

# The SPEL Conference 2012

Thursday 27 September

The Mackenzie Building, Old Assembly Close, 172 High Street, Edinburgh



## Planning to Support Economic Recovery

# SPEL Conference

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## What it's about:

The conference takes an in-depth look at main elements of the Scottish planning system with a series of talks by a range of expert practitioners within the field. The SPEL Conference is widely regarded as the key annual planning law event, affording participants the opportunity to engage in high level discussion and debate.

The current difficult economic climate continues to occupy centre stage, and the central plank of Scottish Government policy remains increasing sustainable economic growth. The most recent update of the Government's economic strategy reinforces the central role of land use planning in aiding economic recovery and securing Scotland's economic ambitions.

This conference looks at key elements of the planning system and their role and influence in supporting the wider economic agenda.

## Agenda:

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| 09.00 | <b>Registration and coffee</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 09.30 | <b>Chair's Welcome and Introduction</b><br>Roy Martin QC, Terra Firma Chambers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 09.35 | <b>The Role of the Planning System in Supporting the Scottish Government's Economic Strategy</b><br>John McNairney, Chief Planner, Scottish Government<br><br>A discussion about progress made in recent years towards modernising the system in Scotland and an overview of priorities going forward and following the Scottish Government's <i>Next Steps</i> consultation papers earlier this year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10.15 | <b>Planning &amp; Economic Development Strategies</b><br>Keith Winter, Head of Enterprise, Planning & Protective Services, Fife Council<br>Richard Hartland, Corporate Director: Environmental Services, The Moray Council<br><br>The economic downturn has forged closer links between the planning, economic development and other functions of local authorities, together with other stakeholders in the public sector and business community. This session explores the experiences of two authorities faced with a range of challenges and looks at the key role of the planning function in driving forward economic development strategies.<br><br>Keith Winter will speak about Fife's experiences in conjoining the planning and economic development offer to achieve Council, Community Plan and Customer goals.<br><br>Richard Hartland will focus on Moray's review of economic development, prompted by the threatened closure of RAF bases. He will reflect on how an initial Response Plan developed with Community Planning Partners into an Economic Strategy with an action plan, and an understanding of governance with Partners for delivery. |
| 11.00 | <b>Refreshments</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11.15 | <b>Case Law Round Up (i)</b><br>Alasdair Burnet, Terra Firma Chambers<br><br>An overview of significant recent decisions in the field of planning law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| 11.45 | <p><b>Planning Reform Question Time</b></p> <p>A session on planning reform looking at existing and proposed measures which aim to help the planning system reach its potential in supporting economic recovery.</p> <p>Chair: Craig McLaren, National Director, RTPI Scotland</p> <p>Participants:</p> <p>Pamela Ewen, TAYplan Strategic Development Planning Authority Manager</p> <p>Alasdair Morrison, Associate, GVA</p> <p>Chris Norman, Development Management Manager, West Lothian Council</p> <p>Councillor Russell Imrie, Midlothian Council</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12.30 | <p><b>Lunch</b></p> <p>Chair for afternoon, James Findlay QC, Terra Firma Chambers</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 13.30 | <p><b>Case-law update (ii):<br/>Retailing and Harbour Revision Orders</b></p> <p>Maurice O'Carroll, Terra Firma Chambers</p> <p>Examines the implications of two cases: Tesco v. Dundee City Council/Asda covering application of the sequential test and a planning authority's right to exercise judgment about interpreting planning policy; and issues raised by applications for a Harbour Revision Order in support of the proposed Rosyth International Container Terminal project.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 14.00 | <p><b>Development Management Practice in an Enterprise Zone</b></p> <p>David Mudie, Team Leader – Development Management, The Highland Council</p> <p>In January 2012, The Scottish Government announced the creation of four Enterprise Areas over 14 sites across Scotland to boost economic recovery. The two sites within Highland, at Nigg and Scrabster, form part of one of the designated Low Carbon/Renewables Enterprise Areas. The principal aim of these Enterprise Areas is to maximise strategic manufacturing opportunities within the sector and encourage the development of a local supply chain.</p> <p>A key aspect of Enterprise Area status is a streamlined planning process. This has led to the development of Planning Protocols for each of the Enterprise Areas aimed at providing a more efficient partnership approach to dealing with all aspects of the planning process.</p> <p>David will discuss The Highland Council's approach to dealing with development within Enterprise Areas, in particular with regard to renewable energy.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 14.30 | <p><b>Refreshments</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 14.45 | <p><b>Just part of justice - access to the courts for environmental challenges</b></p> <p>Frances McCartney, Partner, Partrick Campbell &amp; Co</p> <p>Frances will look at the steps taken to implement the Aarhus Convention in Scotland, but will also look at the prospects for the introduction of a cheaper way of litigating environmental disputes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 15.45 | <p><b>Perspectives on Housing and Economic Growth</b></p> <p>Bob Salter, Director, Geddes Consulting</p> <p>Pauline Mills, Land &amp; Planning Director, TaylorWimpey East Scotland</p> <p>Elaine Farquherson-Black, Partner, Paull &amp; Williamsons LLP</p> <p>Bob's presentation on Infrastructure Funding will focus on the principles to be addressed in the negotiations with both the planning authority and asset owner. He will highlight common challenges to overcome, draw upon best practice to date and suggest some common solutions. His conclusion is that the need for a consistent approach to negotiations and solutions with planning authorities across Scotland is paramount.</p> <p>Pauline's presentation will show how market conditions restrict the ability of developers to speculatively build and invest and therefore reduce the ability of housing development and developers to commit to funding and procuring sometimes essential infrastructure projects. The presentation will also highlight the impact of delays in negotiating section 75 agreements on development and business viability.</p> <p>Elaine's focus is on sustainable mixed communities being at the heart of Aberdeen City and Shire's vision for economic growth. Drawing on examples, such as the proposed new settlement at Chapelton of Elsie, she will discuss some of the challenges which the Planning Authorities, statutory undertakers, developers and landowners face in delivering that vision in the current climate.</p> |
| 16.30 | <p><b>Closing comments</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |



# Speakers

## **Alasdair Burnet, Advocate Terra Firma Chambers**

Since calling to the Bar in 2006, Alasdair Burnet has acted in a wide variety of cases. He has appeared as Junior Counsel in planning appeals in the Inner and Outer House of the Court of Session in relation to housing developments, supermarket retailing applications and challenges to Local Plans.

## **Pamela Ewen, TAYplan Strategic Development Planning Authority Manager**

Pamela Ewen took up this post in May 2009 having previously worked for 9 years as a planning manager with Fife Council. TAYplan's first Strategic Development Plan was published in June, winning the prestigious UK RTPI Silver Jubilee Cup.

## **Elaine-Farquharson-Black, Partner, Paull & Williamsons LLP**

Elaine heads up the Planning Division at Paull & Williamsons LLP. She is an accredited Planning Law specialist and is ranked joint first in her field in Scotland by Chambers UK – A Client's Guide to the Legal Profession. Elaine is co-author of *Scottish Planning Law & Procedure* and *Compulsory Purchase and Compensation: The Law in Scotland*.

## **James Findlay, Advocate (QC England and Wales), Terra Firma Chambers**

James Findlay called to the Scottish Bar in 2008, having been a practising Barrister in England & Wales since 1984, taking silk in 2008. James specialises in local government, planning, environment, administrative and licensing law.

## **Richard Hartland, Director of Environmental Services, The Moray Council**

Richard held senior posts with West Lothian and Highland Councils before joining Moray in 2011. For the last year he has been Director of Environmental Services for Moray Council and has the wide remit of Planning and Economic Development, Regulatory Services, Roads Transportation and Waste and Housing and Property.

## **Councillor Russell Imrie, Midlothian Council**

Russell Imrie is Chair of SESTRAN, which is responsible for looking at travel to work patterns in and around the East of Scotland, particularly the Edinburgh area. He has been a Labour elected member on Midlothian Council since 1995. Russell has a keen interest in economic

development, environmental and sustainability issues. He was an engineer with British Telecom, and an active trades unionist.

## **Frances McCartney, Partner, Patrick Campbell & Co**

Frances McCartney is a solicitor with a range of experience in advising community groups, ngos and individuals on a range of environmental issues. She has also lectured part-time at the University of Strathclyde in human rights and public law.

## **Craig McLaren, National Director, RTPI Scotland**

Craig McLaren took up his current post in January 2011, before which he spent almost eight years setting up, and then managing the Scottish Centre for Regeneration. Between 1997 and 2003, Craig was Chief Executive of the Scottish Urban Regeneration Forum.

## **John McNairney, Chief Planner, Scottish Government**

Over the last thirty years John has practiced as a chartered town planner in local government, planning consultancy and, most recently, in central government. In 2005 he was appointed Assistant Chief Planner supporting development of the Planning (Scotland) Act and subsequently its implementation. He was appointed Chief Planner in July following Jim Mackinnon's retirement from Scottish Government.

## **Roy Martin QC (QC England & Wales), Terra Firma Chambers**

Roy Martin QC is a practising member of the Bar in Scotland, England and Wales and Northern Ireland. Throughout his career at the Bar, he has practised primarily in the areas of land, administrative and commercial law. He has extensive planning experience, appearing at inquiries and in applications for judicial review in relation to developments concerning minerals, retail, housing, leisure, landfill, power generation and others.

## **Pauline Mills, Land & Planning Director, TaylorWimpey, East Scotland**

Pauline began her career as a planner with Kirkcaldy District Council rising to Senior Planner in 1995. Following time with Wimpey Homes and Miller Homes, she returned to George Wimpey (now Taylor Wimpey) in 2008 as Land & Planning Director.

## **Alasdair Morrison, Associate, GVA**

Alasdair joined GVA's Scottish Planning Team in

February 2006 following various posts in both the private and public sector. He is co-author of the Scottish Government report *Potential of Development Charges in the Scottish Planning System* (June 2011) and continues to advise on a number of significant development projects across Scotland.

## **David Mudie, Team Leader – Development Management, The Highland Council**

David has over 12 years experience working in a local authority development management environment, leading the Highland Council's Planning and Development Service Major Applications Team. The work stream includes most of the Council's renewable energy development caseload; the largest component of which is on-shore wind but increasingly off-shore energy projects.

## **Chris Norman, Development Management Manager, West Lothian Council**

Chris Norman has worked in development management for over 30 years and has held his current post of Development Management Manager with West Lothian Council, since 2006. He is familiar with a diverse range of planning issues and since 2008 he has chaired the Development Management Sub Committee of Heads of Planning Scotland.

## **Maurice O'Carroll, Advocate, Terra Firma Chambers**

Maurice O'Carroll called to the Bar in 1995 and has developed a varied and successful practice with particular emphasis on Planning, Public and Administrative Law and Commercial Law. He has conducted planning inquiries for developers, objectors and local authorities.

## **Bob Salter, Director, Geddes Consulting**

Bob is a leading planning and development consultant in Scotland with Geddes Consulting who are promoting a number of major developments across Scotland including residential and mixed used.

## **Keith Winter, Head of Enterprise, Planning & Protective Services, Fife Council**

Keith took up his present post in April 2011 covering Planning, Economic Development, Inclusion, Building Standards, Environmental Health, Trading Standards and aspects of Transportation and Deal Making. Keith previously held senior posts with Dundee City Council and a number of English local authorities.