

## Briefing for the Public Petitions Committee

**Petition Number:** [PE1800](#)

**Main Petitioner:** Siobhan Samson (on behalf of both Bo'ness and Grangemouth Community Councils)

**Subject:** Expand the remit of the Lands Tribunal for Scotland

Calling on the Scottish Parliament to urge the Scottish Government to expand the remit of the Lands Tribunal for Scotland to include the consideration of planning decisions, which are currently called-in by Scottish Ministers.

### Background

Section 46 of the [Town and Country Planning \(Scotland\) Act 1997](#) allows Scottish Ministers to direct that a particular planning application, or particular class of planning application, be referred to them for their decision, generally referred to as the power of “call-in”.

The Scottish Government sets out its policy on the call-in of planning applications in [Planning Circular 3/2009: Notification of Planning Applications](#), which states:

“6. However, there can be circumstances where proposed development raises issues of such national importance that it is reasonable for Scottish Ministers to call in a planning application from the local authority; in effect to take over the role of decision-maker. It is at Ministers' discretion whether to do so. For example, Ministers might choose to intervene in circumstances where a Government agency has expressed strong concerns about the impact of development on their national interests, or where the possible impacts or benefits of a proposed development extend well beyond the area of the local authority to the extent that they become of national importance. However, simply because a particular development proposal may be complex or controversial does not make it of strategic importance or of national interest. The existence of a substantial number of objections is not in itself sufficient ground to merit call-in for decision at a national level.”

Once an application is called-in, Scottish Ministers effectively become the planning authority for that application. This means that Scottish Ministers are required to ensure that issues such as neighbour notification and public

consultation are carried out as required by legislation. In practice, as many applications are only called-in once the planning authority are minded to grant permission, much of this work will already have been carried out. Such administrative tasks, and the general management of the application process following a call-in, are handled by Scottish Government planning officials.

Just as local authorities rely on their planning staff to consider a planning application and make recommendations, so Scottish Ministers rely on an independent reporter working for the Planning and Environmental Appeals Division (generally referred to as the DPEA - the acronym of its previous title), to examine the merits of a called-in application. The reporter considers the application, prepares a report setting out their conclusions and recommends whether Scottish Ministers grant permission unconditionally, grant permission subject to conditions or refuse permission. The report is then submitted to Scottish Ministers for their decision, which does not have to follow the reporter's recommended course of action. Reporters are all experienced planning and built environment professionals.

More information on Scottish Ministers power to call-in planning applications is available in the SPICe briefing [Scottish Minister's Power to Call-in Planning Applications](#).

### Lands Tribunal for Scotland

The Lands Tribunal for Scotland has statutory powers to deal with various types of dispute involving land or property including, for example:

- title obligations;
- compulsory purchase; and
- Right to Buy

The Tribunal was established under the [Lands Tribunal Act 1949](#), which also created separate Lands Tribunals in England and Wales and Northern Ireland. The Tribunal has a President who has overall responsibility for the organisation of its work, and three Members who have recognised expertise in the fields of law and surveying. The current President of the Tribunal is the Hon. Lord Minginish, who is also Chairman of the [Scottish Land Court](#).

The Tribunal works in much the same way as a court. The Tribunal Clerk and his staff receive applications, arrange for the issue of Orders inviting other interested parties to submit written objections or representations to an application and arrange Orders for guiding and controlling procedures. The Members of the Tribunal conduct Hearings to take evidence and submissions from the parties and give a written decision on the case, based on the evidence put before them and any site inspections undertaken. Parties may appeal that final decision on a point of law by applying direct to the Court of Session.

## **Scottish Government Action**

The Scottish Government has not considered expanding the remit of the Lands Tribunal for Scotland to include planning decisions currently called-in by Scottish Ministers.

## **Scottish Parliament Action**

The Scottish Parliament has not considered expanding the remit of the Lands Tribunal for Scotland to include planning decisions currently called-in by Scottish Ministers.

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