

## **REVIEW DECISION NOTICE**

Decision by East Lothian Local Review Body (the “**ELLRB**”)

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Application for Review by Lowland Planning Associates Ltd on behalf of Mr Rob Flavell 30 Buxley Road, Elphinstone, Tranent EH33 2LW for Planning Permission for the erection of hut, shed, store and associated works (part retrospective) at Bolton Muir Wood, Gifford Haddington EH41 4JH

Site Address: Bolton Muir Wood, Gifford, Haddington EH 41 4JH

Application Ref: 20/00998/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1 (i)

Date of Review Decision Notice: 10 September 2021

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### **Decision**

The ELLRB agreed by a majority that the Review should be upheld for the reasons set out below.

This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

#### **1. Introduction**

The above application for Planning Permission was considered by the ELLRB, at a meeting held on Thursday, 15 April 2021 and subsequently reconvened on Tuesday, 3 August 2021 following the request by the Members of the Review Body for further information. The Review Body was constituted by Councillor N. Hampshire (Chair), Councillor K McLeod, and Councillor J Findlay. All three members of the ELLRB had attended a site visit accompanied by the Planning Advisor in respect of this application prior to the meeting.

1.1. The following persons were also present at the meeting of the ELLRB:-

Mr M Mackowiak, Planning Adviser to the LRB  
Mr C Grilli, Legal Adviser/Clerk to the LRB  
Ms J Totney, Clerk

#### **2. Proposal**

2.1. The planning application is for review against the Planning Authority to determine the application for planning permission within the prescribed time period resulting in a deemed refusal of planning permission.

2.2. The planning application was validated by the Planning Authority on 26 October 2020 with a deadline for determination of 25 December 2020

2.3. The notice of review is dated 26 January 2021.

### 3. Preliminaries

3.1. The ELLRB members were provided with copies of the following:-

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| i.   | <p>The drawings accompanying this application are referenced and numbered as follows:</p> <ul style="list-style-type: none"> <li>- Site plan dated 23 July 2020</li> <li>- Location Plan dated 14 July 2020</li> <li>- Hut Design Showing Plans Sections and Elevations dated 23 July 2020</li> <li>- Composting Toilet Drawings: Drawing number A100</li> <li>- Block Plan Showing Blue Line and Red Line Curtilage dated 23 July 2020</li> </ul>  |
| ii.  | The Application for planning permission registered/validated on 26 October 2020   |
| iii. | The Appointed Planning Officer's Submission   |
| iv.  | <p>Policies</p> <p>Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:</p> <ul style="list-style-type: none"> <li>- DC1: Rural Diversification</li> <li>- NH3: Protection of Local Sites and Areas</li> <li>- NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species</li> <li>- NH8: Trees and Development</li> <li>- T2: General Transport Impact</li> <li>- DP1: Landscape Character</li> <li>- DP2: Design</li> </ul> <p>Scottish Government's definition of a hut (as stated on page 73) set out in Scottish Planning Policy: Revised December 2020; and</p> <p>New hutting developments – Good practice guidance on the planning, development and management of huts and hutting sites' published by Reforesting Scotland's Thousands Huts Campaign in February 2016.</p> |
| v.   | Notice of Review dated 26 January 2021 together with Applicant's Submission with supporting statement and associated documents.   |
| vi.  | Further information and representations provided by the applicant in response to the members request for further written information.   |

### 4. Findings and Conclusions

4.1. The ELLRB confirmed that the application for a review of the planning application permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to grant planning permission subject to conditions, including all drawings and copies of all representations and objections received in respect of the original application. They also confirmed they had received and reviewed the Applicant's Submission and further representations made in connection within this appeal before the ELLRB.

- 4.2. The Members then asked the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser firstly advised that at meeting of the Local Review Body on 10 March 2021 the members of the Local Review Body dismissed planning application 20/00824/P (proposed erection of a hut and shed (part retrospective) at the woodlot known as “Wynd Wood” at Bolton Muir Wood). The Local Review Body refused planning permission as “the proposed hut and associated shed, by virtue of its impact on biodiversity and on vehicle movements within Bolton Muir Wood, would be harmful to the countryside contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018”. He stated that this decision by the Local Review Body on 10 March 2021 is material to the determination of this application (20/00998/P) and explained that this application relates to another parcel of woodland located within Bolton Muir Wood known as “Nolt Wood”. The Planning Adviser outlined the background and detailed proposals contained in planning application No. 20/00998/P. He advised that Bolton Muir Woodland is now in the care of Woodlands.co.uk, a company run by foresters specialising in selling productive and amenity parcels of forestry. He reminded the Local Review Body that this is an appeal against non-determination of the application, outlined the policies and documents that are relevant to the determination of this application, and provided the definition of a “hut” as defined by Scottish Planning Policy.

The Planning Adviser reported that six written objections had been received in relation to this application. He also reported that no objections had been raised by any of the Council’s service areas, although the Council’s Biodiversity Officer and Access Officer had raised concerns about potential disturbance to wildlife and the impact on the ambience of the wood, and had suggested ways to mitigate these.

The Planning Adviser then considered the assessment of the application provided by the appointed Planning case officer. The case officer had noted that due to the site’s location the proposed hut, erected sheds, compost store building and raised planters would not, and do not, have any harmful impacts of overlooking or overshadowing. Also, in terms of its size, and scale the proposed hut meets the terms specified within Scottish Planning Policy, and is in principle consistent with it. The adopted East Lothian Local Development Plan 2018 is silent on policies relating to hutting developments. However, Policy DC1 of the adopted East Lothian LDP in principle supports development in the countryside for specific reasons including the proposed use of the hut and associated works for leisure and/or countryside recreation. The case officer had considered that the proposed hut by virtue of its architectural form, size, scale, height, design, proportions, materials and position, would be well absorbed into its surroundings and would not appear as a harmfully dominant, intrusive or incongruous feature within its landscape setting and would not be harmful to the landscape character and visual amenity of the area; the same conclusion applies to the erected shed, which contains the composting toilet. However, with regard to the erected tool shed, compost store building and raised planters the case officer assessed that these structures are domestic in nature and are not required to facilitate the use of the hut as a recreational building. The case officer had noted that these, individually and cumulatively, appear as harmfully intrusive and incongruous features within the woodland setting contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: Revised December 2020.

The Planning Adviser further reported that the planning case officer confirmed that Bolton Muir Wood currently has 18 individual woodlots, each of which has a surfaced parking area at the entrance. If two cars were allowed to be parked within each woodlot, as is proposed

within the woodlot named 'Nolt Wood', this would result in the potential of 36 vehicles travelling on the tracks through the woods and those 36 vehicles being parked within Bolton Muir Woods at any one time. The case officer had stated that the overriding material planning consideration in the determination of this planning application is the Council's decision, at the Local Review Body meeting on the 10th of March 2021, to refuse planning permission (Ref:20/00824/P) for the erection of a hut and shed (part retrospective) at Bolton Muir Wood. Although one of the three Local Review Body Members were satisfied with the officer recommendation for approval, two of the members raised concerns relating to the impact of the vehicular movements through, and within, the woodland area and the impact and conflict that this may cause with other users within the woodland of Bolton Muir Wood. The Planning Adviser then reported that the case officer's recommendation, in accordance with the previous Local Review Body's decision (which is a material planning consideration in the determination of this current application), is that without any alternative proposal for the parking of vehicles for the owners of Bolton Muir Wood this application should be refused planning permission; the reason for the refusal being that the proposed hut and the erected shed containing the compost toilet, the erected tool shed, compost store building and raised planters by virtue of their impact on biodiversity and on vehicle movements within Bolton Muir Wood, would be and are harmful to the countryside contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018, and in the case of the erected tool shed, compost store building and raised planters with Scottish Planning Policy: Revised December 2020.

The Planning Adviser then summarised the content of the Planning Statement and Ecological Report which had been submitted by the applicant's agent. He advised that the woodlands company are trying to place new owners of the woodlots in a position to actively manage their trees. This means felling and replanting as required. To enable this, the company have formed hardcore timber-stacking areas at the entrance to each woodlot, to allow a tractor/trailer and loading crane into the edge of the sites to collect the stacked wood. When not required for timber-stacking these hardcore zones would make perfectly suitable hardstanding to park the owners' vehicles. He advised that the agent has emphasised that parking is a subsidiary use, not the primary use. However, the Planning Adviser pointed out that the creation of functional areas of new hardstanding for the stacking of timber requires Prior Notification for Agricultural and Forestry Developments but not a full planning application. He informed the Local Review Body that the applicant's agent indicates that as these areas of hardstanding at Bolton Muir are at the entrances to the individual woodlots, and that ELC Planning Department, and also the objectors, are assuming that they are only parking areas for the hut owners' cars, although they would actually be dual purpose. The Planning Adviser further advised that the agent's submission addresses a number of individual issues raised by the objectors, including an adverse impact on wildlife and highlights that the woodland owners have planted over 400 trees with more to be planted in the next few months which will be native broadleaves and Scots Pine, which will greatly enhance the natural credentials of the woods. The agent has also addressed the issue raised in relation to the possible increase in human activity and traffic, but had stated that as many local people already use their cars to get to Bolton Muir Woods there would not be a significant increase in traffic to the huts. He added that it has been suggested that a planning condition could be imposed to restrict excessive traffic and parking within Bolton Muir. The Planning Adviser concluded his presentation by outlining a further three objections that had been received. He advised that a local resident has suggested that the primary use of the areas of hard standing in Bolton Muir Wood is for car parking and not for stacking timber. Humble, East & West Saltoun and Bolton Community Council had commented that the Bolton Muir Woods currently has 18 woodlots and that approval of this application will in effect give a green light to a far wider development of

woodlands across East Lothian. The community council also noted that there is no overall management plan for the wider woodland to coordinate the felling, wood extraction or replanting of species across the woodlots and that there appears to be no communal arrangements for the disposal of waste, and no restrictions on the use of generators and other machinery. The community council are seeking that an overall management plan covering all activities that are to take place in the entire Bolton Muir Woods is put in place before development is allowed, in order to preserve and enhance this ancient woodland. The Council's Access Officer is concerned that splitting up this woodland and the building of huts will have a detrimental impact on public access rights within the woods, and that the public perception would be that they only have a right of access along the tracks, which could severely reduce the joy of walking there.

The Planning Adviser responded to questions from Members on the type of trees that would be planted; preventing the erection of additional huts on individual sites; fire safety; the residential status of the huts; privacy for owners; and the ability for the Council to control the development over 18 individual sites/planning applications. He advised that additional huts would require planning permission; that the best way to address accident prevention would be through a proper overall management plan; that individuals using the woods need to exercise responsible access; and acknowledged that control is currently difficult due to the absence of a management plan.

The Local Review Body discussed concerns about the impact of cumulative developments; the site capacity; the impact on biodiversity and dealing with individual applications without a wider understanding of the site management; and suggested that the Woodland company is advised that no further planning applications can be considered until a management plan for this site has been put in place.

The Chair asked his colleagues if they had sufficient information to proceed to determine the application and the Members concluded that they did not feel they had sufficient information to make a decision on 15 April 2021 and following advice from the Legal Advisor the members set out a request that the applicant provides advised that he did not have sufficient information to determine the application and recommended that the applicant be contacted to ascertain if they would be agreeable to producing a site management plan and a woodland management plan, in conjunction with council officers, within three months of the 15 April meeting. The members then instructed the Legal Advisor to write to the applicant.

The Applicant provided further information to the Board and on the basis of the information provided the Members agreed to reconvene the Local Review Body to allow them to further consider the application. The Local Review Body reconvened on 3 August 2021 with no change to the members of the Local Review Body, Planning Adviser, Legal Adviser and Clerk from those present at the initial meeting on 15 April 2021. The Chair then invited further comments from the Planning Adviser.

The Planning Advisor summarised the position as set out at the meeting of the Local Review Body on 15 April 2021. He then confirmed that in their information packs, members would find the previous documentation submitted for this appeal and further submission from the appointed planning officer. In this further submission, the planning officer notes a number of points made by the applicant's agent in their response to the request for further information, namely that:

- it was not possible for the applicant to deliver a woodland management plan and a site management plan for the entire Bolton Muir Wood area;

- The agent argues that since these plans involve the use and management of land that is not within the ownership or control of her client therefore it is not reasonable to ask him to submit such plans for the entire Bolton Muir Wood area when he has no power to deliver this;
- the applicant's agent also advises that, in seeking to control the use of land unconnected with that which is the subject of the planning application under consideration, the requested information from Members of the LRB goes beyond what is necessary to determine whether or not this planning application should be granted permission;
- The agent suggests that the owners of the rest of Bolton Muir would derive no benefit from the granting of consent for the Nolt Wood application and it is unreasonable to seek to impose conditions on their lands in these circumstances.
- the agent also argues that to impose a planning condition with which it is impossible to comply is undoubtedly ultra vires (so in other words this would be irrelevant to planning and therefore beyond the powers of the local planning authority)
- the agent confirmed that her client recognises the desire and need to have some assurances about the management of the individual woodlot named 'Nolt Wood'. In that respect, the applicant is willing to agree a satisfactorily worded planning condition which encompasses the following points listed below:
  - Development of a Woodland Management Plan specific to Nolt Wood, which will include the gradual replacement of non-native conifers with native broadleaf species and scots pine;
  - To limit the number of vehicles on site at any one time to two, with exceptions for movement of building materials during construction and ongoing forestry operations for the purposes of woodland management;
  - No new fences, hedges or walls on his property's boundary;
  - No restrictions on public access, subject to Access Codes being complied with; and
  - No commercial letting of the hut.

In addition to the above, the applicant's agent submitted a draft woodland management plan for the individual woodlot named 'Nolt Wood'. The Council's Biodiversity and Landscape officers were consulted on that draft woodland management plan and raise no concerns or objections to it. In respect of this planning application, the Council's biodiversity officer states that she welcomes proposals to enhance and sustainably manage the woodland habitat. Accordingly, and subject to specified conditions being imposed on a grant of planning permission, the proposals do not conflict with Policies NH3 or NH5 of the adopted East Lothian Local Development Plan 2018.

In respect of the impact of the vehicular movements through, and within, the woodland area and the impact and conflict that this may cause with other users within the woodland of Bolton Muir Wood, condition 9 of the suggested schedule of conditions states that: 'Details of the access and parking shall be submitted to and approved in advance by the Planning Authority to show that no more than one parking space shall be occupied and used within the existing surfaced parking area of the woodlot. The details to be submitted shall show that the parking space shall have a length of no more than 6 metres and a width

of no more than 2.5 metres.

The appointed officer in his further submission kindly requests that Members of the LRB consider

- whether the hut, shed, store and associated works the subject of planning application 20/00998/P should be granted subject to the suggested schedule of conditions; or
- whether planning permission be refused on the grounds that any vehicle movements through, or within, the woodland area would be harmful to the woodland area and result in conflicts with other users of the woodland area

Finally, the Planning Advisor advised that members had the option of seeking further information or clarification if consider it necessary.

4.3. The Members then raised questions pertinent to the application which the Planning Advisor responded to. The questions and responses are summarised as follows:

- 4.3.1. There were questions covering Countryside Access codes; the determination of the curtilage of each individual hut; restrictions on vehicular access and the potential installation of locked gates. The Planning advisor replied that Access Codes in Scotland are set out in specific documents but are not mandatory or enforceable; the curtilage would be the immediate surroundings of the hut and would not amount to a significant area of woodland and could be set out by way of a planning condition agreed by the Planning officer, with the entire area out with the curtilage being accessible by the public; and that vehicle access could be restricted by a carefully designed locked gate or similar construction, which would not cause an obstacle to emergency access, and which again could be dealt with by way of a planning condition
- 4.3.2. it was noted that that this was one application and there are approximately eighteen plots on the site and further noted the number of vehicles cumulatively (thirty-six 36) that could come to the woods if each plot is fully consented and developed and thought this should be reduced. It was further noted that the development on site comprised of a Hut and ancillary buildings and queried if it were possible to restrict the size of the hut to 30 square meters and also restrict the ancillary buildings to toilet, compostor and tool store? The Planning Advisor advised that it would be acceptable to have limitations on the size of all ancillary buildings and structures, including temporary structures, adding that every application would be assessed on its own merits but that the cumulative impact of additional huts in the woodland area has to be regarded as a material consideration for proposals.
- 4.3.3. Was it possible to restrict the number of people visiting the site at any one time, due to concerns that large numbers of people on site may have a negative impact to the toilet compostor and the local environment and the members wished to protect the area for future hut owners and users? The Planning Advisor advised that it would be reasonable to consider a condition that would restrict the number of people staying overnight.
- 4.3.4. Is it possible to impose restrictions regarding generators in relation to size and noise? The Planning Advisor advised that there is already a proposed condition for this in the onsite management plan and that this would be the best document to deal

with technical issues such as generators and fire risks.

- 4.4. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and felt they had sufficient information to proceed. Comments on the application followed.
- 4.5. Councillor Findlay commented that it was his opinion that the members of the Local Review Body had requested the applicant to provide a comprehensive site management plan and this had not been provided by the applicant, which the applicant has responded that this has not been possible to produce. He felt that without provision of a comprehensive management plan then he was unable to support the application today. He confirmed that he was therefore minded to refuse the application.
- 4.6. Councillor McLeod stated that he had sympathy with the applicant as they would need all owners of the individual plots to come together and provide a site management plan and acknowledged this was challenging. He commented that he believed that with robust conditions to regulate the site then they could move forward. He acknowledged the proposed conditions put forward by the Planning Officer and was minded to grant subject to specified conditions.
- 4.7. The Chair commented that he was not happy with progressing to decision today as he also felt a full comprehensive site management plan should have been provided. Notwithstanding this he acknowledged that a decision was required today and he wished to ensure there were sufficient controls for the operation of the site put in place. The Chair confirmed that on balance he was therefore minded to grant subject to specific conditions being in place.

Accordingly, the ELLRB by a majority of two (2) for and one (1) against decided that the Review should be upheld for the reasons set out in this Decision Notice and Planning Permission granted subject to the conditions set out below:

Conditions:

1. The hut hereby approved shall be used solely for intermittent recreational accommodation (i.e. not as a principal residence). For the avoidance of doubt, the hut shall not be rented out or used as an independent residential unit, as a holiday let accommodation or for any business, trade or commercial use. It shall not be occupied for a single overnight stay longer than 12 continuous weeks in any calendar year and shall not be occupied for overnight stays for 28 days thereafter.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character, integrity and appearance of the woodland area and the character and amenity of the landscape of the area.

2. The hut hereby approved shall not be made available for commercial rent unless otherwise approved in writing by the Planning Authority.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character, integrity and appearance of the woodland area and the character and amenity of the landscape of the area.



3. The hut hereby approved shall not be connected to mains water, grid electricity or sewerage. Moreover, no fossil fuel power generators shall be used within the application site.

Reason:

To ensure that the hut is a simple, low impact building that is removable with little or no trace at the end of its life in the interests of the local environment.

4. Within two months from the date of this planning permission details of the operation of the composting toilets and details for waste management shall be submitted to, and approved in writing by, the Planning Authority prior to their use. The operation of the hut shall thereafter be carried out in strict accordance with the details so approved.

Reason:

In the interests of the local environment.

5. The foundations for the hut hereby approved shall be padstones or such other non-permanent foundation approved in writing by the Planning Authority placed directly on the existing ground level and material. No change shall take place to the foundation method unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that no solid permanent foundations are formed.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 or by any other statutory instrument amending, revoking or re-enacting the 1992 Order, no fencing, walls, gates or other means of boundary enclosure shall be erected within or outwith the application site without the prior permission of the Planning Authority.

Reason:

In the interests of safeguarding the character, integrity and appearance of the woodland area and the character and visual amenity of the landscape of the area.

7. Within 1 month of the date of the grant of this planning permission the external untreated timber tool shed, compost store building and raised planters hereby approved shall be painted or stained in a dark brown or dark green colour in accordance with a sample colour to be submitted to and approved in advance by the Planning Authority. The paint or stain used shall accord with the sample so approved.

Reason:

To reduce the visual impact of the retrospective structures in the interests of safeguarding the character, integrity and appearance of the woodland area and the character and amenity of the landscape of the area.

8. In the event that the hut, sheds, store buildings or raised planters hereby approved become obsolete or redundant they, together with any other development, shall within two months be removed from the application site and the land made good to the satisfaction of the Planning Authority.

Reason:

In the interests of safeguarding the character, integrity and appearance of the woodland area and the character and amenity of the landscape of the area.

9. Details of the access and parking shall be submitted to and approved in advance by the Planning Authority to show that no more than one parking space shall be occupied and used within the existing surfaced parking area of the woodlot. The details to be submitted shall show that the parking space shall have a length of no more than 6 metres and a width of no more than 2.5 metres. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the landscape character of the woodland and to limit the amount of vehicular traffic within the woodland area.

10. Prior to the commencement of development hereby approved, a Species Protection Plan (for breeding birds) and a timetable for the implementation of mitigation and protection measures, shall be submitted to and approved in writing by the Planning Authority. The mitigation and protection measures shall thereafter be implemented in strict accordance with the timetable so approved.

Reason:

In the interests of nature conservation.

11. The hut hereby approved shall be erected in compliance with the following requirements:

- (i) prior to the erection of the hut a plan shall be submitted detailing the root protection areas for the trees adjacent to the location of it;
- (ii) details of any trees to be removed to facilitate the hut, including details of replacement planting to mitigate for the loss of any existing trees within the site, shall be submitted;
- (iii) the flue associated with the hut hereby approved shall not be located directly beneath the canopy spread of any tree within the site;
- (iv) no trees within the site shall be damaged, uprooted, felled or lopped or interfered with in any manner without the prior written consent of the Planning Authority; and
- (v) details of any other planting to be carried out within the woodlot shall be submitted prior to any new or additional planting being undertaken.

Reason:

In order to prevent damage to trees within the woodland area which are important to the character and appearance of the landscape of the area.

12. Within three months from the date of this planning permission, a Site Management Plan and a Woodland Management Plan shall be submitted to and approved in advance by the Planning Authority. The Site Management Plan shall show all components of development, and those components of development shall be located as close as is reasonably practicable to the hut hereby approved. The submitted Plans shall include a timetable for their implementation. Thereafter the approved Site and Woodland Management Plans shall be updated every 5 years for the written approval of the Planning Authority. The updated Site Management Plan shall include details of any hut, sheds, store buildings or other components of development that have been removed in accordance with the requirements of condition 8 above.

The Site and Woodland shall thereafter be managed in accordance with the Site Management Plan and the Woodland Management Plan so approved.

Reason:

In the interests of safeguarding the character, integrity and appearance of the woodland area and the character and amenity of the landscape of the area.

Planning Permission is accordingly granted.



**Carlo Grilli**  
**Legal Adviser to ELLRB**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997****Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under Section 43A(8)**

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
  
- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland ) Act 1997.