



The Highland Council Planning Service ePlanning

Redaction, Secondary Publishing & Copyright Policy

The policy compliments Highland Council's Data Protection statements and practices found on www.highland.gov.uk

The policy has been approved by the Highland Council Planning Service based on recommendations made by the Highland Council's ePlanning Board.

The policy covers all planning applications whether received "electronically" from the Scottish Government's online planning service www.eplanning.scotland.gov.uk and/or "paper" that is then converted into an electronic format.

This policy will be published on the ePlanning pages at www.highland.gov.uk/eplanning

1. Introduction

1.1 The Highland Council is committed to providing a more streamlined, transparent and democratic planning process.

As greater reliance will be made on electronic communications, it is important that all data and particularly "personal information" of applicants and others is processed and republished in strict compliance with the Data Protection Act and other statutory requirements and constraints.

1.2 Scottish Government Data Protection Guidance Sept 2008 states:

"When submitting a planning application, information contained within the application or associated supporting documentation will appear through the Public Access on the respective Authority's ePlanning web pages.

Additionally, this also applies to consultation response(s), representation(s) objecting or supporting a planning application and other reports, documents etc that is relevant to the decision on an application being made"

1.3 However, the re-publishing of comments/reports from staff, consultees and views expressed in representation(s) submitted by contributors and Highland

Council staff does not mean that the Highland Planning Authority agrees or endorses these views, or confirms any statements of fact to be correct.

1.4 In 2010 planning applications including associated documents, representations, consultations and reports etc where ever they may arise within the Highlands will be electronically processed at the Highland Planning Service Electronic Processing Centre based at its Headquarters in Inverness.

1.5 Once processed and validated all planning applications, documents, representations and reports etc can potentially be viewed and tracked online via the Highland Council's Planning Authority Public Access.

www.highland.gov.uk/eplanning

2. Data Protection

2.1 In terms of Data Protection the advice provided by the Information Commissioner's Office for Scotland affirms that applicants and contributors should be made aware of **which elements** of their personal information will be published on the Highland Planning Authority ePlanning web pages and all other publicity channels and publications.

2.2 All information received by the Highland Council Planning Authority will be captured, scanned and where necessary, redacted (masked) to ensure that information published online through Highland's Public Access facility does not breach the Data Protection Act or any other statutory obligation or lay the Council open to litigation through the use of: salacious, slanderous, erroneous or pejorative words or phrases that in its discretion considers to be derogatory or offensive.

2.3 Where personal data is involved with a planning application the Highland Planning Authority will comply with the Data Protection Act 1998. Information will only be kept for as long as is necessary for the purposes for which it was collected. Retention periods will be contained in the Highland Planning Records Management Policy and published on the Highland Council's Web site. However, with agreement with the owner of the personal data, retention may be longer than stated within the published schedule.

2.4 If a Data Protection breach occurs or errors in published data are identified it will be expeditiously corrected by staff in the Electronic Processing Centre in accord with Principle 4 of the Data Protection Act and in the case of a breach of personal data reported to the Highland Council's Data Protection Officer. If significant the Officer will report the incident to the Information Commission for Scotland.

3 Publishing Criteria and Redaction Guidelines

3.1 The Highland Planning Authority will take extreme care when publishing "personal information" via its online Public Access facility and will avoid publishing the following data of an applicant or contributor by the use of "redaction" (masking) software:

- signatures (hand written)
- personal telephone numbers including mobile phone numbers (this does not include commercial or business phone numbers)
- personal email addresses (this does not include commercial or business email addresses)
- evidence of a reduction in the planning fee due to applicant qualifying for a disability discount that applies to those applicants who are registered with a physical and/or mental impairment.
- sensitive personal information relating to an individual's
 - alleged or actual criminal record
 - state of health both physical and mental
 - race or ethnic origin
 - sexual orientation
 - political opinions
 - religious beliefs
 - trade union membership
- personal information collected in order to comply with the diversity monitoring requirements of the Race Relations (Amendment) Act 2000, the Sex Discrimination Act 1975 and Disability Discrimination Act 2005.
- sensitive data from Environmental Impact Assessments (EIAs) for example the nesting sites and location of protection birds e.g., Golden Eagle, Osprey and Capercaillie covered under the European Directive on Protective Species and European Directive "Birds" Directive 1979.
- sections within studies, design statements, reports, impact assessments etc that are thought to be exempt under the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004, will in the first instant be redacted unless challenged by the appropriate case officer

4 Copyright

4.1 The following should be considered as "literary works" for the purposes of the Copyright Designs and Patents Act 1988:

- hand drawn drawings, CAD drawings and site plans
- additional information and reports accompanying the application
- objectors' comment
- supporters' comments
- officers' comments
- where there is an appeal, the appellant's case and other person's representation

4.2 The copyright Designs and Patents Act 1988 states: The owner of the copyright has the exclusive rights to copy the work, to issue copies of the work to the public and to communicate the work to the public.

4.3 for a planning authority to make such information available on its website without permission of the owner of the copyright (usually the author of the letter, drawings, plans etc) may constitute an infringement of the owner's copyright. Public downloading of the information may also be an infringing copyright of the work.

4.4 This permission from the owner of the copyright is deemed to have been implicitly given to the Highland Council Planning Authority when submitting a planning application (either online from the Scottish Planning portal or in paper) that such material will be republished online and viewable publicly via the Highland Planning Authority Public Access facility.

4.5 Scottish Government Data Protection Guidance Sept 2008 states:

“Plans, drawings and other material submitted as part of a planning application to the Highland Planning Authority are protected by the Copyright, Designs and Patents Act 1988 (section 47). This material may only be downloaded and/or printed for consultation purposes, to compare current applications with previous schemes and to check whether developments have been completed in accordance with approved plans. Further copies must not be made without the prior permission of the copyright owner.”

4.6 Ordnance Survey (OS) maps, and maps created from OS material are subject to Crown copyright. Therefore the use of the mapping is limited to an allowance to view and download for private and non-commercial purposes only. OS mapping may not be further sub-licensed, sold, demonstrated, lent, or otherwise transferred or exploited without prior written permission of OS, Moreover, it is recognised that the OS shall not be held liable for the map material not being fit for purposes of a particular planning application.

4.7 The Highland Council Planning Authority under the One Scotland Mapping Agreement schedule 3 clause 3.2.2 must ensure that OS Maps 1:10,000 or larger when submitted as part of a planning application and scanned for republication via the Highland Council's Planning Authority's ePlanning Public Access are appropriately watermarked and must cover at least 10% of the visible map image at any time.

4.8 The One Scotland Mapping Agreement applies to online applications from the Scottish Government's Planning portal after 14th May 2009 and for all paper applications thereafter when they are scanned made electronic and then republished.

4.9 Publishing a hard copy OS Map does not require a mandatory watermark but the One Scotland Mapping Agreement make it a recommendation. Once placed on the Highland Planning Authority ePlanning web page, electronic publishing conditions contained in this policy and One Scotland Mapping apply.

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Appendix A.....Explanation of following terms that are used in this policy

Redaction is the term used to describe the editing process whereby data is “masked” from a document prior to publishing.

Secondary Publishing: is the term for republishing online an applicant’s application including all associated documents, comments from consultees, reports from officials and a contributor’s representation.

Copyright: is the term for intellectual property rights associated with an individual or company’s unique endeavour(s).

Controls: a set of processes and standards to ensure quality have been established in the Electronic Processing Centre

Document Management Policy: a set of rules for the handling, retention and destruction of planning applications etc

Trained staff: all relevant staff are trained in handling, storing and publishing of planning information in order to comply with data protection and this Policy

References

- i) Information on Data Protection from the Information Commissioner’s Office
- ii) Data Protection Act 1998
- iii) Highland Planning Authority Records Management Policy
- iv) Scottish Government Information Online, Data Protection Guidance for Planning Authorities, Sept 2008
- v) Planning Advice Note 70: Electronic Planning Service Delivery 2004
- vi) The Town and Country Planning (Electronic Communications) (Scotland) Order 2004
- vii) The Electronic Communications Act 2000 Sections 8, 9. ..use of Electronic Communication, Storage & Signatures
- viii) Planning etc. (Scotland) Act 2006
- ix) One Scotland Mapping Agreement 14th May 2009
- x) Copyright Designs and Patents Act 1988
- xi) Environmental Information (Scotland) Regulations 2004
- xii) Freedom Of Information (Scotland) Act 2002
- xiii) European Directive on Protective Species & European Directive “Birds” Directive 1979.