

If a planning application is refused the applicant would have a right of appeal and it could come before Scottish Ministers through the appeals process.

Scottish Ministers have the power to call in any planning application for their determination but in practice they will use this power very sparingly. Changes introduced to simplify and speed up decisions on planning applications have seen the Government disengage significantly from involvement in planning cases and leave more decisions on applications with local authorities, who they consider are best placed to make decisions on matters that affect their areas. Consequently Scottish Ministers would only consider intervening in cases where there were issues of genuine national significance that would warrant them determining the application. The fact that Scottish Ministers decide not to determine an application does not mean that they are giving approval to the proposal or agreeing with the decisions made by the Council to set aside objectors' views. They are merely acknowledging that it is in the Council's area of responsibility to decide on the application and to reach a view in the face of conflicting opinions.

You also ask about the responsibilities on the developer and the planning authority to consult with affected communities and residents along the proposed route and what scope exists for these residents or third parties to propose alternative routes or solutions.

I understand that the application relates to a major development. In such cases, the prospective applicant is required to undertake statutory pre-application consultation and submit a pre-application consultation report with the application. The purpose of pre-application consultation is for communities to be informed about development proposals and to have an opportunity to contribute their views before a formal planning application is submitted to the planning authority. Its aim is to improve the quality of planning applications, mitigate negative impacts where possible, address misunderstandings, and air and deal with any community issues that can be tackled. The pre-application consultation report should set out how the applicant has responded to the comments made, including whether, and in what way, the proposals have changed as a result of this consultation.

There are a number of statutory requirements on the planning authority to consult and publicise the application once it has been validated. These are set out in sections 39 to 55 of the recently published Planning Advice Note (PAN) 3/2010 – Community Engagement, which can be viewed at <http://www.scotland.gov.uk/Publications/2010/08/30094454/0>. In particular, planning authorities must carry out neighbour notification and widely publicise the application to ensure as far as possible that all interests are made aware of it in order that they have the opportunity to express their views. It is open to anyone, not only those likely to be directly affected by a development proposal, to submit representations about any aspect of an application. In the case of mineral applications there is an additional requirement on the authority to publicise the application using site notices.

I hope that the above information is helpful in clarifying the position.



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The Scottish Parliament
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Our ref: 2010/0023521

7th October 2010

Dear Aileen,

Thank you for your letter of 7 September regarding your constituents' concerns arising from proposals by Patersons Quarries Ltd to extend extraction operations at Dunduff Quarry, near Boghead, which would result in lorries from the site running through Lesmahagow, Strathaven and Teiglum Road to access the M74 at Junction 10.

You ask me to outline what role, if any the Scottish Government may have in determining this application. It may help if I explain the respective roles of the planning authority and Scottish Ministers in the planning process. Responsibility for dealing with planning applications and local planning matters rests, in the first instance, with the planning authority. The planning legislation requires that planning applications are determined by the planning authority in accordance with the development plan unless material considerations indicate otherwise. It is for the planning authority to interpret and implement relevant planning legislation and guidance as it deems appropriate given the circumstances in each case and to ensure that the provisions of the planning system are applied properly. In reaching a decision on a planning application the planning authority is expected to have regard to all material factors, including environmental and traffic impacts, relevant legislation and policy and any representations or objections that may have been submitted to them. While there is no requirement on planning authorities to act on objections, and clearly not everyone who objects will get the outcomes they would like, authorities should respond to comments and objections received to explain what decisions have been taken and why and they should be able to demonstrate clearly how and when the opinions of interested parties were sought.

Where a planning authority is minded to grant planning consent there are certain categories of application, as defined in the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 (this can be viewed at www.scotland.gov.uk/Topics/built-environment/planning) that require to be notified to Scottish Ministers. Notification allows the Scottish Ministers the opportunity to consider whether the issues involved merit calling in the application for their own determination or if the Council can be left to deal with the matter as it sees fit but it is for the Council to determine whether notification is appropriate.