

3. Material Considerations

This sheet provides information about one of the fundamental concepts of the Scottish planning system.

Update: The Scottish planning system is currently undergoing a reform process which is documented at this [link](#). In December 2017, the [Planning \(Scotland\) Bill](#) was introduced to the Scottish Parliament and it is expected that a new planning act will follow in late 2018. In the meantime, the planning system operates as set out below.

So what are Material Considerations?

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that a Planning Authority's decision on a planning application must be made in accordance with the Development Plan – unless **material considerations** indicate otherwise.

Two main tests are used when deciding whether a consideration is **material** and relevant:

- It should serve or be related to the purpose of planning. This means it should relate to the development and use of land.
- It should fairly and reasonably relate to the particular application.

There is no defined list of what is, and what is not a material consideration. Planners, planning lawyers and the courts spend huge amounts of time debating the amount of weight that should be attached to material considerations when considering whether or not they are material and whether they are sufficient to outweigh the Development Plan.

It is, however, possible to give general guidance on the kinds of issues which are generally accepted as being material considerations – and also some types of issues which are definitely not. It is in the middle ground where it becomes difficult to decide whether something is “material”.

The role of the Development Plan

As decisions on planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise, when you are commenting on a planning application you should first look at what the Development Plan has to say. This should tell you whether the “principle” of development is likely to be acceptable to the planning authority (your local Council or National Park Authority).

Having checked the proposal against the Development Plan, you may then wish to consider whether there are any other material considerations which might mean that the planning authority could grant planning permission **not** in accordance with the Development Plan.

(Note - please note that material considerations are also relevant when making representations during a Development Plan consultation.)

Types of issue which **ARE** material considerations include:

- Scottish Government Policy, and UK Government policy on reserved matters
- European policy
- Supplementary Guidance, including proposed Supplementary Guidance
- Scottish Planning Policy (SPP), Planning Advice Notes (PANs) and Circulars
- National Planning Framework
- Policies in the emerging Development Plans, including proposed plans which are not yet “adopted” (Local Development Plans) or “approved” (Strategic Development Plans)
- National Park Plans
- Community Plans
- The National Waste Management Plan & Scotland’s Zero Waste Plan
- Views of statutory and other consultees
- Suitability of the site for the proposed development (e.g. contamination/flooding issues).
- Visual appearance of the proposed development and its relationship to its surroundings. This is a complicated area but can include:
 - Building materials
 - Height, scale, massing, design, density and layout of development, particularly in comparison with other buildings in the locality
 - Landscaping proposals
 - Privacy, over-shadowing, over-development (overcrowding), and lack of natural light
- Environmental Impact – such as pollution and contamination
- Impact on archaeology
- Impact on nature conservation
- Impact on setting of listed buildings or conservation area
- Nuisances caused by the development such as noise, smell, fumes, glare from floodlights or headlights of vehicles

- Adverse safety impact, e.g. the siting of a hazardous installation such as a firework factory next to houses
- Compatibility with existing uses, e.g. the mix of uses found in town centres, such as shops, offices and cafes, can be mutually beneficial
- Economic benefits, e.g. creation of jobs
- The needs of an area (employment, commercial, social or leisure facilities, affordable housing)
- Provision of suitable access and transportation (including road safety, parking issues, effect on pedestrians and cyclists, and amount of traffic generated)
- Adequacy of infrastructure (e.g. sewerage, drainage and water)
- Creation of an undesirable “precedent”, making it difficult to resist similar proposals elsewhere (but this should not be over-emphasised)
- Planning history of the site (including decisions on previous planning applications on the same site, particularly appeal or court decisions)

Please remember that this list is only meant to provide an indication of what might, or might not, be a material consideration.

Items which are **NOT** material considerations and are therefore not relevant to planning include:

- Personal circumstances of the applicant, e.g. devaluation of property, private property rights including boundary and access disputes
- Private interests, e.g. loss of a view, competition between businesses
- Moral considerations (e.g. to betting shops), or religious objections (e.g. religious objection to working on Sunday)
- Political considerations or ideological dislikes, e.g. private hospitals
- Cost of the development and the financial means of the applicant (these are not likely to be material considerations unless there is clear evidence of wider impacts if the development fails)
- Title restrictions
- Applicant’s lack of ownership of the site
- Issues covered by other legislation, e.g. health and safety regulations, licensing, building control
- Any factor indicating that there is a lack of any reasonable prospect of the development proceeding

How can I obtain further information on Material Considerations?

- Contact your planning authority
- See Scottish Government [Circular 3/2013 Development Management Procedures](#) – for useful information on material considerations refer to Annex A: “Defining a Material Consideration”.

Note - this information sheet contains only a brief outline of Material Considerations. More detailed information is contained within the above Circular.

How can PAS help?

If you are still unsure or need independent advice, then PAS may be able to help.

Contact our **planning helpline** on **0300 323 7602*** (*calls cost no more than a national call rate).

www.pas.org.uk