

Community Council Stakeholder Event

Thursday 29th February 2024





Agenda

- Introduction and welcome John Hayward
- Overview of Planning Process John Hayward
- Service Overview John Hayward
- Local Development Plan update Debbie Armstrong
- Planning Decisions Role of CCs Barry Fotheringham
- Using the Online System Julie Kerr
- CC Training Requirements all
- Q&A





Overview of the Planning Process and SBC Service

John Hayward, Planning & Development Standards Manager





What is Planning?

"The purpose of planning is to manage the development and use of land in the long term public interest".

"Anything which contributes to sustainable development, or achieves the national outcomes, is to be considered as being in the long term public interest."

Planning (Scotland) Act 2019

"The planning system plays a key role in delivering high-quality places for Scotland. It balances competing demands to make sure that land is used and developed in the public's long-term interest."

Scottish Government Website

- High level definitions. Primarily concerned with Land Use
- Not always mutually conducive aims: "Planning Balance"
- Acts in <u>Public</u> Interest: Not intended to protect the interests of one party against the actions of another





The Legal Framework

Town and Country Planning (Scotland) Act 1997

Planning (Scotland) Act 2019

Planning etc. (Scotland) Act 2006

Development Management Procedure Regulations 2013

Control of Advertisements Regulations 1984

Town and Country Planning (Listed Buildings and Conservation Areas) Scotland Act 1997

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Regs 2017

Environmental Impact Assessment Regulations 2017

The Town and Country Planning(Use Classes) (Scotland) Order 1997

The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010

The Town and Country Planning (Appeals) (Scotland) Regulations 2013

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 Planning (Hazardous Substances) (Scotland) Act 1997

Local Government (Scotland) Act 1973 Caravan Sites and Control of Development Act 1960

And so on...

Government Circulars





Planning (Scotland) 2019 Act

- Still being enacted
- Strategic City-Region Plans abolished
- National level Scottish Planning Policy incorporated into NPF4
- National Planning Framework part of Development Plan
- Local Development Plans revised on 10-year cycle
- Frontloading of process; engagement/Evidence Report
- Closer alignment with community planning/Place Plans
- New right for communities to prepare Local Place Plans
- Supplementary guidance relationship with LDP
- LDP delivery programme to be approved by full Council
- Chief Planning Officers





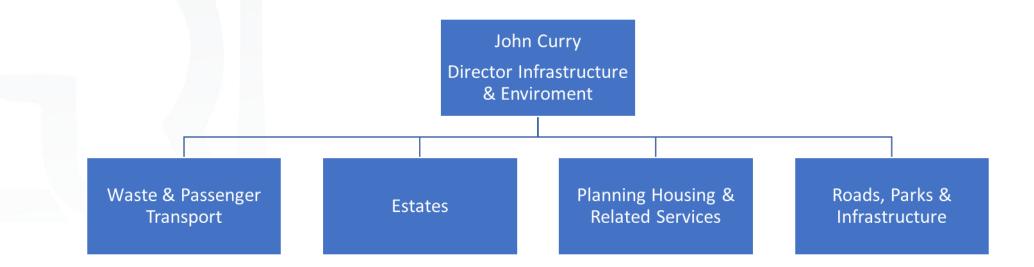
Planning (Scotland) 2019 Act

- Pre-application consultation changes
- Expanding range of applications that can come to LRB
- Changes to duration of permissions/time limits for submission of details
- Provision to vary time limit conditions
- Agent of Change
- Short Term Lets
- Mandatory training requirement for Councillors
- Performance reporting National Planning Improvement Coordinator
- Infrastructure levy





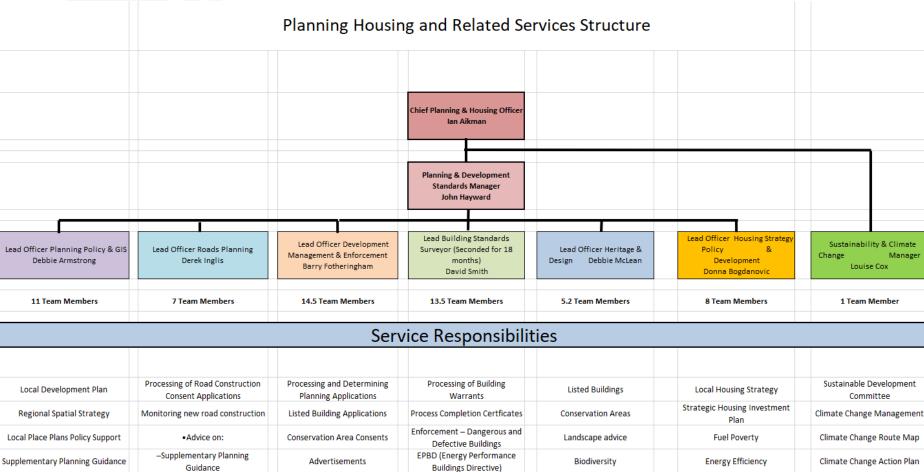
Service Overview







Service Overview



Safety at Sports Grounds

Registration

Other consents

Enforcement

Registration

Protected Trees – TPOs

Design Awards & Advice

CARS

Archaeology

Research and Information (incl.

GIS)

Housing Land Audit

Employment Land Audit

Vacant & Derelict Land Survey

Retail Studies

- Development Plans

-Planning Applications

List of Public Roads



Private Rented Landlord

Registration

Scheme of Assistance

Sustainable Development

Board

Natural Capital



Resources

- Significant reduction in resources over last few years
- Allegation that officers difficult to reach
- Statutory Processes must take priority planning applications and building warrants
- Discretionary aspects still highly valued
- Pre-application advice charged service, parallel application process
- $\circ~$ Implications for capacity and resourcing
- Other enquiries: heritage, trees, forms, requests for meetings/inspections
- $\circ~$ Much of this is already available
- Customer Expectation





Resources

- Provide the same service and answers, but in a different way
- Acknowledge that officers cannot be "on tap"
- o 2000 or so enquiries via Customer Services in six-month period
- o Doesn't account for direct emails and phone calls; likely to be treble that number
- Short-term working group to review and consider options
- Categorisation of calls
- $\circ~$ Answer lies in improved web presence
- Requires culture change from **all** stakeholders
- $\circ~$ Agents have a role in providing guidance to their clients



When will you engage with the planning process?

- Consultation on the Local Development Plan or SPG preparation
- Consultation on planning applications scheme of consultation (but not restricted by that)
- Consultation by developers on major applications





Development Plan Policy

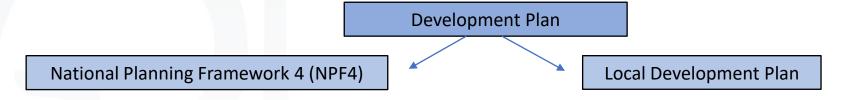
Debbie Armstrong, Lead Officer, Planning Policy & GIS





Development Plan

- Statutory Development Plan comprises National Planning Framework 4 (NPF4) and the Local Development Plan (LDP)
- Statutory Duty to produce a LDP every 5 years
- LDP must set out detailed policies and proposals to guide development and land uses to inform and help planning decisions



National Planning Framework 4 (Adopted 13 February 2023)

- Sets out the long term National spatial strategy for Scotland to 2045, in line with 6 overarching spatial principles
- 33 national planning policies covering 3 key themes (Sustainable places, Liveable places and Productive places)
- Replaces the former SESPlan Strategic Development Plan and Scottish Planning Policy
- Sets out the Minimum All-Tenure Housing Land Requirement (MATHLR) for each Local Authority at a national level
- Priority focuses throughout NPF4 are climate change, securing positive effects for biodiversity and the transition to net zero

Local Development Plan (Adopted May 2016)

- Housing Supplementary Guidance (Adopted November 2017) identified an additional 916 housing units
- <u>Volume 1</u>: 55 polices, covering 5 themes (Place making and design; economic development; housing development; environmental promotion and protection; infrastructure and standards). Appendix 2 sets out the housing land requirement (HLR) for the Plan period and the supply of land.
- <u>Volume 2</u>: 90 Settlement Profiles. Profiles make reference to placemaking considerations, where possible preferred areas for future growth, key infrastructure considerations and any changing context for the development of the settlement.
- <u>Settlement maps</u>: Include a development boundary and where relevant identify a range of land use allocations and designations. List of site requirements for each allocation which identify matters to be addressed at the planning application stage.





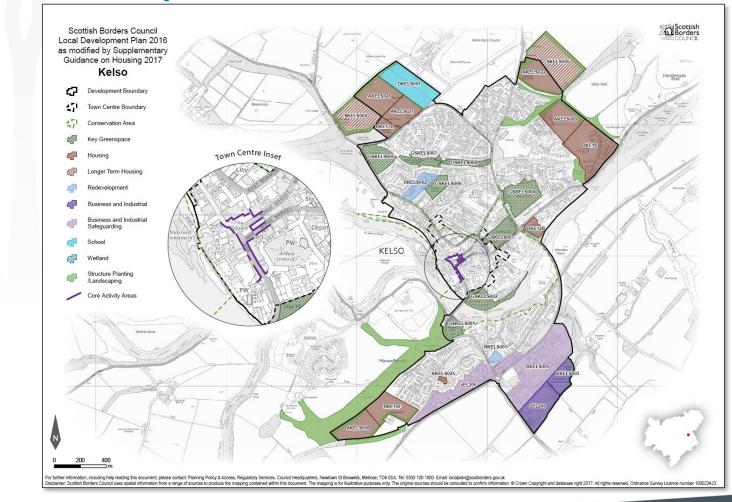


Adopted LDP 2016

2016

VOL2SETTLEMENTS

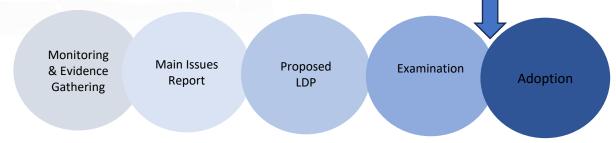
SCOTTISH BORDERS COUNCIL LOCAL DEVELOPMENT PLAN





Proposed Local Development Plan

- Began work on the Proposed Plan in 2017, last of the current 5 year style Local Plans
- **Pre-MIR Engagement:** Review of existing allocations, call for sites, localities meetings, series of engagement events (drop-in sessions & workshops), As part of the engagement undertook questionnaires and used the Place Standard Tool.
- Main Issues Report (MIR): Produced 2017/18 and identified the key areas of change that needed to be addressed in the Proposed Plan
- MIR Consultation: November 2018 to January 2019. Wide public consultation including CC's, survey, drop-in sessions and workshops.
- Preparation of Proposed Plan: Produced 2019/20
- Proposed Plan Consultation: November 2020 to January 2021 during the pandemic and we utilised a range of online engagement methods
 Just over 1,000 representations received
- Examination: Proposed Plan submitted to Scottish Ministers in July 2022
- Decision by Reporters: Examination Report received in July 2023
 - Proposed Plan updated with all modifications set out within Examination Report
- Intention to Adopt: Proposed Plan sent to Scottish Ministers in December 2023
 - Requested an extension of time for the SG to review everything until Friday 8th March





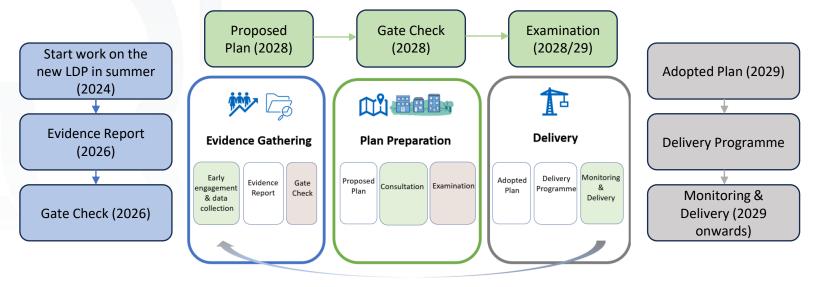
Next Steps:

- Anticipate that we will hear back from Scottish Ministers next week
- Adoption date: Anticipate Spring, but could be into early summer
- Once adopted this LDP will form part of the Development Plan, alongside NPF4



New style Local Development Plan

- Moving forward, Planning Authorities are required to produce a **10 year LDP**, start work once the Proposed Plan has been adopted hopefully Spring/Summer
- The new style LDP must be in accordance with NPF4 and the steps involved in producing the Plan have changed to the old style 5 year Plans
- New Plans will be Place-based, People-centred and Delivery-focused



- Dates are indicative only and are subject to change, depending on the outcome of the current Proposed Plan and adoption date
- Evidence Gathering: DPS, invite communities to prepare Local Place Plans (acknowledge this is already happening), gather and collate evidence, seek views from the wider public, prepare Evidence Report, collate environmental baseline information, submit Evidence Report to SM, gate-check and potential hearing sessions.
- Plan Preparation: Work to inform the Plan develop Spatial Strategy, call for sites if required, public engagement and undertake site assessments. Preparation of
 Proposed Plan Delivery Programme, Environmental Report and any other assessments required. Undertaken public consultation on the Proposed Plan and associated
 documents. Further to consultation, modify the Proposed Plan where appropriate, prior to submitting to SM for the Examination process.
- Delivery: Need to keep the Plan under review, any changes in characteristics, impact of policies and proposals.





Useful links

- National Planning Framework 4 (NPF4): https://www.transformingplanning.scot/national-planning-framework/
- Adopted Local Development Plan (2016): <u>www.scotborders.gov.uk/ldp</u>
- Housing Supplementary Guidance (2017): <u>Housing Supplementary Guidance | Scottish Borders Council (scotborders.gov.uk)</u>
- Proposed Local Development Plan (2023): <u>www.scotborders.gov.uk/ldp2</u>
- Scottish Government, Transforming Planning, Engagement: <u>Engagement | Transforming Planning</u>
- Local Place Plans: Local place plans | Local Place Plans | Scottish Borders Council (scotborders.gov.uk)
- Research: <u>Planning research | Scottish Borders Council (scotborders.gov.uk)</u>
- LDP Guidance: Local development planning guidance gov.scot (www.gov.scot)
- Map Advanced: Find it Map advanced Scottish Borders Council (scotborders.gov.uk)





Planning Application Process and the Community Council Role

Barry Fotheringham, Lead Officer, Development Management & Enforcement





Development

"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land" (S.26, TCP(S)A 1997)

• But <u>not</u>:

Internal works, works within road boundaries, infrastructure works, agriculture, forestry

"Permitted Development"

• General Permitted Development Order





Types of Consent

- Planning Permission
 - Full Planning Permission
 - Planning Permission in Principle
 - Approval of Matters Specified in Conditions (Reserved Matters)
- Listed Building Consent
- Conservation Area Consent
- Advertisement Consent





The Application Process

- Validation and Registration
- Weekly List: Publication online (Public Access)
- Consultation (21/28 days):
 - Neighbours
 - Internal/Statutory Consultees
 - Community Councils
- Allocation to Officer
- Site Visit/ Virtual Site Visit photos/ video/ officer knowledge
- Report Preparation
- Authorisation of Recommendation





Scheme of Delegation

Which Applications come before Committee?

- All "Major" applications (e.g. over 2ha or 50 houses)
- Recommendation to approve a planning application, where:
 - At least 5 letters of representation from separate households:
 - Must be on genuine planning grounds
 - Must be "within time"
 - The application is significantly contrary to the Development Plan.
 - An objection has been received from a statutory consultee.
- Member Referral (5 SBC Councillors) within one month
- Application submitted by an elected Member of SBC





Making Planning Decisions

Section 25 of the 1997 and 2006 Acts

"Where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."





Making Planning Decisions

Process concerned with Land Use Planning

"Planning authorities are expected to consider the views of local residents when determining a planning application. Nevertheless, local opposition to a proposal is not, by itself, a reasonable ground for the refusal of a planning application, unless that opposition is founded on valid planning reasons which are supported by substantial evidence. While the planning authority will need to consider the substance of any local opposition to the proposal, their duty is to decide a case on its planning merits". (DCLG Circular 8/93)





Material Considerations

• Yes:

- Suitability of site/development
- Suitability of development
- Relationship with surrounding developments and uses
- Design
- Scale
- Materials
- Roads/Access
- Disturbance: e.g. noise, smell
- Loss of Privacy
- Economic or Community Benefits, where justified and evidenced
- Meeting Identified Needs
- Adequacy of infrastructure
- Previous decisions on application site

- No:
- Protection of individual or business interests
- Views from adjoining sites/houses
- Property Value
- Personal circumstances
- Moral, political or ideological considerations
- Cost of development
- Need for development (with some exceptions)
- Over-provision of facility
- Land ownership/legal rights over land
- Issues covered by other legislation





Role of Community Council

- Formal consultee, where request is made, or amenity of area is affected
- SBC takes more proactive approach
- Provision of local knowledge and background
- Provide views representative of community relevant to development being proposed
- Major applications pre-application consultation





Major Development: Pre-Application Notification

- Promotes Community Engagement
- Applicant must consult Community Council
- At least one public event (CC can advise)
- Opportunity for CC to gather views
- No direct role for SBC
- All feedback to developer
- Normal consultation/representation process once application submitted





Major Development: "Section 36" Developments

- <u>Not</u> Planning Applications
- Wind Farms and Battery Storage; Generating Capacity >50MW
- Council is <u>not</u> the determining authority; just consultee
- Energy Consents Unit (Scottish Government)
- SBC role to consider against policy and make technical assessments
- We submit our view to ECU
- Communities and CCs must make their representations direct to ECU
- It is not SBC role to reflect views of communities





Automatic Consultation with CCs

- "Bad Neighbour" Development (e.g. noise, smells)
- Applications which might affect the character of a Conservation Area
- Applications that are likely to be of general interest to the community and, as a result, may result in representations.
- Applications that are considered to be of significant local interest for economic, social or environmental reasons
- Applications for all new houses.
- Listed Building Consent
- Any applications for which a request is made within 7 days



Things to Consider: Your Role as CCs

- Different CC sizes and organisation
- Planning sub-committee
- Single point of contact for planning matters
- Decisions may need to be made outwith normal cycle of meetings
- Circulation of plans/links electronically for comment
- CCs do not need to be formally consulted to comment on applications
- Weekly List
- Restrict comments to planning merits of proposal
- Local Development Plan



Things to Consider: Making Comments

- Focus on Impacts of Development
- Material Planning Considerations
- LDP land allocations and AMC applications : principle already established
- Measure of Local Feeling; seek views of community
- "Development Jigsaw"
- SBC has duty to determine applications timeously
- Not appropriate to resist acceptable development because an alternative might be preferable or because of opposition levels
- Declaring an interest (land or applicant/objector/supporter)



Things to Consider: Making Comments

- Views should be expressed in clear and unambiguous terms.
- Indicate if no consensus
- Opposition of an application: Reasons on relevant planning grounds. Refer to policy if possible.
- Where qualified support for an application is expressed, conditions can be suggested.
- Larger schemes, consider gathering wider local views (may require
- additional time)
- If making representations as a private individual; make clear.
- Contact case officer for advice



Community Council Guidance Note

BRIEFING NOTE: COMMUNITY COUNCILS AND THE PLANNING SYSTEM

"The primary responsibility for the operation of the planning system lies with strategic development planning authorities, and local and national park authorities. However, all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland. This includes the Scottish Government and its agencies, public bodies, statutory consultees, elected members, communities, the general public, developers, applicants, agents, interest groups and representative organisations." Scottish Planning Policy 2014



Introduction

The aim of this guidance note is to provide basic information to Community Councils on planning matters, and to signpost further information.

The Scottish Government is responsible for developing planning policy in Scotland but the implementation of that policy is primarily a local function. The responsibility for planning matters in the Scottish Borders, including the processing and de-

termination of planning and related applications, rests with Scottish Borders Council

Within SBC, planning is dealt with by the Planning and Related Services Department.

Planning law can be complex and the Government has issued Planning Advice Notes (PANs) and circular guidance to supplement the legal framework. These must be taken into consideration by Local Authorities when developing systems, local policies and taking decisions.



Community Councils have a formal, statutory role in the planning system and must be consulted on a variety of issues. Advice on Community Councils and Planning is given in <u>PAN 47</u>. It is national planning policy to encourage community involvement in the planning system and there is current advice on <u>Community Engagement</u>. In addition, Community Councillors should familiarise themselves with the <u>SBC E-planning system</u>, which is now the primary means of accessing information on planning applications.

Community Councils play a key part in both Development Planning and Development Management. SBC welcomes their role in expressing local opinion whether on wider policy matters or on individual planning applications. The views of Community Councils, where properly expressed and relevant to planning, are important material considerations in the determination of any application.

Development Planning

Development Plans provide a vision of how places should develop, including those areas which should receive special protection.

SBC is one of 6 planning authorities in South East Scotland (Scottish Borders, East Lothian, Midlothian, Edinburgh, West Lothian and Fife) which has been involved in the production of a co-ordinated Strategic Development Plan for the wider region (<u>SESPIan)</u>. The Local Development Plan adds detail to national and regional policy and is the core document against which planning applications are assessed. The Local Development Plan goes through an extensive consultation process in its development before being adopted by the full Council and it must also be approved by the Scottish Government. The current plan runs to 2025.

Community Councils are statutory consultees and are asked to put forward views and local knowledge at the consultative stages.





E-Consultation

- System completely electronic
 - Electronic notification for all CCs
 - All CCs to respond electronically
 - Paper copies of major applications e.g. windfarms, available at HQ
 - Reasonable requests for paper copies
 - Set up quick and easy
 - Notification by email with hyperlinks to application
 - Response sent to: <u>dcconsultees@scotborders.gov.uk</u>
 - Do not send to case officer or other e-mail address





Public Access

Julie Kerr – Business Systems Officer

https://www.scotborders.gov.uk



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Planning portal maintenance

Please note that public access and the planning portal will be unavailable from approximately 5pm on Monday 26 February due to essential maintenance. Apologies for any inconvenience.

Welcome to Scottish Borders Council How can we help you today?

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Comment on a planning application Pre-application for planning permission

Emergencies and

safety

Your Council

Windfarms Apply for a building warrant

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Events and

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Local development plan More from Planning and building >>

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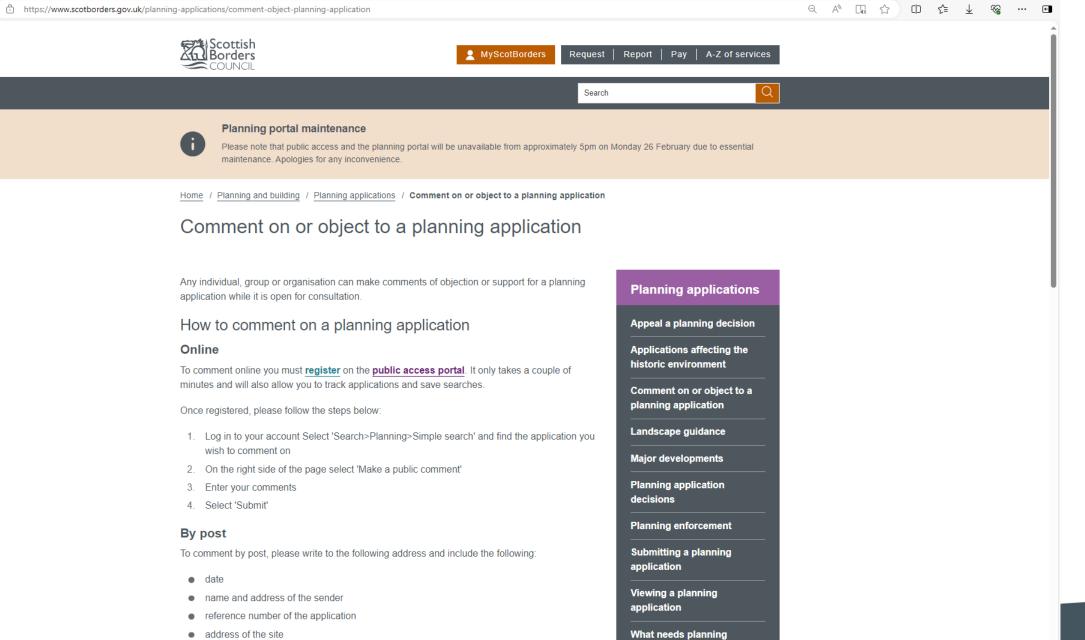
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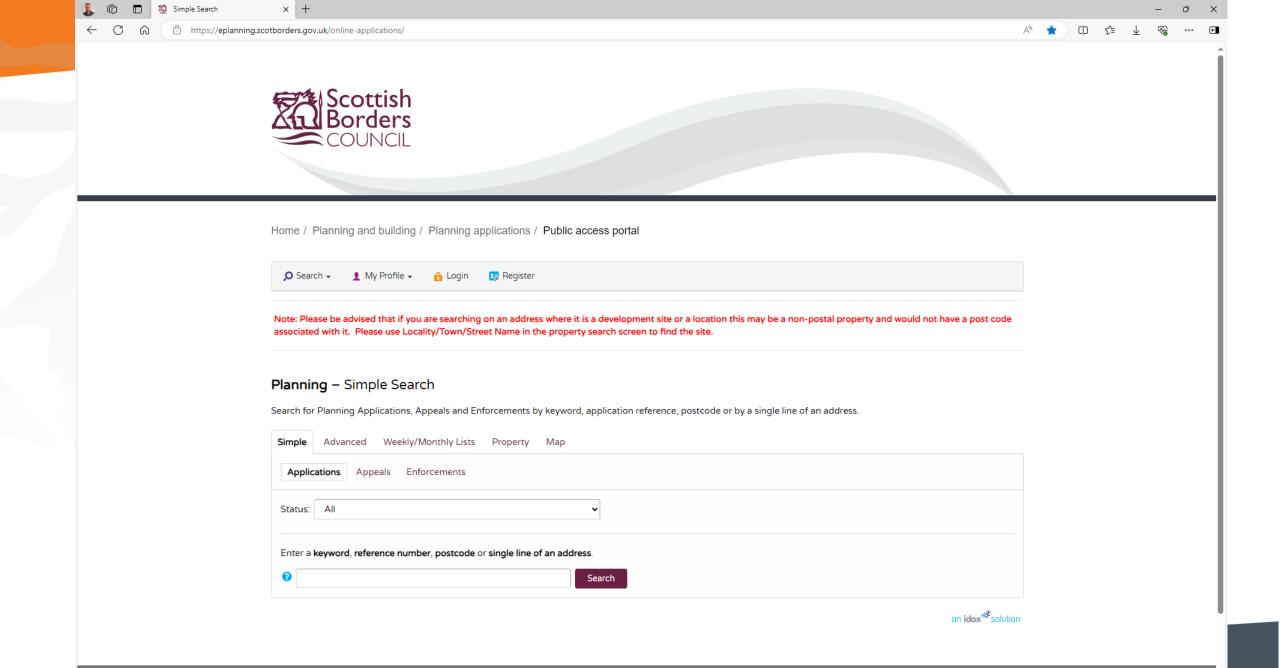
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permission

your comments

Planning and Regulatory Services **Council Headquarters**



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Planning – Application Summary

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| | 19 Dec 2023 | Drawing | PROPOSED SEC | CTION 2 | | 10 | |
| | 19 Dec 2023 | Other | APPLICATION S | SUMMARY PDF | | 10 | |
| | | Application Form | APPLICATION F | PDF | | Cp . | |
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E-Consultation Process

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Information Overload



Questions? Training?

