



Briefing for the Public Petitions Committee

Petition Number: [PE1518](#)

Main Petitioner: George M Chalmers

Subject: Calls on the Scottish Parliament to urge the Scottish Government to clearly define, for the sake of good order within the planning system, the criterion which allows developers to ignore or avoid the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, with particular regard to Major Development applications.

Background

All proposed developments fall within one of the three categories of the hierarchy of developments, which can be described as follows:

- i. National developments:** Developments designated as of national significance in the National Planning Framework for Scotland
- ii. Major developments:** Nine classes of large scale development are defined as major developments in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009
- iii. Local Developments:** Any development which is not a national or major development is automatically categorised as a local development.

Where an application sits within the hierarchy influences how it is handled. For example, national and major developments are subject to a statutory requirement for pre-application consultation by the prospective developer.

What is “a development”?

Development is defined as “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, or the operation of a marine fish farm in the circumstances specified in section 26AA” in Section 26(1) of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”).

However, the 1997 Act, the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and the associated [Circular 5/2009: Hierarchy of Developments](#) do not define what constitutes “a development”. The Regulations and Circular use the terms “development”

and “application”, which describe development proposals that form the subject of a specific planning application.

Circular 5/2009 is clear that “There is no scope for local interpretation of what constitutes a major development or local development either by planning authorities, by applicants or by other stakeholders in the planning system.” This specifically prevents planning authorities from considering multiple applications for local developments on adjacent sites, which taken together would constitute a major development, as a major development.

Scottish Government Action

The Scottish Government has not considered this issue.

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