

NORTH LANARKSHIRE COUNCIL

RESPONSE TO DEVELOPMENT MANAGEMENT CONSULTATION

Thank you for the opportunity to respond to the consultation on Development Management. The comments below are being sent to meet the consultation deadline, however they still require to be ratified by the council's Planning and Transportation Committee. Should there be any changes to the comments below following the Committee's formal consideration of the issues in the consultation, they will be forwarded to you.

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

A: Agree with the categories proposed.

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

A: For category 3 the threshold is considered to be too low for built up areas where residential development is unlikely to raise any issues eg a small residential development of a disused commercial or industrial area in an urban area. 10 may be a more appropriate threshold. With regard to category 4, there needs to be some threshold attached. Applications are often received for change of use from open space to garden ground, and these involve very little land, usually the edge of a much larger area. There would be no benefit in requiring pre-application consultation in these circumstances.

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

A: The information should include numbers and sizes or area at least so that the thresholds can be determined.

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

A: Yes, so long as it is 21 days from receipt of all information.

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

A: Yes, so long as a full description, and a location plan are included.

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

A: It is considered that local members should be notified in addition to community council's and neighbours.

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

A: The requirement to hold public meetings for all these categories is extremely onerous. Perhaps this should only be a requirement when those consulted ask for one, having been given the opportunity to make such a request.

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

A: The pre-application reports should clearly identify any plans shown in the process of pre-application consultation and indicate how they differ (if they do) from any submitted with the application.

It needs to be made very clear to those being consulted who their representations are being made to at this stage, and that they will be further notified once the application is submitted (if it ultimately is). Experience from dealing with applications for telecommunications masts where pre-application consultation is currently undertaken, has shown that there is very often confusion about who representations are being made to, with some people not making representations to the council on the application because they think the initial representations made to the operator (usually the applicant) were passed to the Council.

It is suggested that explanatory wording is provided in a formal notice to be issued by the applicant to all those being consulted and the applicant should certify this has been done.

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

A: Yes

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

A: Applicants or their agents would need to be invited so that there is a balanced case being made at the Hearing.

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

A: The proposal for full council to take decisions raises two issues of concern. Firstly, the council meets every eight weeks which would add considerable delay to the process. More importantly what is proposed is a situation whereby members, who have not had the benefit of being present at a hearing at which interested parties have had an opportunity to present their case, can substitute their judgement for the judgement of members who were so present and it is considered that this is, at the very minimum, extremely bad practice. As the primary legislation is in place, the council would urge the Scottish Ministers not to exercise the power available to them under Section 38A to prescribe a class of development, and therefore there would be no developments which require determination by the full council. It is acknowledged that this would remove the provision for mandatory hearings, however non-statutory guidance could be issued in this respect as has been suggested elsewhere, and this would be responsibly followed by local authorities.

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

A: To be of value processing agreements should identify the information required to be submitted with the application. They will therefore have to be in place before the

submission of the application. If the planning authority had the discretion not to validate until the required information was submitted, such agreements would not be necessary.

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?

A: No, see answer to Q12.

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

A: Firstly, the components are generally agreed. Nevertheless it is anticipated that it will be difficult to get all parties to reach agreement. From experience, many applicants argue that information such as protected species surveys, drainage and flood risk assessments can be conditioned, expressing reluctance to commit expenditure until they feel reasonably comfortable that planning permission can be granted.

The decision making framework possibly involving a project team is a good way forward but this only be feasible if all parties are adequately resourced. Such a framework or agreement would take many hours to prepare. Guidance on a standard format would be helpful. Key milestones would need to be able to take account of emerging requirements from consultees. Review stages in the plan are therefore considered essential.

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?

A: The input of consultees would be essential to the agreement. The planning authority could not sign or commit to a timescale over which it would not have full control.

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

A: Yes, the proposals are generally supported, however it is expected that there will be a reluctance by applicants to provide detail at this stage. In addition, there is concern that, particularly neighbours viewing the plans, would not appreciate that the details could be subsequently changed.

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?

A: Firstly, with regards to the plans and drawings, there should be a requirement for the location plan to show the nearest public road, and to outline the site. The site plan should show at (c) the "existing and proposed" access arrangements. At 5.3(b) it is argued that it would be extremely difficult to specify further requirements, however information could be specified in a similar way to the SEPA protocol for SUDS/drainage and flooding issues, or in terms of thresholds for traffic assessments.

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?

A: Planning Authorities could produce their own supplementary guidance or details could be included in a circular.

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?

A: Paragraph 5.8 is very confusing. It is not clear that it includes provision for asking for further details following consultation responses.

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

A: Yes

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?

A: Option 2 allows more discretion on a case by case basis. Some sites may not support large scale development but can be important due to their prominent position. Option 1 is too onerous.

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

A: An example where a design statement only may be appropriate may be a town centre proposal where access is not an issue. Less prominent locations such as industrial estates or small scale proposals may not have a design requirement but may need to be considered in access terms.

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

A: The most effective use of the panels would be as consultees on local plan policies and design guidelines. Consultation on individual applications would be very onerous.

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?

A: No. Planning Authorities should be able to decline to validate if the statements are not adequate in terms of quality. Administrative staff could not be expected to make assessments of the statements for validation purposes.

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

A: Access officers could have a role in creating policy and guidance. It would be extremely onerous if they were to be consulted on individual applications.

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

A: The design and access statements should be both prepared and assessed by suitably qualified chartered professionals.

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

A: Yes, however there is concern about the resource implications for the council. It is acknowledged that the fees are being reviewed, however there is doubt that the increase will fully cover the additional costs incurred.

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?

A: Yes, a single notice is considered sufficient.

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

A: Yes, however it is questioned whether it is necessary for the council also to notify owner and agricultural tenants when this has been done by the applicant.

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

A: The definition whilst simplistic, does not effectively address proposals adjacent to flats. The definition as given would be very onerous in flatted areas. The provision for planning authorities to issue notices on other land they consider appropriate is vague and could lead to allegations of inconsistency.

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

A: The value of site notices is questionable, however it is noted that this would be at the discretion of planning authority.

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

A: Yes, this is supported.

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

A: Yes

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

A: Monthly publication is considered to be too frequent. Six monthly or annually should suffice and there should be a cut – off point eg in 2 or 3 years' time when everyone should be aware that the information is available on the web-site, and this can be accessed through libraries etc

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

A: The requirement is to consult statutory consultees, but there appears to be no requirement for them to respond.

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

A: Yes, this is supported.

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

A: Paragraph 11.5 under the heading “Scottish Ministers’ direction” states that ministers can now issue a direction to require the attachment of conditions, but it will be for the planning authority to specify the reasons. It is considered more logical for the ministers to specify the reasons for their own conditions. The level of information to be provided on the decision notice is agreed, however a standard format included in guidance would be helpful.

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

A: Where numbers are very large, the planning authority could be given the discretion to advertise the decision. Alternatively those who made representations could be advised that the decision will appear on the website, but if they want a letter sent out they could request it. Perhaps also, when acknowledging representations, planning authorities should ask if an email address is available for advising of the decision, which would cut down on the paper at least.

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?

A: Yes

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

A: Yes

Q41: What might be an appropriate alternative name for “bad neighbour development?”.

A: The Term “Amenity Development” is suggested.

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

A: Clarification on the definition of “recycling points” would be helpful. This could mean anything from a couple of containers on a street corner to a full recycling centre.

It is suggested that the last category of 12.2 is not really an issue, there being little difference from, eg. a fish processing plant?

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

A: The impact of the increase in floorspace is mostly on parking and this could equally affect leisure and office uses. These should be subject to controls.

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

A: Yes

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

A: Yes

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

A: Yes, the use of square metres rather than a percentage is supported.

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

A: Clearly there will be an impact on panels as indicated in the response to questions 23 and 25. It is considered that the requirement for pre-application consultation will result in delays and costs for businesses.

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

A: No

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

A: There are serious concerns about the resourcing of the provisions in these regulations. Particularly the neighbour notification, and the other regulations which will be coming into force over the coming year.

These significant changes happening at the same time as the introduction of e-panning will undoubtedly lead to delays initially. It is important that there is sufficient time allowed between issuing of guidance and advice and the implementation of the new provisions to enable the council to make necessary changes to procedure and where possible, issue guidance to applicants.

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