representations from consultees and the public are an essential part of the decision-making process. The views of affected parties and all interests within the community should be reflected where appropriate and full explanations given to all parties as to the reasons for the eventual outcome. It is important that the reasons for decisions made at committee are fully minuted particularly where officer recommendations are overturned.

75. The case officer should ensure that all representations are acknowledged. Copies of all representations should be provided for the planning committee and summaries should be included in the committee report. Objectors should be advised that the applicant will be made aware of objections and that their comments will be open to public view. People and organisations that make representations should be notified of the decision as a matter of good practice.

Progress chasing

76. The Development Control Audits carried out by the Scottish Executive have demonstrated that the authorities providing a speedy service are those which effectively monitor progress on outstanding applications. Each authority should have arrangements for monitoring the progress of applications. The Service Manager should look into cases that are failing to meet processing targets to identify causes of delay and possible action.

Extensions of time

77. Authorities should try to determine applications within the statutory 2-month period and must seek the applicant's agreement in writing to extend the time as soon as they become aware of possible overrun.

Reports

78. Formal reports are usually only necessary for applications to be decided at committee. This will reduce time and resources spent on unnecessarily lengthy reports. Reports should have a consistent format explained in a procedure note for all planning officers and typists. Short reports or standard checklists setting out the key issues are required for delegated decisions so that there is a record of the basis of a decision.

Deciding a planning application

79. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that decisions on planning applications be made in accordance with the development plan unless material considerations indicate otherwise. This means that if a proposal 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 plan, it should be refused unless there are material considerations indicating that it should be granted. To make a decision, a judgement must be made on the weight of all relevant considerations and a balance sought according to the specific circumstances of the case.

80. Clear reasons should always be given for refusals and the imposition of conditions. It is particularly important to explain reasons for approval of an application which involves a departure from the development plan. Reasons should be precise, specific and relevant, since decisions will be examined closely by interested parties and may be challenged at appeal or through judicial review, or be referred to the Local Government Ombudsman.

For further information see NPPG1: The Planning System (Revised).

81. The Human Rights Act 1998, which came into force on 2 October 2000 makes it unlawful for a public authority to act in a way which is incompatible with the European Convention on Human Rights (ECHR). The Act also makes the Convention rights enforceable in the UK Courts. The Scottish Executive issued guidance on the Human Rights Act and the ECHR to all public authorities, including planning authorities, in January 2000. Further guidance to local authorities was published by COSLA in March 2000. 'Human Rights in Scotland: The European Convention on Human Rights, the Scotland Act and the Human Rights Act' is available electronically on the Scottish Executive website at <http://www.scotland.gov.uk/>. All planning authorities should be aware of the possible implications of the Human Rights Act and should seek legal advice with a view to ensuring that processes and practices are compatible with the ECHR.

Figure 2

Deciding a planning application
<p>The following approach should be taken in deciding a planning application:</p> <ul style="list-style-type: none"> ▪ identify any provisions of the development plan which are relevant to the decision; ▪ interpret them carefully, looking at the aims and objectives of the plan as well as the detailed wording of policies; ▪ consider whether or not the proposal accords with the development plan; ▪ identify and consider relevant material considerations, for and against the proposal; and ▪ assess whether these considerations warrant a departure from the development plan.
<p>There are two main tests in deciding whether a consideration is material and relevant;</p> <ul style="list-style-type: none"> ▪ 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.
<p>The range of considerations which might be considered material in planning terms is, in practice, very wide and falls to be determined in the context of each case. Examples of possible material considerations include:</p> <ul style="list-style-type: none"> ▪ Scottish Executive policy and Government policy on non-devolved matters; ▪ National Planning Policy Guidelines and Planning Advice Notes; ▪ European policy, where relevant; ▪ a draft structure or local plan; ▪ a National Park plan; ▪ the existence of a World Heritage Site; ▪ the environmental impact of the proposal; ▪ the design of the proposed development and its relationship to its surroundings; ▪ access, provision of infrastructure and planning history of the site; ▪ views of statutory and other consultees; and ▪ legitimate public concern or support expressed on relevant planning matters.
<p>It is for the decision-maker to consider whether a consideration is material and to assess both the weight to be attached to each consideration and whether individually or together they are sufficient to outweigh the development plan.</p>
<p>The presumption is in favour of development that is in accordance with the development plan, but other considerations may outweigh the policies of the plan. This approach provides a degree of certainty but also an element of flexibility where plans are out of date and less relevant to changed circumstances.</p>

Conditions

Policy and guidance is set out in Circular 4/1998: Use of Planning Conditions and 4/1998 Addendum.

84. Conditions should only be imposed where they are necessary, relevant to planning, relevant to the development being permitted, enforceable, precise and reasonable. Conditions should be used to achieve a specific end and not to cover every eventuality.

Planning Agreements

Policy and guidance on the use of planning agreements is set out in Circular 12/1996.

85. Planning agreements have a limited but useful role in development control and can be used to overcome obstacles to the grant of planning permission. Wherever possible conditions should be used, however in certain circumstances an agreement will be more appropriate. A distinctive character of planning agreements is that they apply to the property and landowner rather than just to the permission to develop. Planning agreements should be reasonable, should serve a planning purpose and be related in scale and kind to the proposed development.

Decision notices

86. A planning application is not determined until a decision notice has been signed. Decisions should be notified as soon as possible after the decision is made. Posting decision notices on the council's website can be an effective method of informing interested parties promptly. Copies of decision notices should always be held on file.

Post decision checks

Policy and advice on planning enforcement is set out in Circular 4/1999 and PAN 54.

87. Monitoring of the implementation of consents, and compliance with conditions attached to the granting of consent, is an integral part of an effective development control service. After a decision has been issued, the authority should take whatever steps are prudent to assess whether the decision is being adhered to and should take enforcement action where necessary. A schedule of outstanding conditions to be complied with can be used as part of on-going monitoring of permissions. Post decision monitoring can be the responsibility of either the case officer or an enforcement officer.

Checklist 4: Processing applications	
COMMON PROBLEMS	BEST PRACTICE
<ul style="list-style-type: none"> ▪ Delays in registering valid applications ▪ High rate of invalid applications ▪ Applicants unsure of date of receipt ▪ Delays caused by late responses from consultees ▪ Delays caused by late responses from other council departments (for example, Roads and Transport) ▪ Delays in receiving responses from applicants to requests for more information ▪ Monitoring of the progress of applications is difficult and time consuming ▪ Delays caused by committee cycle ▪ Over long and detailed committee reports ▪ Lengthy reports unnecessarily prepared for delegated cases ▪ Delay caused in getting delegated decisions signed 	<ul style="list-style-type: none"> ▪ Dedicated support team to reduce delay. Registration should occur within 2 days ▪ Revise guidance and arrange discussions with agents ▪ Date of receipt indicated on acknowledgement letter ▪ More targeted requests for comment and advice. Seminar for regular consultees ▪ Management should seek to establish a protocol to gain prompt and relevant responses ▪ Requests for further information from applicants give specific deadlines ▪ Progress sheets on all current files kept up-to-date ▪ More frequent meetings can help speed decision making ▪ Reports should be concise, focused and well presented ▪ Short report or standard checklist covering key issues should suffice ▪ Issuing decisions must be a priority – responsibility delegated to case officers or team leaders

88. Outcomes on the ground provide the lasting measure of development control service quality. They should be regularly reviewed and lessons learned. There are important advantages for the development control service of involving committee members and officials in reviewing past decisions and examining the completed development. Identifying local examples of what local decision-makers regard as good design practice is a valuable and tangible expression of policy.

Conclusion

89. There is a general commitment in councils to improve the delivery of the development control service and a wide range of measures and initiatives have been put in place to achieve this. These efforts have been supported by the Scottish Executive Planning Audit Unit and recognised in the Scottish Awards for Quality in Planning. Continuous attention to the results of the service, the way it is provided and the needs of all its users can lead to further improvements in performance, customer satisfaction and the quality of development on the ground.

Note

90. This advice replaces the earlier version of PAN40, published in 1994, which is now cancelled. Enquiries about the content of this PAN should be addressed to Roger Kelly, Planning Services, Area 2H, Victoria Quay, Edinburgh, EH6 6QQ (0131 244 7526) or by e-mail to roger.kelly@scotland.gsi.gov.uk. Further copies can be obtained by contacting the Planning Helpline on 0131 244 7888. A copy of this and other PANs are also available on the Scottish Executive web site at www.scotland.gov.uk/planning. The web site includes further information on the Executive's Planning Audit Unit and Planning Awards.

Annex

Elements of an efficient and effective development control service – summary*		
General	▪ Management commitment	Managers must promote a positive approach to service delivery and seek opportunities for improvement. They must ensure staff are aware of what is expected from them.
	▪ Job description/ appraisal	Clear, up-to-date and specific job descriptions supported by a system of performance appraisal are required.
	▪ Support services	Support should be well resourced with clear-cut roles and an emphasis on team working. Opportunities for the greater involvement of technical support in handling minor applications, dealing with enquiries and carrying out site visits should be maximised.
	▪ Information and Communications Technology (ICT)	ICT has the potential to achieve significant improvements to the service. It needs to be supported by adequate training.
	▪ Performance Monitoring	Targets should be set performance in relation to these targets monitored and action taken as appropriate.
Policy Context	▪ Development Plans	Priority should be given to the preparation of local plans that are relevant to current and emerging issues.
	▪ Policy monitoring	Councils should establish a monitoring framework to assess consistency in the application of policy.
Processing Applications	▪ Pre-application discussions	Discussion should involve key players, with areas of agreement and disagreement recorded.
	▪ Registration	Applications should be registered or declared invalid within 2 working days.
	▪ Practices and procedures	Harmonisation and consistency of practice is important within and between teams and area offices.
	▪ Minor applications	An individual or small team should be dedicated to processing minor and/or non-controversial proposals. This is unlikely to be practical in rural areas where the service is decentralised or where the volume of applications does not justify this approach.
	▪ Consultees	Timely and relevant responses from consultees should be secured.
	▪ Revised schemes	Be prepared to refuse permission rather than wait indefinitely for amendments.
	▪ Reports	Succinct reports highlighting key issues are required.
	▪ Conditions	Conditions should meet the 6 tests specified in Circular 4/1998.

PAN 40 (Revised): Development Control

Councillors	▪ Delegation	Delegation arrangements should ensure that elected members focus on applications raising major policy issues or matters of general public concern.
	▪ Committees	Support arrangements for and the cycle of committees should take more account of meeting performance targets.
	▪ Decision making	Councillors must be fully involved in development plan preparation and alert to the implications for policy of decisions on individual applications.
	▪ Code of conduct	Codes of conduct are helpful in explaining issues such as the weight to be attached to development plan policy, the criteria for continuation of applications or site visits and the implications of decisions being taken contrary to officials' advice.
	▪ Training	Planning can be a complex subject and it is important that councillors are familiar with the key principles and elements of the planning system. They should also be kept up-to-date with developments in policy and legislation with opportunities for training in specific issues such as design.

Customer Care	▪ Service standards	The standards that the public can expect should be clearly specified. This should cover issues such as how to make an objection, appearing at committee, etc. Guidance should also indicate how applicants can assist the efficient handling of their applications.
	▪ Application forms	Forms should be simply and clearly laid out.
	▪ Front counter staff	Staff should be helpful and courteous. Training should ensure they are generally familiar with the development control process.
	▪ General correspondence	The name and telephone number of the case officer should always be provided.
	▪ Weekly list	The name and telephone number of case officers, likely timescale and method of decision making should be included.
	▪ Liaison	The views of the development industry, consultees and community interests on the quality of the service and the scope for improvement should be sought.

* From the Planning Audit Unit Annual Report, October 1999