

ABERDEEN CITY COUNCIL

Name of Committee	:	Planning Committee
Date of Meeting	:	24 April 2008
Title of Report	:	Consultation on Development Management
Lead Officer	:	Dr Margaret Bochel
Author of Report	:	Richard Bush, Planning Strategist ☎ (52)2241 ✉ RiBush@aberdeencity.gov.uk
Other Involvement Consultation undertaken with:	:	Chris Jackson (Development Management Manager) City Solicitor Legal Manager (Court), Resources Management City Chamberlain Councillor Scott Cassie Councillor Bill Cormie Development Management Teams Graham Hossack, Operational Support Manager Rhona Atkinson, Head of Service Design & Development Andrew Sproull, Programme Director, Continuous Improvement Hazel Spalding, Head of Democratic Services Alan Valentine, Senior Committee Services Officer (Planning) Andy Brown, Administrative Officer, Strategic Leadership Andrew Gilchrist, Senior Environmental Health Officer, Neighbourhood Services (Central Area) Kenny Simpson, Team Leader (Building Standards) Sandra Bruce, Strategist, Community Planning & Regeneration Nick Ananin, e-Planning Project Manager Union representatives Maureen Corley, Planning Manager – Culture Change, Aberdeenshire Council

Summary of Report

This report considers extensive proposed changes to the procedures for the processing of planning applications as part of the Scottish Government's *Modernisation of Planning* proposals. These are set out in the Scottish Government's *Development Management Consultation Paper*. It puts the proposals in the context of the Planning etc. (Scotland) Act 2006 already enacted by the Scottish Parliament, which is yet to come into force. It proposes a response to each of the 49 questions set out in the consultation paper. It generally supports the Scottish Government's proposals. In summary, the proposed changes to development management procedures are:

- Pre-application consultations by the developer and the community for some larger and more complex applications
- Introduction of processing agreements

- Neighbour notification by planning authorities rather than applicants and more time for neighbours to respond
- Formal applications required for all matters specified as requiring further planning authority approval in conditions on planning permissions for operational and (Environmental Impact Assessments) EIA developments (not just 'reserved matters')
- Statements demonstrating how design and access have been taken into account in certain proposals
- Weekly lists of applications to be placed in libraries and availability of 'running lists' of current applications to be advertised monthly in the press
- Enhanced scrutiny, including a right for members of the public to be heard by the planning authority where a development is significantly contrary to the development plan or is subject to Environmental Assessment, before an application is decided
- Adverse decisions on local developments delegated by planning authorities to their officers would be subject of appeal to a local review body comprising local Councillors instead of Scottish Ministers, as at present
- Written reports on every planning application showing how the case was handled are to be prepared and placed on the planning register
- Decision notices to contain more information and to be sent to everyone who made representations, rather than just to the applicant
- Revisions to list of 'Bad Neighbour' developments
- Mezzanine floors that increase floor space in retail premises by more than a minimum size beyond the original gross floorspace are to require planning permission.

The full consultation paper is available at:

<http://www.scotland.gov.uk/Resource/Doc/208398/0055270.pdf>

Recommendation

1. That the Committee note the contents of this report and agree to forward it, along with any comments made by the Committee, to the Scottish Government as the Council's response to its consultation exercise.
2. That the Committee stresses to the Scottish Government the importance of the full costs of the *Modernisation of Planning* Programme being met from fee recovery or Scottish Government sources.

Links to the Community Plan and to Vibrant, Dynamic & Forward Looking

Through the development plan, development management is a key process for implementing the land use elements of the Community Plan and taking forward the aims of 'Vibrant, Dynamic & Forward Looking'. Some of the principal aims of the *Modernisation of Planning* agenda are to streamline the processing of planning applications and ensuring effective engagement with communities and stakeholders. This accords with the Council's policy of:

- Ensuring the sustainability of the successful economy of Aberdeen City and Shire
- Modernising service delivery ; and
- Working in partnership with other public bodies to deliver maximum efficiencies.

Implementation

If agreed, this report will be forwarded to the Scottish Government as the response of the Council to the consultation. Any further comments raised by the Committee will be included in a covering letter. The proposals, once finalised and taken together with others affecting the manner in which planning applications are dealt with, will require significant changes in the approach to and organisation of the Council's delivery of development management functions at both Member and officer level.

Resource Implications

- People** : The proposals in this particular consultation paper would result in significant additional demands upon staff, and raise extensive human resource issues, especially in the areas of providing information to and engagement with the general public, applicants and agents. The report on the new Planning and infrastructure structure agreed by the Council on 6 June 2007 recognised that the proposed structure did not take account of the potential implications of the Planning etc. (Scotland) Act 2006, since these were not known at that time.
- Finance** : Significant extra costs will be incurred in the whole programme of planning modernisation, in particular in the area of development management. The Scottish Government intends that the full cost of the development management process be recoverable from planning application fees. It is currently undertaking research into the necessary fee structures and levels. There is a particular issue where up-front investment may be required outwith the scope of the ePlanning Programme, for example the possible need to link local plans to the neighbour notification process. The latter might cost £50K - £100K, depending on the precise extent of what is required and an assessment of whether this is the most cost-effective approach. This would require £5K-£10K in fees to cover the cost of borrowing.
- Systems & Technology** : The Council has entered into a partnership agreement with the Scottish Government to deliver, amongst other things, an e-planning enabled development management service, requiring new systems and technology. These proposals will feed into that process. This is being delivered along with the InfoSmart Business Transformation Programme, which will deliver electronic document and records management to the Council. It will also be necessary to investigate the cost-benefit of the automatic extraction of development plan data for neighbour notification purposes.
- Property** : The proposed changes will have significant implications for the manner and extent to which facilities will be required for engagement with developers and the general public, both directly and to provide space for electronic capture, communication and display equipment. Discussions are ongoing with the Marischal College Programme Director to ensure these issues are taken into account in Planning for the Council's new headquarters.
- Other Equipment** : Equipment for data capture and electronic display are being procured as part of the InfoSmart and ePlanning programme respectively.
- Other** : None arising from this report.

Other Implications

- Health & Safety** : None arising from this report.
- Risk Management** : There is a risk that the Scottish Government’s assessment of the appropriate fee level will not match that of the Council, and, in particular, that necessary up-front software investment outwith the scope of the ePlanning Programme will not be recoverable. There are major risks arising from the need for both practical/organisational and culture change in the approach to dealing with planning applications, including: training; implementation of technological change, including compatibility and reliability of new systems; the complexity of the multiple areas of change and their interaction; lack of experience; transitional arrangements; unanticipated outcomes; and unrealistic expectations.
- Human Rights/Equalities/Diversity** : The 2006 Act requires that planning authorities perform their functions in a manner that encourages equal opportunities and the observance of the equal opportunity requirements. Key aims of the *Modernisation of Planning* programme include community engagement and transparency of procedure.
- Equalities Impact Assessment** : The Scottish Government has carried out a Partial Equalities Impact Assessment on this consultation draft.
- Sustainability** : The 2006 Act requires that the preparation of both strategic and local development plans be carried out with the objective of contributing to sustainable development. In due course these plans will constitute the development plan. Planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. The regulations aim to be more streamlined, effective and efficient, thereby supporting sustainability.
- Environmental** : The proposals support the giving of special attention to developments that significantly affect the environment.
- Social** : The draft proposals would secure enhanced public engagement especially for proposals which may be particularly controversial, whilst avoiding undue process for smaller straightforward proposals.
- Economic** : Whilst extending the overall content and length of statutory processes for national, major and some local applications, these processes would allow community responses to be considered towards the start of the process, providing the opportunity for applicants to avoid potential failure costs later. The proposals permit the setting of more realistic timescales. They allow both the applicant and the planning authority to take a project management approach to major applications. Beneficial economic implications would arise from more effective planning, prioritisation and use of resources.

Construction : None arising from this report.

Signature :

1. Main Considerations

1.1 Background

This consultation has been formulated with the overall objectives of:

- Making the planning application process fit for purpose and responsive to different development types
- Improving efficiency
- Improving public involvement
- Providing for enhanced scrutiny
- Giving the community a role at the pre-application stage
- Creating greater planning awareness
- Improving transparency.

Planning applications would in future fall into one of three categories: 'national', 'major' and 'local', as set out in the report *Consultation on Draft Regulations on the Planning Hierarchy* considered by this Committee on 6 March 2008.

2. The Proposals

2.1 Enhanced Scrutiny

- *Pre-application consultations with local communities*

Pre-application community consultation would be required for all national and major developments (and some local developments) at least 12 weeks before submitting a planning application. This would include newspaper advertisement of proposals, at least one public meeting, and notice to relevant community councils and all notifiable neighbours.

- *Pre-determination hearings*

Where there is a significant departure from the development plan or an application requires an Environmental Impact Assessment (an 'EIA application') the Planning Committee must hold a pre-determination hearing at which objectors and the applicant would be entitled to appear. The Committee would have discretion as to the procedure and whether to hear others who may wish to appear.

- *Decisions by full Council rather than Committee*

Where a pre-determination committee hearing is held, full Council, not the Committee, would determine the application.

2.2 Processing Agreements

Making statutory provision for formal processing agreements between the applicant and the planning authority would encourage a project management approach to development. These can be drawn as widely or tightly as the parties decide. They would set down the steps required and the timescales for completing each step. Agreed timescales would take precedence over the default statutory timescales for determining applications. The consultation envisages that these agreements would be entered into not later than 28 days after submission of the planning application. It seeks views upon this requirement and the question of whether other parties involved in the application process should be signatories to the agreement.

2.3 Planning Permission in Principle

This applies where an application is made for operational development and to EIA applications. Under the 2006 Act Planning Permission in Principle (PPP) will replace Outline Planning Permission (OPP). Whereas OPPs require a formal application for subsequent approval of at least one of five specified 'reserved matters'; other matters requiring subsequent approval do not currently require such application. The 2006 Act will remove this distinction between the

‘reserved matters’ and those other matters. All matters requiring subsequent approval will require an ‘application for approval of matters specified in conditions’.

2.4 Contents of Applications and Validation

- Detailed applications

The proposals do not significantly change the current requirements for detailed applications. The only extra requirement being that the location plan accompanying the application must show the relationship of the application site to the locality and neighbouring land. The consultation seeks views on whether the regulations should set out more detailed requirements in respect of location plans, site plans, existing and proposed elevations and floor plans, sections, finished floor and site levels, and roof plans.

- Planning permission in principle

There have been concerns that under the OPP regime communities have been asked to comment upon - and planning authorities have been asked to determine - the principle of developments with inadequate information. Often this information amounted to little more than a red line around a site. The consultation proposes that a PPP application should include:

- A statement as to approximate location of buildings, routes and open space within the development
- A statement of the upper and lower limits of the height, width and length of each proposed building
- A statement as to the areas in which access points would be situated.

- Approval of matters specified in conditions

No significant differences are proposed compared to the current requirements for applications for approval of reserved matters.

- Validation

The consultation makes it clear that once the regulations for the submission of applications have been complied with, an application is valid. Validation should not await the submission of any further information that the case officer may require. Practice in Aberdeen City Council already accords with the practice set out in the consultation paper.

- Design and Access Statements

These statements would allow the applicant to explain and justify their proposals and help those assessing the proposals to understand the design and access rationale behind them. They would be required for all applications for planning permission except for changes of use, householder and minerals developments. They would ensure consideration is given to these aspects of a proposal and provide these matters for communities. The consultation asks whether they would impose undue burdens on developers and planning authorities, and maybe add little value in some cases. It also asks whether the requirement should be more restricted (e.g. design and access statements for national and major developments only and design-only statements for other sensitive sites such as conservation areas) or whether access-only statements should be extended to, for example, minor extensions.

2.5 Neighbour Notification and Publicity for applications

- Neighbour notification

Responsibility for neighbour notification would be transferred from the applicant to the planning authority. Only one letter addressed to the ‘Owner, Lessee or Occupier’ would be sent. The requirement to notify the ‘owner’, ‘lessee’ and ‘occupier’ separately would be dropped. The current complications of discounting road widths and special rules where multi-occupancy buildings are involved would be replaced by a simplified requirement to send notification to all properties within 20 metres of the application site. Owners and agricultural tenants of the application site itself (other than the applicant), would be included, as well as those who made objection to an application for PPP, where the application is for approval of matters specified in the conditions of the PPP.

In addition to current practice, neighbour notification would have to state the website address at which the application can be inspected, contain a statement describing any proposals for the application site in the local development plan (LDP), state the manner in which the application is to be handled and the procedures to be followed (e.g whether the application will be determined by an officer or by the Planning Committee.)

The period for making representations on an application would increase from 14 to 21 days.

The planning authority would have discretion to notify more widely than the regulations require.

- **Site notices and advertising**

Other than for underground mineral workings, no site notices would be required for planning applications [This does not affect the requirements for such notices for conservation area consent and listed building consent applications, which are covered by separate legislation]. Planning authorities would retain discretion to use site notices to advertise planning applications in circumstances that it considered appropriate. The circumstances requiring newspaper advertisement would remain the same in principle, but the period for responding to newspaper advertisements would be standardised at 21 days and advertisement costs would be chargeable to the applicant in all circumstances.

- **Notices to owners and agricultural tenants**

Although the applicant would continue to notify owners and agricultural tenants that a planning application had been submitted, it would not invite them to view the application at the planning authority offices. The planning authority would issue this invitation at the same time as neighbour notification, once the application had been validated. This would avoid wasted trips to view applications not yet available.

2.6 Lists of Applications

Lists of applications received during the previous week would be placed in all public libraries in a planning authority's area, in addition to the current requirement to send such a list to all community councils. A separate 'running' list of all current planning applications would be updated weekly and published on the Internet and at the planning authority offices. Its availability would be advertised in a local newspaper on a monthly basis.

2.7 Statutory Consultees

The consultees would remain the same as at present. However, consultees' responses would have to be available to enable a decision as to whether an appeal should be considered by Local Review Bodies or the Scottish Government. This is because all appeals subject to objection by statutory consultees – even to local developments – would be made to Scottish Ministers. So it is now proposed to require completion of such consultation before an application is *determined* rather than before an application is *approved*, as at present. This would make no difference to current practice in Aberdeen City Council.

2.8 Time Periods for Decisions

The default statutory periods for determination of 'national' and 'major' developments would be extended from two months to four months. The period for determination of 'local' developments would remain at two months. The default statutory period for determining all EIA applications would, however, remain at four months. As at present, these periods can be extended by agreement between the applicant and the planning authority. These periods would not apply where:

- Advertising costs have not been paid
- They would conflict with advertisement periods for development plan departures or mineral applications
- Additional information requested by the planning authority pursuant to a PPP application within the statutory timescale has not been submitted.

Where decisions are not made within these timescales there is a right of appeal or local review, according to the circumstances.

2.9 Decision Notices, Reports of Handling and Registers

Decision notices would need to give reasons for all decisions, not just for refusals, conditions or departures from development plans, as at present. The following additional information would also be required in decision notices on planning permission applications:

- Reference to any variation to the original proposal
- A direction that, if development is not started, planning permission will lapse after three years, rather than five years as at present
- Cross reference to each plan considered by the planning authority in coming to its decision
- Reference to any associated legal agreement under Section 75 of the 1997 Act
- How to initiate an appeal or, where the procedure applies, a local review

Where a decision notice relates to matters specified in conditions, the reference number of the principal planning application must be shown.

Decision notices would have to be sent not just to the applicant, as at present, but also to everyone else who made representations. The consultation asks for the Council's suggestions and observations about the implications of this proposal in cases where a vast number of objections are received to a particular planning application. This issue is addressed in the response to question 38 below.

Reports of handling would be publicly available and are intended to address concerns about access to the information and reasons behind decisions on planning applications. They are intended to ensure that planning authorities provide a full record of the relevant factors considered in determining each application for inclusion in the planning register. Reports of handling are to include:

- The number of representations made and the main issues they raise
- Details of consultees on the application and a summary of their responses
- Whether any EIA, appropriate assessment, design and access statement or impact assessments were submitted and, if so, a summary of the main issues raised
- The main issues raised at any pre-determination hearing
- A summary of the terms of any related Section 75 agreement
- The provisions of the development plan and other material considerations to which the planning authority had regard
- Particulars of any statutory directions that are not referred to in the decision notice
- Details of the newspaper and date upon which statutory notice of the application was given
- Any additional notice of the application given by the planning authority and its reasons for doing so.

Part I of the Planning register is to include all matters that constitute a valid application, including any pre-application report, design and access statement or processing agreement. Part I Information is to be entered before neighbour notification or newspaper advertisement takes place (i.e. within 5 days of receipt of a valid application). Part II must contain the (more detailed) decision notice and related plans, any environmental statement under the EIA Regulations, and the report of handling. Where an application is called-in, or the subject of an appeal or review, the date and effect of any appeal or review decision must be entered. Part II information is to be entered within 7 days of a direction being received or a decision being made.

2.10 Bad Neighbour Development

It is proposed to add places of worship, community halls, skateboard parks and the processing of animal carcasses to the list of 'bad neighbour' developments and to update the wording of

other uses within the existing list by, for example, replacing 'music hall' with 'concert hall' and 'dance hall' with 'nightclub'.

2.11 Control of Mezzanine Floors

The provision of mezzanine floorspace greater than 10 square metres in retail premises (other than hot food premises) would require planning permission where the original building has already had an increase in floorspace of 250 square metres or the proposal would take it over that limit.

3 Conclusion

There are major concerns about the undue rigidity of the proposals, including the requirement for pre-determination hearings in specified cases and the cost-effectiveness of requiring such cases to be finally determined by the Full Council. The latter will make significant additional demands upon the resources of the Council and is unlikely to improve efficiency in decision making. Other concerns relate to undue restrictions on processing agreements and an unnecessary extension proposed to the category of 'bad neighbour' developments. Subject to these concerns and provided that the resource implications of the proposals are recognised and accounted for, the proposals are otherwise generally supported. Full answers to the questions posed are set out in the following appendix.

Pre-Application Consultation

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

It is agreed that developers should carry out pre-application consultation with communities before submitting any applications classified as national developments and major developments, except for any applications for planning permission under section 42 of the 1997 Act which are, effectively, applications to remove a condition. The latter are comparable to applications for approval of matters specified in conditions to which pre-application consultations would not apply. It is also agreed that in respect of local developments all greenbelt development, and development removing open space identified in the development plan should be consulted upon. However, the terms 'open space' and 'identified' require to be defined, since some local plans use different terminology. For example, the Aberdeen Local Plan refers to 'Urban Green Space' and 'Green Space Network' and in Policy 36 *Residential Areas* makes reference to the protection of

'Areas of trees, woodlands, recreational and amenity green space, playing fields and pathways within residential areas' being retained for such uses.

To what extent would these items be covered by the term 'open space' and would they be regarded as having been identified by class as opposed to specific geographic location? It is suggested that 'open space' should cover all the items set out in the policy extract quoted above, irrespective of whether a geographic location is specified on the map or in the text. This would recognise the practical reality that it is not feasible - for reasons of scale - to identify individually in a local plan or Local Development Plan (LDP) the smaller areas of open spaces that typically make up a high proportion of open space provision and contribute significantly to amenity, especially in urban areas.

Separately, there appears to be no logic to the exclusion of indoor and outdoor sports developments involving firearms and motorised vehicles from the consultation process, when those without firearms and motorised vehicles *are to be* subject to pre-application consultation.

The emphasis on development plan departures is appropriate. The term 'proposal' in *Descriptions 5 and 7* of Schedule 1 [relating to the need to undertake pre-application consultation where there is no such 'proposal' for the application site in the development plan] should be interpreted. Does this mean a site positively identified as such in the development plan, or is mere conformity to a local plan zoning sufficient?

The proposed inclusion of certain local developments in requirements for pre-application consultations introduces undue complexity and confusion, by blurring the distinction between 'local' and 'major' developments. To overcome this, 'local' developments taking place in the circumstances listed as requiring pre-application consultation should instead be classified as 'major' developments under the Planning Hierarchy Regulations.

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

The minimum threshold of 2,500 square metres for non-conforming retail and assembly uses is rather high. Even developments of this size could be unnecessarily controversial in the wrong place. It is suggested that the threshold should be reduced to 1,000 square metres. The

minimum threshold of 5 houses (including flats) where they do not conform to the development plan is appropriate, except in conservation areas and the curtilages of listed buildings, where the developer should consult on all non-conforming development because of the potential sensitivity to impact on the character of the surroundings.

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

The pre-application screening notice is intended to allow planning authorities to advise potential applicants whether pre-application consultation is necessary according to the legislation. However, the notice requires only a general description of the development, basic site identification, contact details, the applicant's view on conformity of the proposal to the development plan, and details of any previous screening opinions sought. No requirement is proposed in respect of the matters to which the thresholds for pre-application consultation set out in the Schedule of *Major Developments* in the Hierarchy of Developments Regulations and Schedule 1 to the *Development Management Procedure Regulations* relate. The proposed information requirement is therefore insufficient. The screening notice must contain information relative to these thresholds. The planning authority should not have to request further information that is plainly required and could be readily supplied at the outset.

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

Yes, provided that adequate information is provided at the outset (see answer to Q3 above). It is noted, however, that the legislation is silent about the situation where no response to the screening notice has been given within 21 days.

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

It is currently proposed that this notice would advise the planning authority, community councils and neighbours of the applicant's intended pre-application consultations on the proposed application. This Notice should also give an indication of the approximate floorspace and height of the buildings, relate this to that of existing buildings in the vicinity, and specify the particular uses proposed. This additional information should help people decide whether it is worth their while getting involved. General descriptions without this 'hard' information could be misleading and may mean that people do not appreciate the full impact of the proposal until it is too late.

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?

The requirement for newspaper advertisement of pre-application consultations, including a public meeting, the inclusion of the proposal of application notice in the weekly list of applications and the scope within the regulations for the planning authority to require additional publicity according to the circumstances is sufficient. No direct notification beyond relevant community councils and neighbouring properties is necessary.

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

The statutory minimum requirement of one public meeting and a newspaper advertisement giving basic details of the proposal, contact details for further information and the meeting details is acceptable. It is noted that there is scope for a planning authority to require additional consultation steps in appropriate circumstances. These should include scope for a contingency step requiring further consultation where significant new issues arise between the

commencement of the actual consultation to which the proposal of application notice relates and the submission of the planning application.

There should be a requirement to repeat the pre-application consultation process where no application for planning permission has been submitted within 12 months of the date of the original proposal of application notice. This would allow the original consultation response to be updated in the light of any changed circumstances and the views of those who have established a recent interest (e.g. a new neighbour).

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

It is agreed that the pre-application reports that applicants must submit with their planning application should be a concise report of the representations made, the applicant's response to those representations and any changes proposed in the application as a result. To support this, a copy of all the consultation material (suitably reduced where necessary) should be included as an appendix to the report. The account of steps taken to meet the consultation requirements and list of persons consulted should be extended to include the *names and addresses* of consultees and a note as to the manner and date upon which each was consulted. This would help to resolve claims that the consultation was not, in fact, carried out as stated by the applicant, although it is acknowledged that in large public meetings it may be difficult to ensure that everyone present is recorded.

Predetermination Hearings

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

It is agreed that development that requires an EIA and development significantly contrary to the LDP should be the subject of a pre-determination committee hearing by the planning authority, as proposed. However, there should be no hearing if no representations have been made regarding the application or if no one (other than the applicant) who made representations and was invited to attend has confirmed an intention to do so at least 7 days before the date set. This would avoid calling hearings unnecessarily or, worse, a perceived lack of fair play when only the applicant is present to make his/her case in person.

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

At an early stage in the hearing, planning authority officers should set out orally the basic details of the application, the relevant planning history, the development plan context and other relevant policies to establish the background for the hearing. This would prevent the committee being misled by applicants and/or objectors as to the basic matters of fact, and would allow the applicant or objectors to challenge the officer's understanding of the development plan. As well as the applicant, statutory bodies who have responded to consultations should also be invited to be heard, since some representations may relate to advice tendered by them.

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

The requirement that decisions on applications that are the subject of a committee hearing to be determined by full councils was made by the Scottish Parliament in the 2006 Act. Applications the subject of pre-determination committee hearings can be added to agendas of a regular Council meeting. The minute of the pre-determination hearing and the officers' report on the planning application that takes into account the material considerations raised at the pre-

determination hearing would need to be produced speedily after the hearing to minimise delays associated with the Committee/Full Council cycle. Given the much wider scope of a Council's responsibilities, it may not be possible to synchronise Planning Committee meetings and Full Council meetings without detriment to the disposal of other Council business. The statutory timescales for determining planning applications, the length of the Council cycle, and the stage in that cycle at which a planning application becomes ready for determination, may mean that a Special Council Meeting is required. This may not be perceived as a proportionate measure, may prove disruptive to other Council business, and impact on officer resources. The provisions of the 2006 Act that require Full Council to automatically consider pre-determination hearing applications would substantially increase the workload of Council Members. In 2006 and 2007 there was a combined total of 28 applications before the Planning Committee eligible for development departure hearings. However, the Planning Committee exercised its discretion so that only three such hearings actually took place over that two-year period. That discretion would no longer be available. There is also the problem that only Members of the Planning Committee would have been present at the hearing, so non-Planning Committee Members would be taking a decision without first hand consideration of the representations. It is acknowledged, however, that this already arises when a planning application is referred from the Planning Committee to the full Council. In all the circumstances, the Scottish Government should consider refraining from bringing into force at this time the automatic requirement for Full Council decisions on pre-determination hearing applications.

Processing agreements

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

Processing agreements between the planning authority and the applicant would set out an agreed framework for processing major and national applications. It would allow agreement on additional information to be supplied by the applicant and timescales for determination. Any timescale specified in the agreement would replace the default four-month determination period. There is no obligation on either party to enter into such an agreement. The need for such an agreement may only become apparent to one or other of the parties later as the process develops. It would therefore be unnecessarily restrictive to require that such an agreement be in place before submission of the application. Consultees may take some time to respond to the planning application proposal. That response may well raise issues that require further work, so that processing timescales may not be known at the application is submitted. For all these reasons, there should be no restriction as to the stage at which a processing agreement may be reached.

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

It would be wrong to set any time limits for parties to the application to enter into a processing agreement. (See answer to Q.12 above.)

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

It is agreed that the key objective is to establish a realistic timescale for the processing of a particular application, and that to do this roles and responsibilities, information requirements, the decision making framework, and key milestones all need to be set down. Opportunities for review should also be built in to deal with unforeseen issues, as proposed. The consultation paper does not discuss the consequences of non-compliance with a processing agreement, other

Q.15 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?

No. In many cases the delays arise from the planning authority having to await responses from statutory consultees, or the need to revert to them as a result of their consultation response, or that of another consultee. Issues raised by statutory consultees can be critical to the determination of an application. It is therefore appropriate that statutory consultees are parties to the agreement. As part of processing agreements, applicants should be encouraged to carry out informal pre-application consultations with statutory consultees and produce copies of consultees' written views to the planning authority during pre-application discussions. Given that the Scottish Government anticipates calling in 20 per cent of national applications, the Scottish Government Directorate for the Built Environment should also be a signatory in these cases.

Planning Permission in Principle

Q.16 Do you support the proposed approach to Planning Permission in Principle and approval of matters specified in the conditions?

Yes, but it should go further. Applications for approval of matters specified in conditions should apply equally to non-operational development and the definition of 'planning permission in principle' in regulation 2(1) should be adjusted accordingly. Otherwise, there would be inconsistencies between operational and non-operational development in respect of potentially identical planning conditions (e.g. conditions re:access, landscaping, etc.).

Content of Applications and Validation

Q.17 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 draft regulation 11 changes existing requirements for applications for detailed planning permission only to the extent of requiring the location plan to show the situation of the land in relation to the locality and in particular in relation to neighbouring land. Otherwise the Scottish Government considers that the prescription of detailed plans and drawings might generate far more detailed information than was necessary. Alternatively, by specifying different requirements for different types of application the concern is that matters would become unduly complex and misunderstandings would occur. The Scottish Government considers that legislating for the provision of impact assessments (e.g. traffic, flood, retail) could cause confusion as to what could be required in circumstances not covered by the legislation. It felt that the content of each assessment would also need to be considered in the particular circumstances of the proposal and could not be legislated for without undue complication. The Scottish Government also considered 'stopping the clock' in relation to the statutory period for deciding valid planning applications while requests by planning authorities to applicants for

further information were fulfilled. However, it believed that this would effectively remove the applicant's right of appeal against non-determination, and would overcomplicate matters. More detailed options considered - but not proposed - as set out in paragraph 5.3 of the consultation paper - included:

- a) Requiring plans and drawings to show:
- A 1/1250 or 1/2500 plan identifying all land needed to carry out the development and site plans at 1/200 or 1/500, a North point, and relationships and dimensions to boundaries and existing buildings on the site
 - Buildings, roads and footpaths on adjoining land; the extent and type of hard surfacing and boundary treatment, where proposed
 - All existing and proposed elevations and floor plans on the site and their relationship with each other, all set in the context of existing buildings on adjacent land
 - Existing and proposed site and floor levels related to an off-site datum
 - Detailed roof plans; and
- b) Identifying types of case requiring assessments for flood risk, transport access and retail impact with specification as to what each should contain.

None of the information listed at (a) above is at all unreasonable, and is information that the public might reasonably expect to comment upon and that planning authorities might reasonably need to determine a detailed planning application. The Scottish Government is being overcautious in this respect and should require this information in the Regulations. It is agreed, however, that setting out the need for impact assessments in circumstances specified in legislation could be taken to imply that such assessments are not required in other different circumstances where there could, nonetheless, be significant impacts. Accordingly it is agreed that the information at (b) above should not be explicitly required by regulation, but should be the subject of pre-application discussions between the applicant and the planning authority and, where appropriate, processing agreements. It is also agreed that 'stopping the clock' is not a realistic option for the reasons given by the Scottish Government. The opportunity to enter into a processing agreement at *any* stage of application processing, as advocated in the response to questions 12 and 13 above, would help to overcome any concerns about unnecessary appeals or pre-emptive determinations.

<p>Q.18 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>

The circumstances in which impact assessments of various kinds are required and what they might contain would be better described in Scottish Planning Policies and Planning Advice Notes where the reasoning and practice applicable to different circumstances can be set out more freely. Pre-application consultation with communities and statutory consultees, pre-application discussions with planning authorities and processing agreements all have important roles here. The public should not have to make multiple trips to the planning authority's offices to view information submitted in an *ad hoc* manner following validation of an application.

<p>Q.19 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>
--

Draft regulation 12 beefs up the information for applications for PPP compared with those for OPP. Wherever full detail is not provided, PPP applications must include an outline description of the development, including the approximate locations of buildings, routes, open spaces, the

upper and lower limits for the height, width and length of each building and the general location of access points to the site.

It is agreed that this information is the minimum necessary for communities to be able to make informed comment and for planning authorities to make properly considered decisions on the principle of a proposed development. Further detail may be required in certain cases (e.g. to be sure that a satisfactory access can be achieved). On the other hand, to require as a matter of course at PPP stage a greater level of detail for buildings, layout or access would defeat the purpose of such applications, and may well involve applicants in unnecessary delay and expense.

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 required content of planning applications is set out in regulations 11-14 of the draft Development Management Procedure Regulations. Each Regulation deals respectively with applications for detailed planning permission, planning permission in principle, renewal of planning permission and approval of matters specified in conditions. Each comprises a list that could be converted into a checklist that would be readily usable by administrative staff.

Design and Access Statements

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

The Scottish Government's objective is that people live in well designed sustainable places where people are able to access the amenities and services they need. The 2006 Act recognises the need to encourage equal opportunities and to observe equal opportunity requirements. To this end the draft regulations require all applications for full planning permission and PPP - other than those for engineering or mining operations, householder development and material changes of use - to include a design and access statement. These statements explain the design principles and concepts of the proposal, the policy approach adopted towards access and how this relates to access policies in the development plan; and how access issues for disabled people have been addressed. An alternative option has been put forward for discussion on the basis that the draft requirement would be an undue burden - particularly in the case of minor commercial developments - and that in some cases little value would be added. The alternative is that design and access statements should only be required for national and major developments. Additionally design statements would only be required for sensitive sites such as conservation areas. This is intended to minimise additional burdens, focus resources on developments having a major impact, correspond largely with applications that would already require pre-application consultation, and reflect existing practice.

As design and access issues are relevant to all scales of development, the proposals in the draft regulations are to be preferred. By ensuring that statements are proportionate to the circumstances, excessive burdens on small businesses can be avoided.

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

The consultation raises the possibility that access-only statements might be required for example in minor householder developments or that design-only statements might be required for houses in the countryside.

Statements for every application for minor householder extension would be excessive and would achieve little, given that many householder developments do not require an application for planning permission. It is better for Building Standards to address matters at this scale. Design-only statements to consider the likes of houses in the countryside would only be necessary if the option proposed in the draft regulations is not pursued. Questions of definition would also be raised. It is far better that design and access issues are addressed as matters of course, as stated in the response to question 21.

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

At present the Council's Disability Access Group (DAG) considers applications on a case by case basis and forwards these to the applicant and planning case officer for consideration, enabling the applicant to incorporate their recommendations into the design. The proposed design and access statements would be required to include reference to the extent and outcome of discussions with stakeholders, including disabled people and DAG would be an important consultee in this process. Nevertheless, in accordance with the policy of 'front loading' the planning application process, such access panels should be encouraged to draw up policy documents for use by developers and for adoption by the Council. This would allow applicants to address disabled persons' access issues from the very conceptual stage, help to ensure consistency and avoid unnecessary, repetitive procedure.

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?

There is an important issue here. If an application is to be swiftly validated this would require the process to be carried out by the Application Support Team (AST). However, the requirements of the regulations would need more than purely administrative consideration at the validation stage. This is because before a planning application can be validated the regulations would require checks to ensure that design and/or access statements:

- Address the design principles and concepts that apply to the development in question;
- State how issues relating to access to the development for persons with disabilities have been dealt with;
- Explain the policy approach adopted as to design;
- Explain how any policies relating to design in the development plan have been taken into account;
- Explain how any specific issues which might affect access to the development for persons with disabilities have been addressed;
- Explain how features which ensure access to the development for persons with disabilities would be maintained;
- State what consultation, if any, has been undertaken in relation to the design principles and concepts that have been applied to the development, and in relation to access for persons with disabilities ; and
- State what account has been taken of the outcome of any such consultation.

Whilst the AST would not be required to assess the quality of such statements (that would be carried out by the planning case officer), they would be required to identify:

- Whether what is expressed refers to a design principle or concept and whether these have been related to the development;
- Whether or not access to the development for persons with disabilities have been addressed;

- Whether a policy statement on the approach adopted towards design has been included;
- Policies relating to design in the development plan;
- Whether a statement is included as to how these development plan policies have been taken into account;
- Whether a statement has been included as to the existence of any specific access issues with the development for persons with disabilities;
- Whether the statement explains how these issues have been addressed and how any features that ensure access to the development for persons with disabilities would be maintained;
- Whether the statement sets out the consultation that has been undertaken on design principles and concepts and access issues for persons with disabilities; and what account has been taken of such consultation.

It is noted that the Scottish Government intends to provide advice on assessing statements. Given that design and access statements would be (almost) universally required for non-householder operational developments, it would be unduly disruptive, resource demanding and procedurally difficult for planning case officers to be involved at the planning application validation stage. This proposal would, therefore require that Application Support Team staff are provided with new training to undertake these tasks.

Therefore the answer to the question is that the regulations are as clear as they can be, but that effective and timeous validation of applications where design and/or access statements are required can only be achieved by providing additional training to application support staff.

<p>Q.25. What role can local authority access officers play in assessing the access element of statements?</p>
--

Their role would be vital in:

- drafting disability policy guidance;
- becoming involved in pre-application discussions with the applicant;
- helping planning case officers to decide whether necessary planning requirements related to access have been addressed; and
- managing the interface between Building Standards and planning legislation to ensure that important issues are not duplicated or lost between the two sets of legislation.

<p>Q.26 What information do planning authorities and communities need to ensure a thorough and robust assessment of the design and access statement?</p>
--

A Planning Advice Note setting out in Plain English the objectives and scope of such statements, best practice in their production, and robust assessment criteria.

Neighbour Notification and Publicity for Planning Applications

<p>Q.27 Do you consider the proposals on service of notice to neighbours to be appropriate?</p>

Responsibility for notifying neighbours would transfer to the planning authority, which would be required to do this within 5 working days of receiving a valid application. The period for making representations would be extended from 14 to 21 days. Only one notice to each property would be required (addressed to 'the Owner, Lessee or Occupier') rather than up to three separate notices (one to each) as at present. Notification would apply to applications for planning permission and applications for approval of matters specified in conditions. The consultation distance would extend to properties within 20 metres of the application site. The number of

planning applications requiring neighbour notification and the geographical extent of that notification would therefore increase somewhat beyond the current scope of planning permission and 'reserved matters' applications.

The proposals are acceptable in principle. Each of these proposals should take unnecessary pressure and uncertainty out of the process. However, the requirement to include in the notification a statement of any 'proposals' contained in the local development plan requires clarification. It also has resource implications. Would it apply to existing local plans? Does the term 'proposals' include simply the list of 'proposals and opportunities' contained in the local plan, or does it include every site where the zoning in the plan would involve development?

Q.28 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. If the property is occupied by anyone other than the owner, a private legal agreement for such occupation could include provision for any notices to be forwarded by the occupier to the owner and any lessee.

Q.29 Is the proposed approach to keeping people informed of PPP and approval of matters specified in conditions appropriate?

Where an application is submitted for approval of matters specified in conditions, the planning authority would be required to additionally notify those who commented on the application for PPP to which it relates, even if such persons are not otherwise notifiable. At present, there is no requirement to notify those who commented on an outline planning application when a related application for approval of reserved matters is made, other than those within the notification distance.

This would be an important proposal that would help to ensure that those who have an interest in the proposal are not excluded from a significant part of the subsequent application process. However, the proposed requirement should be extended to include those who may not have made representations on the application for PPP but have already made representations on other applications for approval of matters specified in conditions in respect of the same PPP.

Q. 30 Do you support the proposed definition of neighbouring land?

To allow local authorities to better use IT to identify notifiable neighbours the definition of the 'neighbouring land' (to which neighbour notification would be required) would be simplified to refer to land which immediately adjoins the application site or lies within 20 metres of it. At present the notification distance is 4 metres, but this discounts the width of roads less than 20 metres wide. In addition current legislation has a complicated system for notifying flatted properties, which can mean that not all flats in a multi-storey building are notified.

The proposed definition is generally acceptable. It would include the vast majority of those currently notified. However, it should be clarified that the 20-metre dimension is a multidirectional, not just a horizontal one. Supplementary guidance should draw attention to the fact that common parts (such as stairwells, lifts, and gardens) of multi-storey buildings extend to, or are at, ground level. Therefore notification requirements would apply where these jointly occupied common parts lie within 20 metres of the application site, even though the accommodation itself may be vertically outwith the 20-metre dimension.

Any premises outwith 20 metres of the application site that fall within the same curtilage as land lying within the 20-metre notification distance should be included in the definition of 'neighbouring land'. This would allow neighbour notification to be sent to, for example, a house within the curtilage where only the garden of the house falls within the 20-metre notification distance. This would save extensive and unnecessary newspaper advertisements with associated cost and delay.

Q. 31 Do you consider the proposals concerning the use of site notices and of local advertisements to be appropriate?

The draft regulations propose that newspaper advertisement be required where:

- there are no premises on notifiable land to which a notice can be sent, or owners and / or agricultural tenants are not known;
- it is a 'bad neighbour development' (i.e. a 'Project of Public Concern' in Aberdeen City Council parlance); or
- a development is contrary to the development plan; or
- underground minerals working is proposed.

Where an advert under listed building or conservation area legislation is required, no other advert is required. In any event, no more than one advert in respect of the above categories would be required. Separate advertisement of EIA applications would continue, but the planning authority would now do this, too. Except in the case of development plan departures - the fact of which may not be immediately evident upon receipt of an application - adverts are to be placed within 14 days of receipt of a valid application, with a 21-day period for making representations. Costs of advertising are to be met by the applicant in all cases.

The Scottish Government recognises that site notices can be a useful means of informing communities about applications. However, these would not be required by the regulations to form part of the planning application process (other than for notifying owners and agricultural tenants where they cannot be traced and giving the public notice of underground minerals applications). It would be for planning authorities to decide whether, and in what circumstances, such notices are required. This does not affect legislation on conservation areas and listed buildings, where notices are still required.

These proposals reflect the principles of existing requirements, but the reduction of duplication and associated cost, the standardisation of advertisement response periods to 21 days (some are currently 14 days) and the recoverability from the applicant of costs of advertisement in all cases are supported.

Q.32 Do respondents support the proposed requirements on notifying owners and agricultural tenants and the placing of local advertisements in that regard?

Notice by applicants to owners and agricultural tenants would still be required, to advise them of the making of an application on their land. However, the notice would not invite them to comment on the application, as the application would not be publicly available at that stage. It would instead advise them that the opportunity to comment will be given in due course by the planning authority. This would occur once the application has been validated. Planning authorities would give this opportunity by notifying owners and agricultural tenants at the same time as they carry out neighbour notification, after validation. The planning authority, rather than the applicant, would make any newspaper notice and this would be done after validation, not before as at present. This would be an improvement on current practice. At present, where

applicants are required to notify owners and agricultural tenants, this takes place before the application is submitted, resulting in wasted trips to the planning authority's office.

On the basis of cost recovery from the applicant, these proposals are supported. They would avoid the embarrassment to the planning authority and the waste of time and expense incurred by owners and tenants when they turn up at the planning office, only to find that the application of which they have been advised is not yet available.

List of Applications

Q.33 Are you content with the Scottish Government's proposals for the public availability of the list?

Although weekly lists of applications received are prepared and circulated to statutory consultees, including community councils they are not currently fully published. The 2006 Act will require a much more extensive list in both content and publication. It would be a running list, issued weekly, of all proposal of application notices, undetermined applications for planning permission, reserved matters and approval of matters specified in conditions, those referred to Scottish Ministers and those made directly to Scottish Ministers in respect of 'urgent developments' by the Crown. In addition to the proposal and contact details it would state:

- deadlines for making representations;
- how details can be obtained from the planning authority; and
- the reference number of any outline OPP or PPP to which the application for reserved matters or approval of matters specified in conditions may relate.

The regulations require the planning authority to publish the lists on the Internet and at their offices, and to advertise their availability in a newspaper on a monthly basis. A list containing details of applications received during the previous week is to be placed in each public library and sent to Community Councils. The latter could continue to require consultation on any applications on that list that are within, or affect the amenity of, their area or as otherwise agreed in writing with the planning authority.

The 'running list' proposals should make it much easier for the community to ascertain whether or not there is currently a live application for a particular site and the deadlines for making representations. The separate weekly list of applications validated during the previous week would pick out the new applications for Community Councils. It is suggested that copies of the 'running list' of applications, too, should be placed in public libraries to aid searches by members of the public, who may not be aware of exactly when a particular application they are interested in was validated.

There should be statutory provision for long-dormant applications that cannot be determined for lack of information – yet which have not been withdrawn – to be regarded as 'dead' and deleted from the list. Otherwise members of the public would be confronted with a pre-amble of irrelevant applications before reaching those that are genuinely in play.

Q.34 Is the advertisement of the availability of the list in a local newspaper on a monthly basis appropriate?

As this advert would be a reminder to keep the 'running' list in the public consciousness, rather than publicity for each new list, a monthly basis would be quite appropriate.

Statutory consultees

Q.35 Do respondents have any views on the list of statutory consultees and the criteria for consultation?

No change is currently proposed to the list of statutory consultees, although a later consultation may propose some changes. The Scottish Government no longer proposes to add the Forestry Commission to the list of consultees where more than 0.25 hectares of woodland would be felled. Instead, strategic engagement with the Forestry Commission would be strengthened through the National Planning Framework and Scottish Planning Policy. To ensure that consultees' responses are readily available in the event of an appeal against refusals of planning permission, planning authorities would be required to carry out their statutory consultations before determining an application of planning permission rather than before granting planning permission.

Generally the proposals represent no change to current practice in Aberdeen City Council, which works satisfactorily. However, it is pointed out that one of the consultees stated in the draft regulations - British Railways Board (BRB)- ceased in 1997. Although there is a BRB Residuary body, the functions of BRB are now assumed by the UK Government Department for Transport Rail Group.

Time Periods for Decisions

Q.36 Do respondents consider it appropriate to extend the statutory period for determining an application for national and major development to 4 months?

Yes. It has long been recognised that the two-month period is too short to allow for the full processing of anything other than the most straightforward of major applications. Even then, this has been achieved only by use of delegated powers. Committee cycles, agenda lead times, publicity procedures and consultation processes made it virtually impossible for a major application to be decided by the Planning Committee within two months of submission of an application. The 2006 Act increases the extent of neighbour notification and transfers responsibility to the planning authority so that the neighbour notification process will take place later in the processing sequence than at present. Taking into account also the enhanced scrutiny procedures, the proposed increase in the statutory two-month determination period to four months recognises the reality of the process where applications must be considered by Committee and, possibly, a pre-determination hearing with a final decision by full Council. This change of decision period will not increase actual processing times. It will, however:

- increase efficiency by enabling realistic project planning and reducing failure costs;
- reduce communication traffic:
 - from applicants chasing up applications and/or seeking to extend the determination period ; and
 - from objectors enquiring as to decisions that have yet to be made;
- reduce appeals against non-determination within the statutory period.

Decision Notices, Reports of Handling and Registers

Q.37 Is the level of information to be provided in the decision notice appropriate?

It is intended that decision notices should be issued to both the applicant and to those who have made representations on the application in question. At present reasons have to be given only for a refusals of planning permission or 'reserved matters', EIA applications, approval of applications contrary to the development plan and for the imposition of planning conditions. In

future the decision notice must include reasons for *all* decisions, including approvals. A decision notice would, in future, be required for all applications for approval of matters specified in conditions (whether or not made pursuant to a PPP). Decision notices on all applications for planning permission, approval, consent or agreement would be required to contain:

- the terms of the planning authority's decision;
- any conditions imposed; and
- the authority's reasons for the decision.

It is intended to make the decision notice on applications for planning permission a more helpful document by requiring in addition:

- identification of plans and drawings showing the proposed development;
- any variation made after the application was submitted;
- a statement as to the statutory duration of the permission (now to be 3 years instead of 5 years, as at present) or any direction made by the planning authority to substitute an alternative duration;
- where there is a planning obligation under Section 75 associated with the application, information as to where the terms of the obligation can be inspected;
- details of any direction made by Scottish Ministers to restrict the grant of planning permission or impose conditions.

Decision notices on applications for approval of matters specified in conditions must include the reference number of the PPP to which it relates.

It is agreed that the proposed information should be included, given the extended function of the decision notice to inform those who made representations of the basis for the decision made. It will increase confidence in the process and accord with the Council's commitment to openness and transparency. However, further improvement could be made by identifying conditions that have to be complied with before development commences (i.e. 'suspensive conditions') under a separate heading from other conditions imposed. This would assist objectors, the developer and the planning authority in following up such conditions when notice of initiation of development is given.

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

The requirement to give the decision notice to everyone who made representations would, in some cases, be unduly onerous. Although the occasions are relatively few, some developments have generated many thousands of representations. More regularly, other applications have generated some hundreds of representations.

At present the Council acknowledges all objections in writing and notifies all objectors of the decision, but this is obviously expensive and time-consuming where mass objection has been received. Electronic communication will relieve the burden to some extent. However, there will be a threshold where the cost of notifying objectors individually by hard copy exceeds the cost of a newspaper advertisement. It is suggested that where that threshold is reached, authorities should not be compelled to notify individually those who have not submitted their representations electronically. Instead, they should be permitted to advertise in a local newspaper and on the Internet the gist of the decision made and the availability of the decision notice on the Internet or from the planning authority's offices.

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?

The draft regulations propose that the register of planning applications ('the Planning Register') be extended to include a report of the handling of each application for planning permission (but not matters specified in conditions). Each report is to contain:

- the number of representation made and a summary of the main issues raised;
- details of consultees and a summary of the responses made;
- a statement as to whether there was submitted:
 - an environmental statement;
 - an appropriate assessment under the Natural Habitats regulations
 - a design and access statement;
 - any impact assessments, describing them;
 and a summary of the main issues raised by each;
- the main issues raised at any pre-determination hearing;
- a summary of the terms of any planning obligation under Section 75 of the Planning Act;
- the provisions of the development plan and the other material considerations to which the planning authority had regard in determining the application;
- details of any directions given as to the handling of the application;
- date and place of publication of any statutory newspaper adverts;
- a statement of any additional notification undertaken, and the planning authority's reasons for undertaking this.

It is agreed that these requirements would provide a robust basis for anyone concerned to check how and why a particular decision was arrived at, and that the proper procedures had been followed.

Q. 40 Can existing Committee Reports, where available, be easily adapted to incorporate the proposed statutory requirements in paragraph 4 of Schedule 4.

This information would be available from the officer's report where the Planning Committee considers the application, provided that the Committee is of the opinion expressed in the report. Where the Committee differs from the officer's analysis or recommendation, it will be important that Members express clearly the regard they have had to the development plan and other material considerations so that this can be recorded in the minute and fed into the report of handling. Officers currently produce an abbreviated report where an application is dealt with under delegated powers. Given the proposed local review procedures that are contained in the 2006 Act, these reports would in any case need to be developed somewhat to include all the information required for the report of handling. In the normal run of application processing, therefore, the required report of handling would, in future, be available from the officers' report read, if necessary, in conjunction with the draft minute of the Committee's consideration of the item. [In Aberdeen City, the full minute would not be available until approved by a subsequent Full Council meeting].

Bad Neighbour Development

Q.41 What might be an appropriate alternative name for "bad neighbour development"?

Following representations from applicants, the City of Aberdeen District Council recognised many years ago that the term "bad neighbour development" was prejudicial to the proper consideration of the actual effect of developments proposed in planning applications that fall

within this legislative definition. It adopted instead the term ‘Projects of Public Concern’. The practice has continued with the current Council and no difficulty has since been encountered with this term. It is recommended that the legislative term be amended accordingly.

<p>Q.42 Do you support the proposed additions and deletions to the list of “bad neighbour developments” and do you have any other suggestions?</p>
--

Before answering the question, it is pointed out that Schedule 7 *Bad Neighbour Development* as included in the draft regulations as circulated as Annexe B is the current version, not a version as adjusted by the proposed amendments referred to in paragraphs 12.4 and 12.5 of the Consultation. This discrepancy is likely to mislead consultees.

Having said this, it is agreed that night clubs, public houses, concert halls, skateboard parks, premises for the processing of animal carcasses, waste transfer sites and recycling points can have an impact beyond the neighbouring land that is covered by neighbour notification and that the wider community should therefore have the opportunity to make representations, where relevant. In some cases, however, these descriptions are already covered by more generic descriptions (e.g. ‘licensed premises’ already covers ‘public houses’) and the need for more specific description is queried. It is also agreed that ‘music halls’ and ‘dance halls’ can be considered to fall within the definitions of ‘concert hall’ and ‘nightclub’ respectively and do not need to be itemised in addition. The extent to which places of worship and community halls have an impact beyond the immediate neighbourhood is much more debatable. Whilst there is the possibility of car parking overflowing into a surrounding residential area from such uses and that activities may sometimes take place at quieter times of day or week, this also could also occur with retail developments or hotels, for example. The only concern specific to places of worship might be the possible use of bells or amplification equipment to call people to worship. However, other more specific legislation is available to address these issues. On this basis it is suggested that public community halls and places of worship should be excluded from the definition of ‘bad neighbour development’. If, however, they are to be included the use of this pejorative term should cease. The updated wording for the ‘slaughterhouse or knacker’s yard’ category refers only to the ‘slaughtering of *animals*’ and so appears to inadvertently remove the ‘killing of poultry’ from the definition of bad neighbour development. Residents and others may well consider the killing of poultry offensive in their neighbourhood, so this reference should be retained.

Control of Gross Increase in Floorspace – Mezzanine Floors

<p>Q.43 Are there any other uses, which you consider should also be subject to controls on increases in gross floorspace?</p>

Because planning permission is not required for alterations to buildings that do not alter its external appearance, it is increasingly becoming the practice for superstores and retail warehouses to insert, without the need for planning permission, mezzanine floors to significantly increase their trading area. Such additional floorspace can have dramatic effects on expenditure patterns. This may mean that shops and shopping centres serving a more local catchment, or better located for non-car transport, become relatively less attractive for shoppers, resulting in their decline or demise. This can adversely affect the character of the existing centres, discourage a shift towards more sustainable modes of transport or exclude altogether those without access to private transport. To prevent such consequences, the *draft Town and Country Planning (Increase in Gross Floorspace) (Scotland) Order* proposes that any increase in existing floorspace that would result in an increase of 200 square metres or more beyond the original gross floorspace of a retail unit (other than hot food shops) shall require

planning permission. Where a 200 square metre increase has already taken place, further increases of floor space without planning permission would be limited to 10 square metres.

There are no other uses where increases in floorspace have such a potentially significant impact on local services, the character of traditional centres or modal split. The insertion of mezzanine floorspace within existing retail warehouses, superstores and retail warehouse clubs is a particular issue and it is sufficient that the proposed order addresses this issue alone.

Q.44 Do you support our proposals to have different approaches depending upon whether other increases in internal floorspace have taken place?

Yes. The principle of allowing a greater degree of flexibility to those retailers who have not already taken advantage of the scope for the provision of additional internal floorspace is correct. Otherwise the legislation would allow exacerbation of the problems that have prompted the proposed mezzanine floors restrictions in the first place.

Q.45 Do you consider that 200 square metres is an appropriate level to help achieve the objectives of helping protect town centres?

On balance, yes. Any extension of out of centre floorspace of this size has the potential to impact adversely on town centres, especially when considered cumulatively. On the other hand, it is recognised that any business requires a degree of flexibility to adapt to market fluctuations and developments in best business practice.

Q.46 For the purposes of controlling internal floorspace, do you support the decision to use amounts in square metres rather than a percentage?

Yes. A percentage basis would favour large-scale developments unduly, meaning that the most dominant retailers would become even more dominant, whilst the smaller stores would require planning permission for relatively minor internal floorspace extensions. This would be a disproportionate burden on smaller stores, many of which would be in town centres. If a percentage basis were used it would contradict the Scottish Government's policy of supporting town centres and sustainable patterns of development.

Q.47 Are there any potential impacts on business or voluntary sectors that we should be aware of in finalising the regulations or the order?

There are clearly many impacts on these sectors. 'Front-loading' of application processes, proper time periods for decisions, greater transparency and enhanced public engagement would all be positive. They would enable proper project planning by businesses and enable communities to get involved at a stage where they can have a greater influence on application outcomes. There is always the danger that in some straightforward cases the proposals would extend the procedures unnecessarily.

Q.48 Are there any potential impacts on particular societal groups that we should be aware of in finalising the regulations or the order?

Particular care should be taken not to unnecessarily stigmatise or increase the costs to small non-commercial community groups (e.g. by imposing expensive newspaper advertisement and pre-application consultation requirements under the 'bad neighbour' proposals).

Q.49 Do you have any other comments to make on the draft development management regulations or the mezzanine floors order

The mezzanine floors order should be implemented urgently and separately to minimise the number of 'bolting horses'.