



The Scottish Parliament
Pàrlamaid na h-Alba

David Stewart MSP
Public Petitions Committee Convener
M1.05
The Scottish Parliament
Edinburgh
EH99 1SP

4 July, 2014

Dear David

Thank you for your letter of 25 June regarding PE1518 and the planning regulations surrounding the hierarchy of developments. I am happy to provide the Public Petitions Committee with any information that may be useful in assessing this petition.

The petitioner, Mr Chalmers, contacted me to raise his concerns about the possibility for planning applications to bypass major development rules by subdividing planning applications. Accordingly I wrote to the chief executives of all five councils within my parliamentary region, to enquire about the prevalence of this practice. I enclose copies of my letters, and the responses I received.

As you will see, the experiences of the officers representing each council have been different, but several report instances when the major planning requirements have been circumvented by the developer submitting separate applications for the same site. It appears that while the majority of developers have responded positively to the major development planning requirements, a minority of developers have sought to circumvent these regulations. Evidently, this may have affected the outcome of the planning process.

Further exemplification has been provided by constituents, on a more personal level. I was contacted by Mrs Morag Beaton, who has learned of petition PE1518, and wished to make a individual submission regarding this issue. I enclose a copy of her testimony on the matter.

I think that with this petition Mr Chalmers has highlighted a documented shortcoming in the current procedure, and I hope that the committee will find merit in exploring the issue in greater detail. I trust that this letter is useful in considering petition PE 1518. If you require any further information on this matter, please do not hesitate to contact me again.

Yours sincerely

Alison McInnes MSP
North East Scotland (Liberal Democrat)

Alison McInnes MSP
Member for North East Scotland Region
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The Scottish Parliament
Pàrlamaid na h-Alba

Valerie Watts
Chief Executive
Aberdeen City Council
Town House, Broad Street
ABERDEEN
AB10 1FY

14 January, 2014

Dear Mrs Watts

Mr George Chalmers,

My constituent, Mr Chalmers, has contacted me about a planning issue which has wider ramifications.

I would be grateful if you could advise me if your authority has recently experienced any occasions when developers have lodged more than one planning application for one site which has resulted in the application avoid being categorised as a major development (that is, for example, a housing development of 50 or more units, or the site being 2 hectares or more).

My question obviously refers to the requirements of the Planning etc (Scotland) Act 2006 which introduced the hierarchy of development regulations. A major development places various obligations on developers which it appears can be circumvented legally by dividing the application.

I am not seeking detailed information at this stage, and I would be grateful for your comments so that I can respond to my constituent.

Yours sincerely

Alison McInnes MSP
North East Scotland (Liberal Democrat)

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Mollison IJ (Ian)

From: Daniel Lewis
Sent: 25 April 2014 15:44
To: McInnes A (Alison) MSP
Cc: EnquiriesEPI
Subject: Mr George Chalmers,
Attachments: george chalmers.pdf

Dear Madam

I refer to the letter from Mr Chalmers (attached) and apologise for the delay in the reply from Aberdeen City Council.

I am not aware of any circumstances in Aberdeen City when an applicant has deliberately lodged more than one application that has resulted in development on the wider site avoiding being categorised as major development.

I would suggest that it is not in the developers interest to fragment applications in this way as this is likely

- to extend rather than shorten the determination period for larger development sites and
- introduces uncertainty and complexity into the development process which may have consequences for the bank funding of larger schemes

When compared to the relatively short time delay in going through the pre-application process for a major application.

Best regards

Daniel

We are always trying to improve the quality of customer service that we provide and would like to know your views on the service you have received to help us learn what we need to do better. With this in mind we would appreciate it if you could take a few minutes to fill in our short feedback form by clicking on <http://www.aberdeencity.gov.uk/customerfeedback> and selecting Development Management (Planning Applications Team). Many thanks.

Daniel Lewis
Development Management Manager
Planning and Sustainable Development
Enterprise, Planning and Infrastructure
Aberdeen City Council
Business Hub 4
Ground Floor North
Marischal College
Broad Street
Aberdeen
AB10 1AB

www.aberdeencity.gov.uk

Please be aware that I am not in the office on Thursday afternoons.



The Scottish Parliament
Pàrlamaid na h-Alba

Colin Mackenzie
Chief Executive
Aberdeenshire Council
Woodhill House
Ashgrove Road
ABERDEEN
AB16 5GB

14 January, 2014

Dear Colin

Mr George Chalmers,

My constituent, Mr Chalmers, has contacted me about a planning issue which has wider ramifications.

I would be grateful if you could advise me if your authority has recently experienced any occasions when developers have lodged more than one planning application for one site which has resulted in the application avoid being categorised as a major development (that is, for example, a housing development of 50 or more units, or the site being 2 hectares or more).

My question obviously refers to the requirements of the Planning etc (Scotland) Act 2006 which introduced the hierarchy of development regulations. A major development places various obligations on developers which it appears can be circumvented legally by dividing the application.

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Yours sincerely

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North East Scotland (Liberal Democrat)

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Our Ref: 2014/0004713
Your Ref:

Ms Alison McInnes MSP
Ellon Business Centre
Broomiesburn Road
Ellon
Aberdeenshire AB41 9RD

ALISON MCINNES
20 FEB 2014
ELLEN

Mairi Stewart
Planning Service Manager
Infrastructure Services
Viewmount House
Arduthie Road
Stonehaven
AB39 2DQ
Tel 01569 762001
www.aberdeenshire.gov.uk

Please ask for Mairi Stewart
Direct Dial: 01569 768266
Email: mairi.stewart@aberdeenshire.gov.uk

19 February 2014

If you have difficulty reading this document please contact the admin team on 01224 664221

Dear Ms McInnes

Mr George Chalmers,

Thank you for your letter of 11 January 2014 to the Chief Executive and to which I have been asked to respond. Your letter outlines your constituent's query in relation to major planning applications and the hierarchy of development requirements as set out within Scottish legislation. I would firstly apologise for the delay in providing this response.

As noted the Planning etc (Scotland) Act 2006 and the accompanying Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 set out criteria for development being classed as major developments. In the case of major developments, applicants are required to undertake a pre-application consultation process prior to the submission of a formal planning application. Whilst the thresholds applicable to major developments are set out within the legislation there is no formal mechanism that the Planning Authority can apply which dictates that an applicant cannot submit separate applications to split a larger site rather than submit one planning application for the entire site.

The Planning Authority does not hold details of the number of planning applications lodged which may fall within this category and, I am not in a position to provide you with any tangible evidence to show the number of instances when an applicant has submitted a planning application(s) to avoid exceeding the major development threshold. The lack of such information is primarily on the basis that the Planning Authority has no control over the format of applications lodged by applicants and it may not be clear that the applicant, in preparing a submission, has tailored the application in such a manner.



The Scottish Parliament
Pàrlamaid na h-Alba

Richard Stiff
Chief Executive
Angus Council
Angus House
Orchardbank Business Park
FORFAR
DD8 1AX

14 January, 2014

Dear Mr Stiff

Mr George Chalmers,

My constituent, Mr Chalmers, has contacted me about a planning issue which has wider ramifications.

I would be grateful if you could advise me if your authority has recently experienced any occasions when developers have lodged more than one planning application for one site which has resulted in the application avoid being categorised as a major development (that is, for example, a housing development of 50 or more units, or the site being 2 hectares or more).

My question obviously refers to the requirements of the Planning etc (Scotland) Act 2006 which introduced the hierarchy of development regulations. A major development places various obligations on developers which it appears can be circumvented legally by dividing the application.

I am not seeking detailed information at this stage, and I would be grateful for your comments so that I can respond to my constituent.

Yours sincerely

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North East Scotland (Liberal Democrat)

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RS/EW/BAK/MSP 20 01 106

30 January 2014

Ms Alison McInnes, MSP
North East Scotlant (Liberal Democrat)
Ellon Business Centre
Broomiesburn Road
ELLON
AB41 9RD



ALISON MCINNES

03 FEB 2014

ELLON

Dear Ms McInnes

George Chalmers,

I refer to your letter dated 14 January which was received on 15 January 2014.

I have discussed the matter with officers from my Council's Planning Service and can advise that they are not aware of any recent occasions where developers have lodged more than one planning application for one site in order to avoid the application being categorised as a major development. There have been examples where developers have applied for a number of applications for change of house type or revision to a previously approved layout on a larger site, and in some of these circumstances if the applications had all been submitted at the one time the application may have been regarded as major by virtue of either site area or number of units. However I think that this situation is slightly different from the scenario that you are investigating.

Notwithstanding this I understand that the situation that you describe is one that could arise in terms of the current planning regulations.

I am sorry that I cannot provide more assistance but trust this is helpful.

Yours sincerely

Richard Stiff
Chief Executive

Angus House | Orchardbank Business Park | Forfar | DD8 1AX | LP8 Forfar
T: (01307) 461460 | E: chiefexec@angus.gov.uk | www.angus.gov.uk





The Scottish Parliament
Pàrlamaid na h-Alba

David Dorward
Chief executive
Dundee City Council
Tayside House
27 Crichton Street
DUNDEE
DD1 3RB

14 January, 2014

Dear Mr Dorward

Mr George Chalmers,

My constituent, Mr Chalmers, has contacted me about a planning issue which has wider ramifications.

I would be grateful if you could advise me if your authority has recently experienced any occasions when developers have lodged more than one planning application for one site which has resulted in the application avoid being categorised as a major development (that is, for example, a housing development of 50 or more units, or the site being 2 hectares or more).

My question obviously refers to the requirements of the Planning etc (Scotland) Act 2006 which introduced the hierarchy of development regulations. A major development places various obligations on developers which it appears can be circumvented legally by dividing the application.

I am not seeking detailed information at this stage, and I would be grateful for your comments so that I can respond to my constituent.

Yours sincerely

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North East Scotland (Liberal Democrat)

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ALISON MCINNES

27 JAN 2014

ELLOH

Mike Galloway OBE - Director
City Development

Dundee House,
50 North Lindsay Street, Dundee DD1 1LS

Tel 01382 434000
Fax 01382 433013

If calling please ask for:

Our Ref GH/CW/ES BQ28/7
Please quote the above reference when replying
Your Ref
Date 22 January 2014

Dear Ms McInnes

**Town and Country Planning (Scotland) Act 1997
Issue: Major Developments - Mr George Chalmers**

Thank you for your letter of 14 January in connection with the above matter. The experience of Dundee City Council is that most applicants have embraced the changes to planning legislation introduced in 2009 in a positive manner and have used the pre application procedures for major applications to promote their developments.

I know that there is nothing in the legislation preventing developers from subdividing proposals to avoid them being categorised as major development and thereby avoiding the associated procedures attached to such applications.

I am aware of one or two instances where housing proposals have been submitted for just less than 50 houses with subsequent applications being submitted for a small number of additional houses *principally* to avoid the lead in time involved in pre application consultation. These applications have not been controversial and involved tight funding packages where delay would have hampered implementation. At the same time I am also aware of cases where pre application consultation was carried out on a voluntary basis for local developments.

Please contact me on 01382 433520 or gregor.hamilton@dundeecity.gov.uk if you require any further information.

Yours sincerely

Gregor Hamilton
Head of Planning

If you have trouble understanding English please contact the address below

اگر آپ کو انگریزی سمجھنے میں مشکل پیش آتی ہے تو براہ مہربانی نیچے درج پتے پر رابطہ کریں:

मेवत कुतुनुं दिगलिग्न ममष्टि विच बठिनाष्टी कुंली दे अं डिपुा बरवे माडे ठाल देठां रिउे पउे डे मंपवर बवे।

Jeżeli masz trudności w zrozumieniu języka angielskiego, skontaktuj się na poniżej podany adres:

如果你對英語理解有困難，請聯絡以下地址:

Dundee Translation & Interpretation Service, Mitchell Street Centre, Mitchell Street, Dundee DD2 2LJ.
Tel: 01382 435825, Fax: 01382 435805

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Recycled Paper





The Scottish Parliament
Pàrlamaid na h-Alba

Roddy Burns
Chief executive
The Moray Council
High Street
ELGIN
IV30 1BX

14 January, 2014

Dear Mr Burns

Mr George Chalmers,

My constituent, Mr Chalmers, has contacted me about a planning issue which has wider ramifications.

I would be grateful if you could advise me if your authority has recently experienced any occasions when developers have lodged more than one planning application for one site which has resulted in the application avoid being categorised as a major development (that is, for example, a housing development of 50 or more units, or the site being 2 hectares or more).

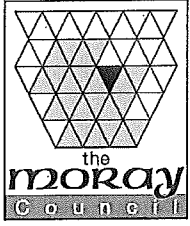
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Yours sincerely

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ENVIRONMENTAL SERVICES

Jim Grant

Head of Development Services

The Moray Council

High Street, Elgin, Moray IV30 1BX

Telephone: 01343 563262 Fax: 01343 563990

email: jim.grant@moray.gov.uk

Website: www.moray.gov.uk

Ms Alison McInnes MSP

Sent by e-mail to –
alison.mcinnnes.msp@scottish.parliament.uk

Your reference:

Our reference: BS/FMD Comp6556

21 January 2014

Dear Ms McInnes

Mr George Chalmers

In relation to the question that you have raised I can advise that Moray has not recently experienced any occasions where a developer has lodged more than one planning application to deliberately avoid the application proposal being designated as a major planning application, which would trigger the requirement to carry out pre-application with the local community.

However, at the beginning of 2011 a number of concurrent planning applications were submitted for a number of buildings for the housing of cattle, formation of hard standings, slurry lagoon and silage storage. If these development proposals had been packaged into one application the major application requirements would have been triggered.

I trust this is of assistance to you.

Yours sincerely

Jim Grant
Head of Development Services

Mrs Morag Beaton,

PE1518 – Meaningful public consultation within the Scottish planning system.

I stay in Skene, Aberdeenshire and was most interested to learn recently of this Petition. My husband and I have been involved with the Aberdeenshire Planning office at Inverurie for over a year regarding an issue which we believe could have been avoided had a planning application NOT been split into 2 smaller ones.

The development site in question is Kingshill Park. Application 2013/0677 covering 1.98 hectares for 6 office buildings as phase 1 of a two phase project was submitted in March 2013.

The application was open in its intention to subsequently apply for phase 2 i.e. the planning service was aware from the start that this was part of a larger development. We live in East Fiddie Farmhouse and our boundary adjoins the phase 2 site. We did not qualify to be notified as neighbours of phase 1 because this was more than 20 metres from our boundary. There was no Community Consultation or local Councillors' involvement as it was not deemed to be a Major Development. The application was granted via delegated powers under the Council's Scheme of Delegation on 13th May 2013.

Our involvement with the Garioch Planning office began on 16th May 2013 when earthmoving began next to our boundary. This began months of 'issues' but to summarise: the developer carried out massive unauthorised earth moving which eventually stopped in July 2013 by which time we were left with 3 Metre earth platforms surrounding our entire west and north boundaries (100 Metres). Planning decided not to carry out enforcement action but instead agreed with the developer that plans should be submitted.

Application 2013/3560 covering phase 2 of Kingshill Park was eventually submitted in November 2013. By this time we had the support of the Community Council and many locals, which meant this second application was put before the Garioch Area Committee.

The current position is that on 24th June, Planning recommended acceptance of this second application but ALL the Councillors rejected it (they debated whether to Refuse or Defer it and the vote went to Refuse it).

It has become apparent to all involved that the development of this second phase was expected to extend the first phase particularly in regard to site levels, roads, drainage and building design. BUT now that the community are being allowed a voice, the situation has become more difficult for Planning and the Developers. Had these applications been submitted as one Major Development then these issues would have been raised, discussed and decided upon BEFORE any work started.

I strongly believe that Developers and Planning are using Delegated Powers as a loophole to push through (possibly in Planners' minds to save time) applications which are in fact Major Developments in smaller chunks. Planning surely should be looking at the bigger picture to ensure that Major Developments are conceived as a whole and the public are afforded their right to an opinion.

Obviously our main concern is for our amenity and we have had a nightmare year. Planning continued to insist there were no plans for phase 2 but Robert Gray, Head of Planning, gave a public presentation in September 2013 where he displayed an Aberdeenshire Council slide with the

proposed development for the whole of Kingshill Park – 2 months before the application for Phase 2 was submitted!

One year on, our lives continue to be in limbo, and we still have our unauthorised earth platforms. There is surely something wrong with a planning system that can allow this to happen.