



Major proposals – call-in by Ministers

Neil Collar, Head of Planning Law

Call in

Consequence:

- Ministers decide application/ appeal, instead of council/ reporter
- Why? To avoid council/ reporter making “wrong” decision?

Call in

“Any time, any place, any where ...”

- Planning applications – section 46
- Appeals – schedule 4
- Circular 3/2009 – issues of national importance – eg:
 - Govt agency expressed strong concerns
 - Impacts/ benefits extend beyond area of local authority
 - Not just substantial number of objections

Call in

- Planning applications
 - Notification by local authority/ LRB minded to grant pp
 - Ministers don't call-in every notified application
 - Safeguard against inappropriate permissions
- Planning appeals – consequences:
 - reporter reports, not decide
 - Ministers can disagree with reporter's recommendation

Call in

- Direction
- States reasons – briefly! Transparency?
- Does not give the case any greater significance?

Call in – recent examples

Housing

- “the delivery of appropriate housing developments [is] an issue of national significance”
- 8 appeals (2014/ 15)
 - 7 – decided per recommendation
 - 1 – refused contrary to recommendation
 - Outcome – less housing developments delivered

Call in – recent examples

Mossend International Rail Freight Park

- Appeal called-in:
 - “importance of this interchange site in the 3rd National Planning Framework and therefore consider the proposals to be an issue of national significance”
- Reporter recommended refusal
- Scottish Ministers granted permission – Aug 2015
- Quashed by Court of Session – Aug 2016
 - Lack of proper and adequate reasons

Call in – recent examples

Hyndford Quarry, Lanark

- Direction - Impact on World Heritage Site
- Issued pre-decision
- No Historic Scotland objection
- Council minded to grant
- Reporters recommended grant permission
- Ministers granted permission for south extension only

Call in – recent examples

Strathmartine Hospital, Dundee

- 198 houses + convert listed building into 24 flats
- Potential conflict with TAYplan and SPP re sustainable development
- Objection from Dundee City Council
- Council minded to grant
- Ministers followed reporter's recommendation to grant permission

Call in – watch this space ...

- 100+ houses – 10 appeals – implementation of national policy
- Royal High School, Edinburgh – historic environment, economic + tourism benefits
- Film studio, Straiton – economic + cultural benefit
- Tennis + golf centre, Park of Keir – economic, tourism + sporting benefits
- Housing, Kelbourne St, Glasgow – loss of valued open/ green space

Call in – conclusions

Unifying features/ consistency:

- Application call-in – often triggered by statutory consultee objection, or neighbouring council (eg. Strathmartine Hospital) – but not always (eg. Hyndford Quarry, Kelbourne Street)
- Appeals
 - national policy/ significance (eg. substantial housing developments, Mossend)
 - historic environment (Hyndford Quarry, Royal High School)
 - Economic/ tourism benefit (RHS, Straiton, Park of Kier)

Call in – conclusions

- Promotes development
 - 4 housing appeals [but reporter would have granted permission]
 - Mossend Freight Terminal
 - [Strathmartine Hospital – but Council minded to grant anyway]
- Limits development
 - 4 housing appeals, including one where reporter's recommendation reversed [but councils had refused all 4]
 - Hyndford Quarry

Call in – conclusions

- Rarely used
- Other than housing, no obvious consistent approach to call-in
- Does not necessarily change outcome
 - Ministers only changed the result in 1 housing appeal, Mossend, + Hyndford Quarry
- Adds timescale
- Planning tool or politics?