



**COMHAIRLE NAN EILEAN SIAR - MODERNISING PLANNING:
RESPONSE TO CONSULTATION ON DEVELOPMENT MANAGEMENT
REGULATIONS. (FOR APPROVAL BY THE ENVIRONMENTAL & PROTECTIVE
SERVICES COMMITTEE OF COMHAIRLE NAN EILEAN SIAR ON 15/4/08)**

Q1	<i>Do you agree with the proposed categories of development (National, Major (per Appendix II) and certain Local Developments (per Appendix III) to which the requirements for pre-application consultation apply?</i>
	<p>The Comhairle agrees that pre-application consultation should apply to all national and major developments.</p> <p>In terms of Local Development, the government should be aware that many local developers will not be resourced or experienced in carrying out public consultation exercises and are therefore likely to look to local planning staff for guidance and support.</p>
Q2	<i>Do you have any comments on the thresholds in Schedule 1 of the DMR on pre-application consultation? (Local Developments)</i>
	<p>Category 1: “EIA development : All development” - While it is appreciated that certain EIA developments may raise public concern, there are also examples where the such developments would attract little if any public comment and a requirement for Pre-Application public consultation would add little if any value to the planning process, and introduce an added delay and frustration to the process (e.g. modifications to long established Marine Fish Farms in remote localities can be EIA development). It is therefore strongly suggested that rather than look at “All EIA Development” some more selective thresholds/criteria be applied to this category.</p> <p>Category 3a: As 5 houses is unlikely in most cases to attract the level of concern that would merit full public consultation, it is considered that the threshold should be increased to say 10 houses or flats.</p>
Q3	<i>Is the information required in a pre-application screening notice sufficient?</i>
	<p>Section 35B of the 2006 Act requires only a plan showing the outline of the site; It is critical that the description of the development is as full as possible and ideally detailed on a site plan; the area of the site and number of units should be provided to allow screening against schedule 1 criteria; Furthermore (consistent with the proposed requirements of a PPP) the site plan should indicate approximate siting, scale, size, indicative height, number of units and approximate position of access, open space etc.</p> <p>Consideration should be given as to whether or not “screening” is the best terminology to use for this process since there is potential for confusion with Screening for EIA.</p>
Q4	<i>Is 21 days a reasonable period for authorities to respond to a pre-application screening notice in all circumstances?</i>
	Yes – providing the detail provided with the screening request is sufficient at the outset and the regulations include provision for extension by mutual agreement (to allow for screening of a complex proposal).
Q5	<i>Do you agree with the proposed content of the proposal of application notice?</i>
	Yes with addition of detail stated at Q3 above.
Q6	<i>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?</i>

	The Government should be aware that Community Councils do not exist for every area e.g. where there are insufficient members to establish one.
Q7	Do you agree with the minimum statutory requirements (1 public meeting & 1 notice in a newspaper circulating in the locality) for pre-application consultation in regulation 8?
	Yes
Q8	Do you agree with the requirements on the content of pre-application reports?
	Yes; but there should be (1) a requirement for a detailed record of the public meeting recorded by an independent party e.g. Clerk to Community Council (paid for by the developer) and (2) clear and simple guidance on the purpose and structure of such a meeting since smaller developers (e.g. house builders, independent fish farmers may not be experienced in hosting public forums) (3) clear guidance to developers and planning authorities on the status of representations received at pre-application stage.
Q9	Do you support the classes of development which will be subject to pre-determination hearings?
	Generally yes - but there should be clarification on the position for convening such hearings in cases where no third party objections have been submitted and what the position is if objections are submitted post the 21 day period.
Q10	Should the opportunity to be heard at a pre-determination hearing be extended to other parties beyond those who made representations?
	The applicant should possibly be given the opportunity to be heard also. Achieving the inclusiveness agenda may result in a necessity to hold Pre-determination hearings in a particular geographical area with resultant administrative and resource implications for Planning Authorities.
Q11	What arrangements would need to be made to convene full councils to make these decisions?
	The Comhairle's current arrangement is that decisions taken by a service committee normally go to the Full Council for confirmation of the decision or otherwise.
Q12	Do you support the view that processing agreements should be in place before submission of the application?
	Yes; the timescale for determination should be clear at the date of registration.
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; A processing agreement should be signed before validation/registration so that determination timescales are set and clear to all parties at that point in time.
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 between the Applicant & Planning Authority only and the Planning Authority should secure some form of commitment from statutory consultees prior to signing the agreement.
Q16	Do you support the proposed approach to Planning Permission in Principle and approval of matters specified in conditions?

	<p>It is presumed that the approximate siting, upper/lower limits of length, breadth and height are binding on the PPP and any change to these would require consideration of a new PPP or FULL application. Where this requirement for additional details relates to land under crofting tenure, there may be implications as follows. It is the case, at present, that in order to progress the de-crofting of a site (a pre-requisite to obtaining title in situations where use proposed is non-agricultural or a sale or transfer of ownership of a development site), that a minimum of outline planning permission is obtained in order to confirm the proposed development use. In these and in some other cases (e.g. larger housing developments) a change of ownership/developer often takes place between outline consent and reserved matters application stages and under the new proposals there may be constraining issues imposed at PPP stage due to the applicant at that stage second guessing some of the detail (e.g. number of housing units and a statement of the upper and lower limit of length, breadth and height, circulation routes and open space). Notwithstanding these concerns, the provision of more detailed information at PPP stage will if implemented provide greater certainty for the public in terms of the siting, scale and impact of future development.</p>
Q17	<p>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?</p>
	<p>The approach is considered appropriate.</p>
Q18	<p>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?</p>
	<p>Clear guidance on (1) the types of supplementary information that might be required to support certain types of development and (2) that the application will not be determined until such information is made available and assessed.</p>
Q19	<p>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?</p>
	<ul style="list-style-type: none"> • We have some concern over the real value of an upper and lower limit of height where outline applicant and developer at conditions stage are different. • Drainage is a material consideration in the granting of planning permission and if siting, scale and position of access are to become mandatory validation requirements, then an indication of siting and scale of private drainage should also be introduced as a requirement at PPP stage (for non-sewered areas). i.e. an indication of the siting and extent of land affected by the septic tank and infiltration field (the area required can be 25sqm and requires to be set distances from the proposed house, and any ditches or watercourse).
Q20	<p>Do respondents consider that the requirements on content of applications are sufficiently clear to allow validation to be a relatively straightforward administrative check?</p>
Q21	<p>Yes but it requires to be supplemented by good clear guidance.</p>
	<p>Do you have a view on the two options on the range of applications to be accompanied by a design and/or access statement?</p>
	<p>Option two is preferred but the definition of “Sensitive site” requires clarification; It is assumed that in this context you are referring to “Conservation Areas, World Heritage Sites or National Parks” only and not to “Sensitive sites” as defined in the EIA regulations. If different should the terminology be looked at?</p> <p>It may be difficult to produce a meaningful Design or Access statement at PPP stage since the detail of the development and topographic survey providing accurate details on levels is unlikely to be available.</p> <p>If Option One is being considered then there would require to be a further</p>

	<p>exclusions re access statements; e.g. marine fish farms, telecoms masts etc.</p> <p>If Option One is considered the Scottish Government should be aware that, in the short to medium term, in rural areas , there may be issues of availability of technical/ professional expertise to prepare (in particular) access statements.</p>
Q22	In addition to those considered in the options, in what circumstances might statements consider only one element - design or access?
	<p>There may be a case for requesting Design Statements only for new developments within other “sensitive” areas. E.g. NSA’s The external impact of issues such as access ramps could be picked up through the Design statement leaving the detail of access to Building Standards.</p> <p>There may be a case for asking for Access statements only for Public buildings (but not houses).</p>
Q23	How can access panels be used most effectively in considering design and access?
	<p>The Comhairle has an officer in Building Standards with responsibility for access who is consulted on development involving public access. Due to lack of support/training/expertise/capacity some access panels are unable to assess and provide meaningful feedback on planning applications. Access panels are circulated the Weekly List and do have the opportunity to request to be consulted on any cases; However they should not become statutory consultees.</p>
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?
	<p>The check should be Quantitive but there must be very clear guidance on what that quantitative check should be and preferably a requirement for the applicant to insert and complete a tick-list at start of the statement.</p>
Q25	What role can local authority access officers play in assessing the access element of statements?
	<p>The Building Standards Access Officer would be consulted but if the number of applications incorporating access statements increased dramatically (i.e. Option 1) then it is unlikely that he would have the capacity to deal with a large increase in volume.</p>
Q26	What information do planning authorities and communities need to ensure a thorough and robust assessment of the design and access statement?
	<p>Improved guidance and training</p>
Q27	Do you consider the proposals on service of notice to neighbours to be appropriate?
	<p>Broadly Yes : but require a high percentage of applications in rural areas (no address on neighbouring land) to be advertised resulting in (i) increased cost to applicants (ii) increased administrative workload for authorities trying to recover this additional cost post validation;</p> <p>Under the present system local developers are best placed to identify bareland ownership/occupation and by enlarge the system has worked well in this connection; An advertisement is a costly and retrogressive step</p> <p>Consideration should be given to alternative provisions e.g. where neighbouring land is bareland, the applicant requires to provide a list of relevant owner/tenant/occupier of the neighbouring land, to allow planning authority to serve notice on these parties as an alternative to incurring cost of advertisement.</p>
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?
	<p>At present both owners and occupiers are served with notice and the single</p>

	notice approach is likely to result in increased number of complaints by parties who would have been notified under present arrangements (tenants will not be obliged to pass notice to the owners of their property);
Q29	Is the proposed approach to keeping people informed of PPP and approval of matters specified in conditions appropriate?
	Yes – but this should be extended to ensure that parties who submit representations at Pre-consultation stage are notified of the application at PPP stage. This also needs to be given to parties who submitted representations to a proposal at Development Plan stage.
Q30:	Do you support the proposed definition of neighbouring land?
	Broadly Yes but – clarification required on (1) whether or not you ignore any road and (2) what is intended by “the boundary of land for which development is proposed” e.g. in the case of a dwellinghouse extension is this 20m from the footprint of the extension, or 20m from the footprint of the whole dwellinghouse or 20m from the fenced boundary of the dwellinghouse plot.
Q31:	Do you consider the proposals concerning the use of site notices and of local advertisements to be appropriate?
	Yes
Q32:	Do respondents support the proposed requirements on notifying owners and agricultural tenants and the placing of local advertisements in this regard? (No change to present system)
	Yes
Q33:	Are you content with the Scottish Government's proposals for the public availability of the list?
	Yes; but lists should only be in key or principal libraries as Rural authorities such as ours have many part-time public libraries (located within schools; only open during term-time; very few hours in a week) .
Q34:	Is the advertisement of the availability of the list in a local newspaper on a monthly basis appropriate?
	There is concern that the benefit versus cost of placing a monthly advert on where list can be found should be reconsidered. PA's could add strap line to advertisement for neighbour notification adverts; If considered essential then the requirement should be reduced to quarterly or six monthly
Q35:	Do respondents have any views on the list of statutory consultees and the criteria for consultation?
	No
Q36	Do respondents consider it appropriate to extend the statutory period for determining an application for national and major development to 4 months?
	Yes
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?
	The Comhairle already do this but it does present a burden where the representations are by way of petition; Our current solution is that organisers of the petition (if known) are advised of the decision and sent some additional for circulation. An alternative where there is a substantial body of opposition is that either organisers of petition are advised or where unknown a press advert is placed directing the public to the decision on the Comhairle OPIS website.

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?
	Yes
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"?
	An alternative name might be "Amenity Impact Development".
Q42	Do you support the proposed additions and deletions to the list of "bad neighbour developments" and do you have other suggestions?
	CnES support the proposed changes.

The Town and Country Planning (Increase in Gross Floor Space) (Scotland) Order 2007

Q43:	Are there any others uses which you consider should also be subject to controls on increases in gross floorspace ?
Q44:	Do you support our proposal to have different approaches depending on whether other increases in the internal floorspace have taken place?
Q45:	Do you consider that 200 square metres is an appropriate level to help achieve the objectives of helping protect town centres?
Q46:	For the purpose of controlling internal floorspace, do you support the decision to use amounts in square metres rather than a percentage?
Q47	Are there any potential impacts on business or voluntary sectors that we should be aware of in finalising the regulations or the order?
Q48:	Are there any potential impacts on particular societal groups that we should be aware of in finalising the regulations or the order?
	Comhairle nan Eilean Siar has no comments to make on the above draft order.

General comments

Q49	Do you have any other comments to make on the draft development management regulations or the mezzanine floors order?
	<ul style="list-style-type: none"> • The DMPR regulations will require a re-design of work process and procedures (very quickly after re-design of process for e-planning) within Development Management sections; changes to templates and casework data systems. It is critical that there is sufficient time allowed between enactment and implementation to make these procedural and process changes, train staff and install and test upgrades of software necessary to accommodate changes; It will also be necessary to ensure software suppliers have sufficient time to write software, test it etc before issuing it to authorities in the form of an upgrade.

RESPONDENT INFORMATION FORM: DEVELOPMENT MANAGEMENT CONSULTATION

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name: **Keith Bray/ Morag Ferguson**

Postal Address: **Comhairle nan Eilean Siar, Sandwick Road, Stornoway, Isle of Lewis**

1. Are you responding: (please tick one box)

(a) as an individual go to Q2a/b and then Q4

(b) **on behalf of a group/organisation go to Q3 and then Q4**

INDIVIDUALS

2a. Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

3 The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No