

# Engaging with the Development Planning and Management Process

## Guidance for Volunteers

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## Introduction

Inappropriate or poorly-planned development is one of the greatest threats to badgers in Scotland. Roads, housing, community infrastructure and energy generation projects can, if designed insensitively, result in the destruction or damage of setts or the loss/fragmentation of important foraging grounds.

While the Development Planning and Management process (aka the 'planning system') in Scotland is democratic and consultative, it can often seem complex and intimidating. How, then, can Scottish Badgers volunteers engage in the Development Planning and Management process to help protect sensitive badger populations? In this short Guidance document we provide advice on how to understand and work within the Development Planning and Management process to achieve positive outcomes for badgers.

## Badgers in the Development Planning and Management Process

Badgers and their setts receive legal protection in Scotland, via the Protection of Badgers (Scotland) Act 1992. Regardless of the legal purpose, for example consented development, it is an offence to damage, destroy or interfere with a sett unless an appropriate licence has been granted by Scottish Natural Heritage. Licences allow development that would otherwise constitute an offence. Normally licences are required for works within 30m of a badger sett.

Planning Authorities have several duties relating to the protection of wildlife. In particular, the Biodiversity Duty says that Planning Authorities must further biodiversity through the discharge of their function. Planning Authorities are also obliged to be fully informed of the nature and significance of natural heritage issues raised by development proposals.

## The Purpose of Development Planning and Management in Scotland

The Development Planning and Management process exists to regulate the design and construction of all development in Scotland, be it homes, transport infrastructure, community facilities or energy generation/transmission. It sets out rules, at a national and local level, relating to the appropriate siting, scale and use of development while ensuring communities, landscapes and environmental features are protected from inappropriate or damaging changes in land use.

## How Development Planning and Management in Scotland Works

### National Level

Like all democratic processes, the Development Planning and Management process in Scotland is multi-layered. Overseen by the Town and Country Planning (Scotland) Act 1997, it starts with high-level development principles at the national level. At this level, environmental organisations like Scottish Badgers, work with government representatives to influence the direction of development in Scotland. Where appropriate, Scottish Badgers will consult with its members over important national policy.

### Local Level – Local Development Plans

The high level rules set at the national level are used to inform the development of planning policy at a local level. Each of Scotland's 32 Local Authorities, along-with our two national parks, act as *Local Planning Authorities*, meaning they can set out their own specific rules, or policies, relating to development within their boundaries. These policies are set out in a *Local Development Plan* which is renewed every few years. You can download these from your Council's website.

At the start of the Local Development Plan process, Local Authorities will consult widely with their communities. You'll see adverts in local newspapers, notices on Council websites and in community facilities. At this stage, Planning Authorities invite opinions relating to appropriate locations for development and areas that should be protected. There can be a lot of debate at this stage, but eventually, via a series of draft reports, the Local Authority arrives at a clear set of rules for development, including a map showing locations where specific types of development will be supported by the Planning Authority.

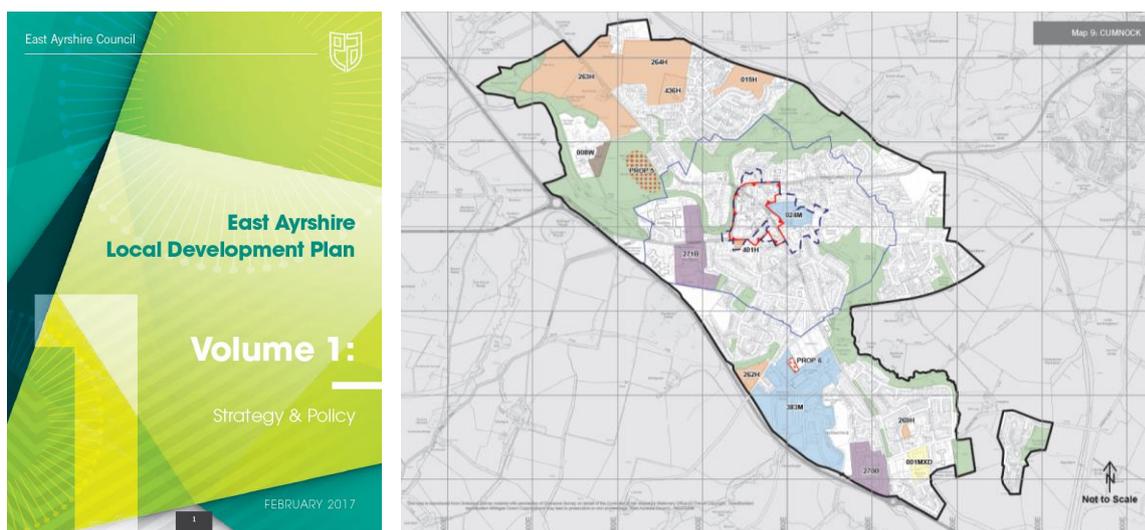


Figure 1: An example Local Development Plan document and an example accompanying map showing where different types of development will be supported. The map also shows areas that can't be developed, e.g. designated sites and greenbelt areas.

## How to engage with Local Development Plans

Each Local Planning Authority will consult with its communities in different ways and you should visit your Council website to find out more. At this stage, you'll be invited to submit your views on areas that are important for nature conservation or comment on specific areas proposed for development. Scottish Badgers can help you at this stage, contact us at [operationscoordinator@scottishbadgers.org.uk](mailto:operationscoordinator@scottishbadgers.org.uk).

### Local Level – Planning Application Process (Development Management)

Once a Local Development Plan is finalised, anyone can submit a *planning application* to develop a given site. Scotland's Local Planning Authorities handle thousands of planning applications every year and it's at this stage that volunteers can have the biggest impact.

When an applicant submits a planning application, the Planning Authority will allocate a Planning Case Officer; a Council official who will oversee the application. The Case Officer will allocate a *Planning Reference* number, making it easier to track the progress of the application. It's up to the Case Officer what additional evidence is required to inform the decision-making process. In determining what's needed, the Case Officer will undertake *Consultation*, which involves gathering the views of communities and stakeholders. Stakeholders include organisations like Scottish Natural Heritage (SNH) and internal Council departments, like the Biodiversity Officer.

In order that they receive the views, or *representations*, of the local community, the Case Officer will advertise the application. You'll often see notifications in local newspapers, on the Council website or on notices displayed prominently at the application site itself. You might also hear about applications through less formal channels, for example from family and friends or in articles in local newspapers/facebook groups. **This is where volunteers can really get involved.**

It's not always easy to find applications and sometimes they've been determined before we even know about them. There are a few things you can do to help understand what's going on in your area, but the best course of action is to regularly review your Local Planning Authority's *Planning Portal*. A Planning Portal is an online resource, found on the Council's website that helps you track a planning application – it shows all relevant documents relating to the application, including consultation responses from stakeholders.

*Figure 2: An example Planning Portal on a Council website. You can search by Planning Reference number or address. Some will let you search from a map. All Planning Portals include a full list of all active planning applications.*

### Local Level – Planning Applications: How to Respond

Once you've identified a planning application you'd like to respond to, you have a few options. You can either object to or support the application, or you may want to highlight concerns that you'd like the applicant to address. In all instances, you can submit your response by email or in a letter. Don't worry, your name and address will be redacted before your response is sent to the applicant or published on the Planning Portal.

If you think there may be badgers on or near the site, you may want to ask the Case Officer to request a badger survey from the applicant. If you're not sure if badgers are present, you should consider whether:

- The site supports or is within 100m of suitable habitat for sett excavation.
- The site supports suitable foraging habitat for badgers.
- There are known badger setts in the wider area (you can ask Scottish Badgers about this).
- The site supports connected habitats such as hedgerows, tree lines or watercourses.

Sometimes SNH, the Council's Biodiversity Officer or even Scottish Badgers will have already asked for a survey, but that's ok – the more people who ask, the better. In **Appendix 1**, you'll find a letter template you can send to the Case Officer. The box below sets out what should be included in a badger survey of any given development application site.

### **Badger Surveys of Proposed Development Sites**

When recommending a badger survey is undertaken, you should highlight that the survey should be:

- Undertaken by an independent, experienced and qualified ecological consultant.
- Undertaken in line with Scottish Badgers' *'Badger Survey: Good Practice Guidelines'* document (which you can download from the Scottish Badgers website).
- Confidential and not made publicly available.

Scottish Badgers has published guidance specifically for Planning Authorities in relation to badgers and developments. You can download this from the Scottish Badgers website. A reference to the guidance is also provided in the template letter in **Appendix 1**.

Once you've asked for a survey, your work is done (thank you!). Please inform Scottish Badgers when you've made representation on a Planning Application.

Assuming the applicant appoints an appropriate ecological consultant, they will ensure the Case Officer and the applicant have all necessary information required to protect any resident badger populations. Note that, to prevent badgers from persecution, badger survey reports cannot be made public, so they should not be uploaded onto the Planning Portal. That means you may not see if your request has been fulfilled, but if you want to check you can ask the Case Officer. Equally, if a badger survey report is uploaded onto the Planning Portal, you should contact the Case Officer immediately and ask them to remove it. Scottish Badgers can help with this if you need support or advice.

### **Rules for Engaging with Case Officers and Applicants**

Engaging with the Development Planning process can sometimes be a stressful and emotional experience. We often feel very strongly about applications and, when they affect our local community, we can be very passionate about it. You're much more likely to have your point heard if you stay calm, focussed and fact-based. When responding to planning applications you should:

- Use respectful and professional language.
- Avoid emotive or inflammatory expressions.
- Stick to facts and evidence; do not exaggerate your findings or the potential value of the site.
- Avoid criticising the applicant's character or reputation.
- Avoid confusing nature conservation issues with other issues such as traffic or noise concerns. Keep your argument simple.

Scottish Badgers encourages our members, as members of their local community, to make representations in their own name. However, Scottish Badgers has a team of Planning Engagement Volunteers, trained in the planning system. If you would like support from Scottish Badgers, our Planning Development team can help. Please get in touch to discuss this, via [operationscoordinator@scottishbadgers.org.uk](mailto:operationscoordinator@scottishbadgers.org.uk).

## Other Issues

This guidance document presents a simplified version of the Development Planning system. There are other ways of developing sites, including via **permitted development rights**. Projects ranging from house extensions to large scale infrastructure fall under permitted development rights, which means they don't require planning consent. If you would like support in responding to a permitted development rights project, please contact Scottish Badgers.

You should also be aware that projects of a certain type and scale automatically require an Environmental Impact Assessment (EIA). The EIA process is a thorough and complex approach to determining the impacts a development may have on the natural environment. Where projects require EIA, a robust consultation process is implemented. For further information please contact Scottish Badgers.

## Sources of Information

Extensive advice in relation to the Development Planning system in Scotland is available. If you'd like to learn more, you may wish to visit:

- The Scottish Government - <http://www.gov.scot/Publications/2009/08/11133705/1>
- The Royal Town Planning Institute - <http://www.rtpi.org.uk/the-rtpi-near-you/rtpi-scotland/about-rtpi-scotland/the-planning-system-in-scotland/>
- Friends of the Earth - [http://www.planningdemocracy.org.uk/resources/PlanningCommunityGuide\\_FoES.pdf](http://www.planningdemocracy.org.uk/resources/PlanningCommunityGuide_FoES.pdf)
- Planning Aid Scotland - <https://www.pas.org.uk/>
- Scottish Natural Heritage - <https://www.nature.scot/professional-advice/planning-and-development>

## **Appendix 1 – Template Representation Letter**

**Your name**

**Your Address**

**Your email/telephone number**

**Case Officer Name**

**Planning Authority Name**

**Address**

Dear (*Case Officer*)

**Subject: Name of Development and Planning Reference Number**

I write in relation to the above application, advertised on your website on (*date*).

I have identified that the site has potential to support sheltering, commuting and foraging badgers. (*include a brief description of suitable habitats*).

You will be aware that badger setts receive full protection under The Protection of Badgers Act (1992). Consequently, failure to identify and respond to badger setts as part of this application may constitute an offence. Prior to the determination of this application, it is recommended that a full badger survey is undertaken and submitted to the Planning Authority at the earliest opportunity.

For your information, Scottish Badgers provides detailed Good Practice Guidelines on the scope of badger surveys, as they relate to development, and the applicant should ensure that their survey is cognisant of this document. The Badger Surveys - Good Practice Guidelines document is available at [www.scottishbadgers.org.uk](http://www.scottishbadgers.org.uk). Surveys should be conducted at an appropriate time of year by sufficiently skilled and experienced surveyors, and be informed by a desk study.

Scottish Badgers has also produced a guidance document for Town Planners and this is available at the website above. This guidance document provides further information in the use of badger survey data during the determination process.

Please note that should badger setts be identified at the site, outline mitigation should be developed and approved by the Planning Authority prior to determination. Under the Protection of Badgers Act (1992) a system is in place that allows for the disturbance and/or destruction of badger setts, for development purposes, under licence. If this is required, the applicant should be encouraged to engage with Scottish Natural Heritage, the licensing authority, at an early stage.

Scottish Badgers would be pleased to provide further advice in relation to this application, via [operationscoordinator@scottishbadgers.org.uk](mailto:operationscoordinator@scottishbadgers.org.uk).

Yours sincerely,

*(your name)*