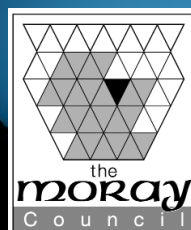


Advice Note for Small and Medium Businesses

Planning and Development Services



Contents

1. Introduction

1.1 Pre application advice

2. When is planning permission required?

2.1 Maintenance, improvement or Alternations to the Interior of Buildings

2.2 Working From Home

2.3 Building New Premises and Extension to Existing Premises

2.4 Increase in Floor Space

2.5 Change of Use of Property or Land

2.6 Advertisement Consent

3. Applications for Planning Permission

4. What Happens Next □ The Decision Process

4.1 The Decision Notice

5. Other Permissions and Licences

6. Business Gateway

7. Planning Aid for Scotland

Appendix 1: What is Major development?

Appendix 2: Where can I found out more information?

Appendix 3: Where can I get additional business advice and support?

Appendix 4: Where can I get free, impartial planning advice?

This advice note relates to proposals for small and medium scale business development. If you require pre-application advice relating to a 'major development' proposal (as defined in Appendix 1 on p.9), please use our Major Developments Pre-Application Advice Service (for which a separate advice note is available).

1. Introduction

At The Moray Council, we recognise that delays in dealing with development proposals by businesses can have a negative financial impact and can impact on local employment and economic growth. In particular, an efficient and responsive planning system has an important part to play in maintaining the vibrancy and resilience of our business sector. We hope this guide will work towards ensuring an efficient planning application process from the outset by providing appropriate advice for applicants for small business development.

1.1 The Moray Council Pre-Application Advice Service

The Moray Council offer a pre-application advice service which is delivered in two ways. A Duty Planning Officer is available every day at the Moray Council HQ between 2pm and 4pm. There is no appointment system so you can just turn up and ask to see the Duty Planning Officer. Alternatively, you can write or e-mail us outlining your proposals and providing as much information as possible along with any plan /photos that may assist the Planning Officer in providing you with some preliminary advice. (Contact details are provided in Appendix 2 on p.10). All enquires will be acknowledged and responded to within 28 days.

2. When is planning permission required?

Before negotiating a lease or buying a property or site, we advise you to establish whether planning permission is required for the intended use. Essentially the construction of new buildings, substantial alterations and additions or a fundamental change of use of land or buildings will, in most cases, require planning permission. The following advice contained within this note is for guidance only and prior to carrying out any work we advise that you seek confirmation in writing from us to avoid any delays or confusion further down the line. This will also give us the opportunity to check whether or not your property is a Listed Building or within a Conservation Area where there are additional restrictions. (Contact details are provided in Appendix 2 on p.10).

You may also wish to discuss your proposal directly with other services of The Moray Council, for example Transportation or Environmental Health. (Contact details for these services can be found in Appendix 2 on p 10 & 11).

2.1 Maintenance, Improvement or Alterations to the Interior of Buildings

Some building works do not fall within the definition of development and will not require planning permission. These can include building works for maintenance, improvement or other alteration of buildings affecting only the interior of the building or works which do not materially affect the external appearance of the building.

Planning permission is not required for stone cleaning or painting of the exterior of any building unless:

- It is for the purposes of advertisement
- The building is in a conservation area; or
- The building is a listed building

A listed building is one which has special protection due to its special architectural or historical interest. Our Development Management Section will be able to tell you if a building is listed if you are unsure but will need to write to us to seek written confirmation. In most cases listed building consent

will be required for proposed works to the interior or exterior of a building which will affect the character of the building.

2.2 Working from Home

Working from home is an increasingly common work pattern for many people and is generally supported by the Council as it reduces travel. It also has an important role in the start up of small businesses.

Running a business from home does not always require planning permission. Whatever business you carry out, whether it involves using part of your home as a personal office, providing a child minding service or storing goods connected with your business, the key test is: is it still a home or is it a business premises? It depends on whether the overall character of the house will change and whether the use will have a significant impact on the existing amenity of the area, for example through an increase in traffic, noise or activity. If the answer to any of the following questions is yes, then permission will probably be required:

- Will your home no longer be used mainly as a private residence?
- Will your business result in a marked increase in traffic or people calling?
- Will your business involve any activities unusual in a residential area?
- Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?
- If in doubt discuss your proposals with Development Management first.

There may also be tax implications should you opt to run a business from home. Business Gateway can offer detailed information on this issue – contact details for your local Business Gateway are contained in Appendix 3.

2.3 Building New Premises and Extension to Existing Premises

The erection of new building and the majority of extensions to existing business premises requires planning permission. Our Planning Service formulates land use policies to guide the decisions that are made for the development of land or buildings. These policies are published in the Moray Development Plan. This comprises the approved Moray Structure Plan 2007 and the approved Moray Local Plan 2008. In addition a small area of Moray is now covered by the adopted Cairngorms National Park Plan 2010. These plans which cover your proposed development will provide an indication of whether or not the proposal is likely to be acceptable (in terms of land use, for example).

These Plans are available on our website at: http://www.moray.gov.uk/moray_standard/page_51210.html. Should you require further information regarding the development plan allocation, please contact Planning & Development on 01343 563285.

2.4 Increase in Floorspace

Increasing the floorspace of existing premises, for example to extend the trading area of a shop into an area used for storage, may require planning permission. For more detailed advice, please contact us - contact details are provided in Appendix 2 on p.10). Please provide as much detail as you can about your proposal.

2.5 Change of Use of Property or Land

Planning permission may be required where there is a proposed change of use of buildings or land. The Use Classes Order 1997 groups types of uses into classes. A general guide to the Order is provided below.

Change of use is often not clear-cut and we advise you to contact us for a detailed discussion if you are unsure whether planning permission is required. The most important points to note when considering a change of use are:

- Any fundamental change of use from the current use to a completely different one (that is not allowed by the Use Classes Order overleaf) will require planning permission
- A minor change of use may not need planning permission because it is not considered so significant as to be a material change of use although care is required in assessing the significance of the change
- The intensification of a use may also need planning permission

Please provide us with the details of your proposals and we will be able to confirm whether or not planning permission is required.

- **Guide to the Use Class Order in Scotland (this guide is not exhaustive)**

UCO 1997	Description	Change Permitted
Class 1 Shops	Retail sale of goods, hairdresser, undertaker, travel & ticket agency, post office. Dry cleaner, laundrette, cold foot consumption off premises. Display of goods for sale, hiring out of domestic goods or articles, reception of goods to be washed, cleaned or repaired (where the sale, display or service is principally to visiting members of the public).	No permitted changes
Non-classified [Sui Generis] [see note 2]	Sale or display of motor vehicles	Permitted change to Class 1. [limited to floor area of 235 square metres or less]
	Amusement centre, taxi business, vehicle hire	No permitted changes
Class 2 Financial, Professional and other services	Financial, professional or any other services, including use as a betting office [which is appropriate to provide in a shopping area, principally for visiting members of the public]	Permitted change to Class 1
Class 3 Food & drink	Restaurant, café, snack bar [use for sale of food or drink on the premises]	Permitted change to Class 1 & 2
Non-classified [Sui Generis]	Public House [primary use sale of alcoholic liquor]	No permitted changes
	Hot food takeaway	Permitted change to Class 1 & 2
Class 4 Business [see note 3]	Office [other than that specified under Class 2] Research & development of products or processes. Light industry.	Permitted change to Class 6. [limited to floor area of 235 square metres or less]
Class 5 General Industrial	General industry. [use for the carrying on of an industrial process other than one falling within the Class 4 [Business] definition].	Permitted change to Class 4 & 6 [Class 6 change limited to floor area of 235 square metres or less].
Class 6 Storage or distribution	Storage or distribution	Permitted change to Class 4
Class 7 Hotels & hostels	Hotel, boarding & guest house, hostel.	No permitted changes
Class 8 Residential institutions	Residential school, college, training centre Residential accommodation with care, hospital, nursing home	No permitted changes
Class 9 Houses	House occupied by a single person, or a number living together as a family, or as a household of 5 persons or less. Limited use as a bed & breakfast or guesthouse.	No permitted changes
Non-classified [Sui Generis]	Flats	No permitted changes
Class 10	Creche, day nursery, day centre, provision of education. Museum, exhibition hall, public library, display of art. Public	No permitted changes

	workshop, religious instruction, social activities of a religious body.	
Class 11 Assembly & leisure	Cinema, concert hall, bingo hall, casino, dance hall, discotheque Skating rink, swimming bath, gymnasium or for indoor sports or recreation not involving motorised vehicles or firearms.	No permitted changes
Non-classified [Sui Generis]	Car repair garage or firearm sport.	No permitted changes

1. Any change from one use class to another will normally require planning permission. Where the existing use and proposed use fall within the same class, planning permission is not normally required. However, the freedom to switch between certain use classes can be restricted by conditions attached to an original planning permission.
2. Uses falling outwith the specified use classes are defined as non-classified or '*Sui Generis*'. Planning permission is required for any change of use involving a Sui Generis use.
3. A Class 4 Business is defined as one which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
4. It should be noted that changes of the uses are only permitted down a class, not up a class.
5. **This is a general guide only.** For full details please refer to the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, together with any subsequent amendments. Please contact us for clarification as to whether or no planning permission would be required. (Contact details p12).

2.6 Advertisement Consent

Some advertisement signs do not require a formal application for them. There are 16 classes of advertisement that fall within this category and further details can be obtained from our planning office. We advise you to contact us to establish whether or not advertisement consent is required. Please provide as much detail as you can about your proposal to allow us to advise you as best as possible. (Contact details are provided in Appendix 2 on p.10).

Other advertisements or signs will still require consent through the submission of a formal application for advertisement consent.

3. Applications for Planning Permission and other planning related consents

Should you need to submit a planning application or any other relates consent, you can do so online or by paper by downloading forms and guidance notes. The level of information required depends on the individual proposal and the site location. Information on plans and other supporting information required is provided in the application guidance and forms. Please view the web site for further information:

http://www.moray.gov.uk/moray_section/section_2132.html

4. What Happens Next - The Decision Process

When we receive your application we will check it to ensure all the information we need to make a decision has been submitted. If so, within a short period we will advise you that your application is now validated and is being assessed. This letter will also contain the application reference number. You should quote this should you wish to contact us regarding your application. If we are not able to validate your application, for example if it does not contain some of the required information, we will contact you to let you know what still needs to be submitted to allow validation and registration.

Where required, we will then notify any neighbouring properties of your proposal and they may wish to comment on your application. Where we cannot identify the owners of neighbouring land, we will arrange for the proposal to be advertised in a local newspaper.

In some circumstances, the planning case officer may need to consult key agencies such as Scottish Natural Heritage or SEPA to seek advice, for example if the proposal lies within a natural heritage designation or an area with poor drainage. There may also be a need to consult other Council services such as Transportation and Environmental Health.

Once all the responses have been received, the case officer will assess the proposal taking into consideration the site itself; the policies in the Development Plan; any other relevant Council or National policies/guidance; and any comments received from consultees or the public. Details of the application, consultation and representatives received will be made available online at:

<http://public.moray.gov.uk/eplanning/>

Under our Scheme of Delegation, the majority of small scale minor applications are determined by Planning Officers, however, a small number are referred for decision by Councillors at our Planning & Regulatory Services Committee.

In recognition of the pivotal role of small firms in our economy and communities, we will aim to ensure that all applications for planning permission concerning small businesses are dealt with as quickly and efficiently as possible. Our processing times are set out in detail in our Protocol for Handling Small Business Applications.

4.1 The Decision Notice

In due course you will receive a decision letter from us. This will either **grant, grant with conditions**, or **refuse** planning permission. If planning permission is granted, you must take note of any conditions attached to the permission. Sometimes these will require the submission of further details for written approval of works prior to starting the development.

If you do not agree with our decision or do not agree with a condition attached to the planning permission and depending on how the application was determined you have a right to appeal or seek a review of the application. Details on how to do so will be provided in the decision letter. Depending on the scale of the application and whether or not the decision was made at Committee, this will either be through a review by our Local Review Body or an Appeal to the Scottish Ministers.

Detailed information and guidance regarding the planning system in Scotland is available through the Scottish Government website at: <http://www.scotland.gov.uk/Topics/built-environment/planning>

5. Other Permissions and Licences

In addition to planning permission, you may need to obtain other necessary permissions, consents or licences from this Council for your development. These may be:

- A **Building Warrant**: Required for development proposals for the erection of buildings and proposals which seek to alter, extend or change the use of a building
- **Roads Construction Consent**: Required to construct a new road or extend an existing road.
- **Roads Opening Permits**: Required to undertake road within the public road or road verge i.e. dropping a kerb, and creating an access lay-by
- **Environmental Health**: See below for full details
- **Trading Standards Licence**: May be required to operate your business, particularly where petrol filling stations is involved
- **Premises Licence**: Required by any premises that provide entertainment and/or alcohol and/or late night refreshment
- A **liquor licence**: Required for the sale or supply of alcohol and administered by the local Licensing Board, administered by The Moray Council

In the case of Environmental Health the following considerations should be taken into account:

- A licence will be required for uses such as animal boarding, riding establishments, dangerous wild animals, skin piercing and tattooing, houses in multiple occupation and caravan sites
- Most food premises will require to be registered and some food manufacturers/processors will need EC approval
- Health & Safety requirements in premises such as offices, shops, builders' merchants, tyre fitters and leisure facilities are enforced by Environmental Health
- If development is proposed on potentially contaminated land or land which had any form of historic industrial or commercial use, the potential for contamination needs to be considered at the application stage. Details of what is required can be found at <http://www.moray.gov.uk/downloads/file48856.pdf>
- If a private water supply is to be used for the development you will require to ensure the supply is adequate and wholesome
- In certain developments noise and odour emissions may be likely to cause a nuisance and these matters will require to be suitably controlled.

Please note that the above is not exhaustive and you are advised to contact the relevant Moray Council service for further information or other Agencies such as SEPA for other licences. Contact details are contained in Appendix 2.

6. Business Gateway

Planning applications are only one aspect of developing your business. For additional advice and support on all other areas of business, think Business Gateway. They can help you to;

- Create a marketing plan
- Evaluate your IT systems
- Manage your finances effectively
- Comply with the latest employee legislation
- Develop an understanding of taxation and VAT and much more

So, whatever your business query, Business Gateway can provide you with a combination of online support, access to finance, local workshops, training, impartial advice and specialist advisory services. Their services are free of charge and are available throughout Moray.

Contact details for your local Business Gateway office are available in Appendix 3 on p.11

7. Planning Aid for Scotland

Planning Aid for Scotland (PAS) is an independent organisation working across Scotland who offer free and impartial advice on a wide range of planning issues. Full details of the service offered by PAS and how they can be contacted can be found in Appendix 4 on p.13.

APPENDIX 1:

What is 'Major Development'?

Regulations defining what constitutes a 'major development' came into force on the 6th April 2009. Currently, major development is defined as follows:

TYPE OF DEVELOPMENT	THRESHOLD/CRITERION
Housing	50 or more dwellings; or The total area of the site is or exceeds, 2 hectares.
Business and general industry, storage and distribution	The floor area of the site is or exceeds 10,000 square metres; or The total area of the site is or exceeds, 2 hectares.
Electricity Generation	The capacity of the generating station is, or exceeds 20MW.
Waste Management Facilities	The capacity of facility is or exceeds 25,000 tonnes; or if used for sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day.
Transport and Infrastructure projects	The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres
Fish Farming	The surface area of water is or exceeds, 2 hectares.
Minerals Development	The total area of the site is or exceeds, 2 hectares; or The gross floor space of any building, structure or erection constructed as a result of such developments, or exceeds 5,000 square metres
Other Development not classed within any single class of the above development	The total area of the site is or exceeds, 2 hectares.
Any Development which falls under Schedule 1 of the Environmental Impact Assessment (Scotland) Regulations 1999.	

Where can I get advice relating to 'Major Development'?

We operate a separate pre-application advice service for major development (website details to be updated)).

APPENDIX 2:

Where can I find more information?

If you have any queries or require clarification on any of the information contained within this guidance note or would simply like a more detailed discussion regarding your proposal, please contact the Development Management:

Development Management
The Moray Council
Council Offices
Elgin
IV30 1BX

Tel: 01343 563501
Email: development.control@moray.gov.uk

Where can I get information about other permissions and licences?

For information regarding other licences and permissions that may be required as a result of your proposal, please contact the following Services:

Building Standards
The Moray Council
Council Offices
Elgin
IV36 1BX

Tel: 01343 563243
Fax: 01343563263
Email: building.standards@moray.gov.uk

Environmental Health
Moray Council
Council Offices
Elgin
IV30 1BX

Tel. 01343 563345
Fax:01343 563483

Email: environmentalhealth@moray.gov.uk
foodsafety@moray.gov.uk
public.health@moray.gov.uk
contaminated.land@moray.gov.uk
healthandsafety.ehenforcement@moray.gov.uk

Transportation
Moray Council
Academy Street
Elgin
IV30 1LL

Tel. 01343 562500
Email: roadsdevelopmentcontrol@moray.gov.uk – RCC
roadspermit@moray.gov.uk – Road Opening

Licensing
Moray Council
Council Offices
Elgin
IV30 1BX

Tel. 01343 563030
Fax: 01343 540183
Email: licensing@moray.gov.uk

APPENDIX 3:

Where can I get additional business advice and support?



Business Gateway helps new start and existing businesses to grow and prosper through a combination of online support, local workshops, training, impartial advice and specialist advisory services.

For information, please call the national helpline number on 0845 609 6611 or visit the website at www.bgateway.com

Contact details for Business Moray offices are also provided below:

Business Gateway Moray
17 High Street
Elgin
Moray
IV30 3EQ

Tel. 01343 563634

APPENDIX 4:

Where can I get free, impartial advice



What is Planning Aid for Scotland?

Planning Aid for Scotland (PAS) is an independent organisation, working across Scotland to help people shape their communities and improve the way people engage with the planning system. Planning is a vital public service and everyone in Scotland should be able to participate. PAS is here to provide everyone with the skills and information to engage positively with planning. As an independent organisation, impartiality is our most important guiding principle one that we will not compromise.

PAS provides a wide range of products and services from our free advice service to our tailored products. PAS has developed services for everyone planning professions, elected members, community councils, young people ... and for member of the public who are simply interested in how their town or city is changing.

How can Planning Aid for Scotland help business?

Planning Aid for Scotland offers free planning advice service can be accessed through the website or a local rate helpline number. Whilst the service has always been open to individuals and community groups, PAS now also provides support for business start-ups, social enterprises and development trusts □ particularly to assist new businesses navigate their way through the planning system.

The advice service is delivered through Planning Aid for Scotland with a unique bank of volunteers all chartered planners who provide free advice on any planning issue, whether submitting an application, supporting or objecting to a planning application, how to get involved with development plans, appeals, enforcement or anything else.

For new businesses, typical planning issues may include finding your first premises, applying for change of use for your premises, extending or changing the property, issues surrounding listed buildings and conservation areas, changing the frontage of your property, or perhaps applying for advertising consent. Whatever the planning issue, PAS can help your business start-up.

To discover more about how PAS can assist you and your business, visit our website: www.pas.org.uk or call the advice helpline on 0845 603 7602.