

MODERNISING THE PLANNING SYSTEM : CONSULTATION ON DEVELOPMENT MANAGEMENT

Comments on behalf of Inverclyde Council.

Q1: Do you agree with the proposed categories of development to which the requirements for pre-application consultation apply?

On the basis that there is to be a legislative requirement for pre-application consultation, the categories of development identified are considered reasonable.

Q2: Do you have any comments on the thresholds in Schedule 1 of the DMR on pre-application consultation?

The threshold of 5 or more houses/flats is considered low, and would result in pre application-consultation for some small, “wind fall” sites. A figure of 10, at which level issues such as traffic generation, parking and building scale can become more evident, being matters of interest to more than immediate neighbours, is considered more appropriate in Inverclyde, although it is recognised that even this threshold may be considered low in larger urban areas.

It is not unknown for planning applications to be submitted proposing the small encroachment of garden ground into open space. A threshold on the basis of size or proportion above a specified size of open space may be more appropriate.

Q3: Is the information required in a pre-application screening notice sufficient?

More information on the specifics of the application should be provided. Taking the guidance literally, “housing” may be deemed “a description in general terms”, but it tells a lot less than, for example “three ten storey residential buildings”.

Q4: Is 21 days a reasonable period for authorities to respond to a pre-application screening notice in all circumstances?

Yes.

Q5: Do you agree with the proposed content of the proposal of application notice?

See comments in response to Q3.

Q6: Are the requirements to notify community councils and neighbours of the proposal of application notice sufficient or should others be notified at this stage as a statutory minimum?

Yes, however it is surprising to note that notification is being required of the applicant. It is understood that a major concern of the Government is that the current neighbour notification process is unreliable, in part due to the failure of applicants to correctly notify. It is interesting to note that, quite rightly, there is a requirement for applicants to neighbour notify as part of the pre-application consultation process. Is the Government satisfied that applicants will be able to fulfil their neighbour notification duties at the pre application consultation stage on what will often be larger sites with more complicated notification requirements, but not at the application stage, where the majority of applications will be for smaller scale and less complicated sites ?

The method of notification is limited. Site notices and web page notices (Public Information Portal and/or Council web sites) would increase publicity.

Q7: Do you agree with the minimum statutory requirements for pre-application consultation in regulation 8?

The process should also facilitate the public being able to make written representations to the applicant.

Q8: Do you agree with the requirements on the content of pre-application reports?

Yes, however if the process is expanded to include written representations, copies of these should be included within the report.

Q9: Do you support the classes of development which will be subject to predetermination hearings?

The use of the words “significantly contrary” is too vague without clarification through definition in part 1 of the Regulations or via guidance in an accompanying circular.

Q10: Should the opportunity to be heard at a pre-determination hearing be extended to other parties beyond those who made representations?

No, however clarity is required regarding the role of consultees, including community councils. Are these regarded as making representations, or is it intended to restrict it to those making representation as part of the public participation process?

Q11: What arrangements would need to be made to convene full Councils to make these decisions?

Provision may be made for applications to be referred to timetabled meetings of the full Council. A change in Council scheme of administration will be required, as currently the Planning Board has full delegated powers.

Q12: Do you support the view that processing agreements should be in place before submission of the application?

Yes.

Q13: Do you agree that where there is to be a processing agreement that it should be entered into not later than 28 days after validation?

No. Processing agreements are aimed at assisting efficiency and speed of delivery. They should be entered into prior to the submission of the application, as many delays are as a consequence of problems at the front end of the process – eg lack of information to facilitate proper consideration of the application.

Q14: Do you agree with the suggested components of a processing agreement?

Yes.

Q15: Do you agree that the sole parties signing the processing agreement should be the planning authority and the applicant, or do you think there is scope for statutory consultees to also sign the agreement?

The processing agreement should be signed by all parties who may legally prevent the prompt determination of an application – the applicant (failure to submit required information), the Council and, crucially statutory consultees (failure to respond to consultation requests).

Q16: Do you support the proposed approach to Planning Permission in Principle and approval of matters specified in conditions?

If it deemed necessary, then yes.

Q17: Do respondents consider the approach to the content of planning applications to be appropriate or are any of the other options in paragraph 5.3 preferable?

The approach proposed in Regulation 11 is unhelpful. If planning authorities are to be given responsibility for neighbour notification, it is essential that they be satisfied that the information of which they are giving notification is appropriate. Preferably, applications should not be considered valid until such times as sufficient information is submitted to allow at least an initial assessment of the proposal. Alternatively, regulation that would enable planning authorities to assess the level of information on receipt, stop the clock pending receipt of requested information, and permit neighbour notification only after its receipt is in the best interests of effective public participation and administration of the process.

Q18: What other measures could help to ensure that applications are supported by adequate information at the start of the planning process whilst still encouraging efficiency in the development management system?

Efficiency in the system should not solely be the responsibility of the planning authority. The applicant must have a responsibility to submit a competent planning application. The credibility and efficiency of the service will not be assisted by the neighbour notification of incompetent or incomplete applications. The process must facilitate the delay in neighbour notification until it is appropriate to do so. The inclusion in the register of a record of date received and date valid columns would assist potential applicants who consider time delays as a concern.

Q19: Do respondents consider that the draft regulations on the content of applications for Planning Permission in Principle are pitched at an appropriate level of information?

Not necessarily. The quality of development on the ground should always be the prime consideration, and a time limit on requests for information which arises out of consultation or public participation should not be time barred under regulation 28.

Q20: Do respondents consider that the requirements on content of applications are sufficiently clear to allow validation to be a relatively straightforward administrative check?

The requirements are clear but unhelpful. It is the experience of Inverclyde Council that the greatest delays in the processing of planning applications are due to lack of necessary information being submitted, and following detailed checking and site visit, the realisation that plans are inaccurate and/or conflicting. If planning authorities are to continue to be audited on performance based on the time taken to determination of applications, this should not, as at present, continue to be at the mercy of others.

Q21: Do you have a view on the two options on the range of applications to be accompanied by a design and/or access statement?

Option 2 presents a common sense approach.

Q22: In addition to those considered in the options, in what circumstances might statements consider only one element – design or access?

Access is a design constraint, and as such should be considered as part of the design process. There should be no circumstances where either is ignored.

Q23: How can access panels be used most effectively in considering design and access?

The use of panels should be restricted to development where pre-application consultation is required, and to that part of the process. This will ensure that voluntary panels are not overburdened, will enable applicants to address concerns at the earliest opportunity. This may also assist in preventing delays during application processing.

Q24: Do you consider that there is sufficient clarity in the regulations to allow for effective and timeous validation of applications where design and/or access statements are required?

Within reason. Validation checking and the registration process should be non subjective. To assist clarification, the Government could provide a template which statements should follow.

Q25: What role can local authority access officers play in assessing the access element of statements?

Access is a matter for the building regulations. An access statement should only be of value to the assessment of a planning application in that it will indicate compliance (or intent to comply) with the regulations and assist the public participation process in indicating compliance. The access officer will be part of the process as a consultee commenting on compliance with the regulations.

Q26: What information do planning authorities and communities need to ensure a thorough and robust assessment of the design and access statement?

This will vary from site to site.

Q27: Do you consider the proposals on service of notice to neighbours to be appropriate?

Yes, subject to a query regarding the use of newspaper advertising as a means of effective (rather than useful) communication. The Government should evaluate the current research on responses to planning applications undertaken on behalf of its Improvement Services, and either make a recommendation based on best value or allow planning authorities the opportunity to make those best value judgements based on readership levels and response levels to press notices. It should note that research found that only 1.4% of respondents to planning applications did so as a result of reading a press notice. This research mirrors the findings in the Cabinet Office paper "informing the public in a multi media age". The Government may also wish to consider permitting optional alternative methods of notification, eg newspaper notice and/or web page notification (Council or national public information notices portal) and/or site notices. This would allow for flexibility in recognising the diversity of Scotland from urban to remote rural and the peculiarity of individual circumstances. Indeed, this position appears to be

supported in para.7.13, where the Government recognises that “ the planning authority is best placed to determine which applications would benefit from a (site) notice”.

Q28: Do you agree that, in order to minimise costs and potential delay, a single notice sent to the address of the neighbouring land is sufficient for these purposes?

Yes.

Q29: Is the proposed approach to keeping people informed of PPP and approval of matters specified in conditions appropriate?

Yes.

Q30: Do you support the proposed definition of neighbouring land?

No. The Executive’s Working Group on Neighbour notification provided a definition of neighbouring land that sought to ensure the requirement for neighbour notification was both manageable and meaningful. It also recognised the current significant burden in tenemental areas.

Q31: Do you consider the proposals concerning the use of site notices and of local advertisements to be appropriate?

See comments on Q27.

Q32: Do respondents support the proposed requirements on notifying owners and agricultural tenants and the placing of local advertisements in this regard?

Subject to the reservation on newspaper advertising as the sole option for publicity (see comments on Q27), the proposal is supported.

Q33: Are you content with the Scottish Government’s proposals for the public availability of the list?

The dates of receipt and validation of application should be on the register.

Q34: Is the advertisement of the availability of the list in a local newspaper on a monthly basis appropriate?

It is doubtful that this will result in added value to the process.

Q35: Do respondents have any views on the list of statutory consultees and the criteria for consultation?

The list of statutory consultees and the criteria for consultation does not present a problem in itself. Obligations must be placed on all statutory consultees to process

consultations promptly, flexibly and with regard to local circumstances. Statutory consultees should be obliged to enter into processing agreements with both applicants and planning authorities.

Q36: Do respondents consider it appropriate to extend the statutory period for determining an application for national and major development to 4 months?

The principle of extension is acceptable. Whether or not this target will be met will often depend on statutory consultation. The Council has concerns that for some statutory consultees, 4 months will be insufficient.

Q37: Is the level of information to be provided in the decision notice appropriate?

Yes.

Q38: How should planning authorities best manage the potential burden of ensuring those who made representations are advised of the decision?

In all but exceptional cases, the recommendation does not present a problem to Inverclyde Council. It is the Council's current practice to inform all objectors of the date of the Planning Board. This letter could include information on how to access the Officer's report, the minute of the Board/Full Council (under the proposed system), and the decision letter, all at public libraries and on the Council's web site.

Q39: Is the information to be contained in the report of handling appropriate in order to provide a robust summary of how the application has been dealt with and the reasons behind the planning authority's decision?

It should be.

Q40: Can existing Committee reports, where available, be easily adapted to incorporate the proposed statutory requirements in paragraph 4 of Schedule 4?

Yes.

Q41: What might be an appropriate alternative name for "bad neighbour development"?

"Planning Application of wider public interest."

Q42: Do you support the proposed additions and deletions to the list of "bad neighbour developments" and do you have other suggestions?

Further clarification is needed on the terms "indoor games". Under section 8, the use of the word "will" is open to dispute. Replacement with "may" would resolve this difficulty.

Q43: Are there any other uses which you consider should also be subject to controls on increases in gross floorspace ?

Consideration should be given to controlling floorspace increases where intensification of use can lead to operational difficulties for nearby uses. This is particularly relevant where the use of the building is person intensive. The Government may wish to consider controls on leisure uses (class 11) and office (class 4a)

Q44: Do you support our proposal to have different approaches depending on whether other increases in the internal floorspace have taken place?

In principle, but where is the evidence of the original floorspace? It appears that the approach is based on the assumption that only new build developments, which have clearly recognisable planning histories, will seek to insert mezzanines. If controls are widened to other uses, this would most certainly not always be the case.

Q45: Do you consider that 200 square metres is an appropriate level to help achieve the objectives of helping protect town centres?

Yes.

Q46: For the purpose of controlling internal Floorspace, do you support the decision to use amounts in square metres rather than a percentage?

Yes.

Q47: Are there any potential impacts on business or voluntary sectors that we should be aware of in finalising the regulations or the order?

No, but note general comments in response to Q49.

Q48: Are there any potential impacts on particular societal groups that we should be aware of in finalising the regulations or the order?

No.

Q49: Do you have any other comments to make on the draft development management regulations or the mezzanine floors order?

The regulations, as with the 2006 Act, should respond to the concerns of all interested parties. Ultimately, the planning system should contribute to making Scotland a place of choice through the appropriate distribution and allocation of land uses, and quality in design. As a means to an end, neither the Act nor the regulations will improve economic wellbeing and the quality of place, which is the ultimate aim and reason for planning.

The Act and regulations provide for public participation, and potentially public disenchantment with the system when it fails to deliver to expectation.

The proposed regulations over complicate the system, make it harder for developers to submit planning applications, and will inevitably lead to longer project delivery from concept to granting of planning permission.

While the Act and regulations are well intentioned, it is considered that they are not in the best interests of the residents and business community of Inverclyde and will place considerable burden on the administration of the Council's Planning Service, with no tangible change to the perceptions of Inverclyde as a place to live, work and enjoy leisure.

