

**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
1 JUNE 2010**

SUBJECT: LIST OF PLANNING APPEALS FOR NOTING

BY: CHIEF LEGAL OFFICER

1. REASON FOR REPORT

1.1 To advise the Committee of the current position in regard to planning application appeals submitted to Scottish Ministers.

1.2 This report is submitted to Committee in terms of the Council's Administrative Scheme relating to the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

2.1 It is recommended that the Committee notes the current position relative to planning application appeals submitted to Scottish Ministers during the period 8 May 2009 to 12 May 2010.

3. BACKGROUND

3.1 In terms of The Town and Country Planning (Appeals) (Scotland) Regulations 2008 an appeal may be submitted, after 3 August 2009, by or on behalf of an Applicant, to the Scottish Ministers against the decision of the Planning Authority within three months of the decision.

3.2 Appeals (Notice of Review) against refusals for local developments determined under the Scheme of Delegation by the Planning Authority's Appointed Officer are referred to Council's Local Review Body. Requests for review require to be submitted within 3 months of the date of the Decision Notice.

3.3 Appeals to Scottish Ministers are dealt with by means of written submissions; the holding of one or more hearing sessions; the holding of one or more inquiry sessions; a site inspection or a combination of two or more procedures.

3.4 Whilst the applicant and the planning authority may suggest an appropriate procedure(s) it is for the Appointed Person (Someone appointed to determine the appeal instead of Scottish Ministers eg a Reporter) to decide which procedure(s) is to be applied.

3.5 It is the current policy of the Council to accept Scottish Ministers' decisions in regard to planning application appeals. The only financial implications to the Council would be in an instance where expenses have been awarded against the Council, although there are costs associated in preparing for an Inquiry or Hearing Sessions.

- 3.6 Details of appeals submitted and determined between the period 8 May 2009 to 12 May 2010 are set out in **Appendix 1**.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Development Plan/Community Plan/Service Improvement Plan

It is the current policy of the Council to accept Reporters decisions in regard to planning application appeals.

(b) Policy and Legal

The Town and Country Planning (Appeals) (Scotland) Regulations 2008 apply.

(c) Resources (Financial, Risks, Staffing and Property)

In the event of Scottish Ministers upholding an appeal and granting consent the Council may be liable for the applicant's expenses if it is found to have acted unreasonably.

(d) Consultations

A Scott, Principal Solicitor (Commercial & Conveyancing) has been consulted and comments received included in the preparation of this report.

5. CONCLUSION

- 5.1 That the Committee notes the current position relative to planning application appeals submitted to Scottish Ministers during the period 8 May 2009 to 12 May 2010, details of which are set out in Appendix 1 to the report.**

Author of Report: Ron Ritchie, Snr Committee Services Officer

Background Papers: None

Ref: rr/h/envservices/planning®ulatory/reports/2010/appeals

APPENDIX 1

**INTIMATION OF PLANNING, LISTED BUILDING & CONSERVATION AREA
CONSENT & ENFORCEMENT NOTICE APPEALS
FOR THE PERIOD 8 MAY 2009 to 12 MAY 2010**

1. 09/00577/FUL – appeal against refusal (delegation) to erect a 6kw wind turbine on top of a 9m high pylon at Drayton House, Monaughty, Alves.
2. 08/00577/FUL – appeal against conditions applied to consent to construct a 7.2Mwe combined heat and power plant at Combination of Rothes Distillers, North Street, Rothes
3. 09/00252/FUL – appeal against refusal (Committee overturn) to alter and extend a dwellinghouse and erect a new garden store/shed and new boundary timber fence at Westland, Stotfield Road, Lossiemouth
4. 09/00898/FUL – appeal against the non-determination of an application submitted on 5 May 2009 in regard to a retrospective application for retaining walls and land upfill at Station/Hopeman Caravan Park, Harbour Street, Hopeman.
5. 07/02222/FUL – appeal against refusal (Committee overturn) of an application for the erection of 6 detached houses and garages on land to the North of Glendale, Aultmore, Keith.
6. 08/02134/FUL – appeal against refusal (delegation) of an application for the erection of a house in the garden ground at Craighurst, Seafield Avenue, Keith.
7. 06/00182/EIA – appeal against refusal (Committee overturn) of an application to extract and process sand and gravel and erect and use a concrete batching plant at Bogside, Near Elgin.
8. 07/00144/ENF – appeal for expenses against the Council in respect of an Enforcement Notice served in relation to land at Station Caravan Park, Hopeman.

**DETERMINATION OF PLANNING, LISTED BUILDING & CONSERVATION AREA
CONSENT & ENFORCEMENT NOTICE APPEALS
FOR THE PERIOD 8 MAY 2009 to 12 MAY 2010**

<u>Appeal</u>	<u>Decision</u>
1. 08/02006/FUL – appeal against refusal (delegation) of consent to erect a single storey house, workshop/garage on Plot CP1 adjacent to Muir of Ruthrie, Aberlour	Appeal Upheld & Planning Consent granted, subject to conditions.
2. 09/00252 - appeal against refusal (Committee overturn) of consent to alter & extend house at Westlands, Beach Brae, Stotfield Road, Lossiemouth	Appeal Dismissed
3. 08/00577/FUL – appeal against condition of consent in respect of an application to construct s 7.2MWe combined heat and power plant for The Combination of Rothes Distillers	Appeal Upheld & Condition 3 deleted and substituted with and amended Condition
4. 08/01972/FUL – appeal against refusal (delegation) of an application to erect a first floor extension at 10 Balormie Place, Lossiemouth	Appeal upheld subject to 3 advisory notes.
5. 07/02222/FUL – appeal against refusal (Committee overturn) of an application for the erection of 6 detached houses and garages on land to the North of Glendale, Aultmore, Keith.	Appeal upheld and Planning Consent granted, subject to 10 conditions. Claim for Expenses dismissed.
6. 09/00898/FUL - appeal against the non-determination of an application for the erection of retaining walls an up-fill ground behind them (in retrospect) at Station/Hopeman caravan Park, West Beach, Hopeman.	Appeal dismissed Claims for Expenses dismissed
7. 08/02134/FUL – appeal against refusal (delegation) of an application for the erection of a house in the garden ground at Craighurst, Seafield Avenue, Keith.	Appeal dismissed

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8. 09/00577/FUL – appeal against refusal (delegation) to erect a 6kw wind turbine on top of a 9m high pylon at Drayton House, Monaughty, Alves. Appeal upheld and planning consent granted, subject to two conditions.
9. 06/00182/EIA – appeal against refusal (Committee overturn) of an application to extract and process sand and gravel and erect and use a concrete batching plant at Bogside, Near Elgin Appeal dismissed
10. 09/01790/APP - appeal against refusal (Committee refusal) of an application to erect a two storey house on Plot 9 , former filling station and land, Seafield Road, Cullen. Appeal dismissed