

DEVELOPMENT MANAGEMENT – CONSULTATION PAPER

Introduction

This consultation response refers to the proposed secondary legislation on procedures relating to the processing of planning applications ('development management') which is required to implement the provisions of the Planning etc (Scotland) Act 2006.

Halliday Fraser Munro Planning are a planning and development consultancy, working across Scotland, dealing with a range and scale of development in urban and rural locations.

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

In general yes, however those developments covered in Schedule 1 cover a wide range and particularly for smaller scale developments (e.g. single houses in the greenbelt) may impact on the resources of applicants and result in a significant onus on communities resources. A structure needs to be in place to ensure that this does not occur.

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

The schedule should take into account variations in respect of urban and rural areas. Care should however be taken to ensure that there are not 32 different variations and perhaps a hierarchy between urban, semi-urban and rural may be more appropriate.

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

The description should be more prescriptive to include proposed number of units / floorspace to outline the scale of the proposed development. This would provide additional detail as often descriptions merely refer to e.g. residential development.

Part (f) of the requirements may result in some discussion with planning authorities regarding interpretation of policies at an early stage in the process. This could potentially delay the process.

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

Yes, this should be stringently adhered to.

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

Yes, although this should also include a short paragraph outlining why pre-application consultation is required in order to keep people fully informed of the requirements and background to date.

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?

This requirement is likely to conflict with provisions for the local authority to notify neighbours. It is therefore likely to result in duplication of resources from both the applicant and local authorities in identifying neighbouring parties and notifying them. This will incur a cost to applicants – particularly as proof of postage is

required. This may create confusion from the community with information received from different sources.

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

There is some concern about the ability of planning authorities to request additional consultation to be undertaken, particularly the timescales for this. The proposal of application notice must be submitted at least 12 weeks prior to the submission of an application, however the planning authority could respond within the 21 days. This could be after a significant amount of consultation has already been undertaken resulting in unnecessary delays and costs. It may also require additional meetings to be organised.

Additional requirements should be identified at as early a stage in the process as possible e.g. at the screening stage. This will provide certainty for applicants about the timescales and how best to organise and manage the process.

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

Yes, although assessment of the content of the pre-application reports should reflect the requirements agreed between the planning authority and the applicant. There should not any provision for planning authorities to come back at this late stage to request additional consultation that had not been previously identified.

Provided that the applicant has undertaken what was required as discussed with the planning authority then an application should be validated. All responses requesting further information should therefore be agreed in writing to avoid any disputes regarding this.

Staff who validate applications should be given sufficient training and there should be guidance on the minimum requirements to avoid delays in the process.

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

Yes this will ensure that resources are directed to those applications where pre-determination hearings will be beneficial.

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

No, this should be restricted to those who made representations in the initial instance.

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

The requirement for applications to be referred to full council is likely to cause additional delays to the application process particular given the frequency and cycles of both planning committee and full council meetings.

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

Ideally yes or at a minimum these should be drafted. Too late in the process would render them ineffective.

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?

Same as answer to Q12 above. Any later in the process would render them ineffective.

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

Yes, the processing agreement should not become too complex. The suggested template at Annex A provides a useful basis for this.

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?

Statutory consultees should also be required to input and sign the agreement. This will achieve greater clarity and robustness in their purpose. Without this requirement there will be little confidence in the processing agreements.

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

Planning permission in principle will require additional information up-front to the current requirements for outline permission. This will result in costs for applicants in preparing this information, which may dissuade some proposals from coming forward particularly in regeneration areas.

There will likely also result in additional applications at a later stage for amendments to applications, impacting on resources.

Applications for approval of conditions is also likely to place an additional requirement on resources and the timescales for dealing with these aspects.

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

The approach should be kept widely drawn. Whilst the intentions of promoting a more prescriptive route have positive aspects this should be resisted. It is likely to result in disputes between planning authorities and applicants about the information required, particularly as some planning authorities can be too stringent in relation to minor aspects, resulting in delays to the process.

There are other aspects of the regulations, which encourage additional supporting information to be submitted at the application stage.

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?

The role of processing agreements should be promoted to encourage applicants to consider additional requirements at an early stage in the process.

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?

See response to Q16 above. It is important that planning authorities only request additional information where this is required to determine an application. Too often information is requested, resulting in significant costs to applicants, which could be conditioned. In this case planning authorities should give an early indication of their thoughts on an application as often information is requested when an application was already considered for refusal. At any rate an applicant should be given the opportunity to respond accordingly to requests.

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

Yes. The process at present is often too cumbersome and varies between authorities. This will enable greater certainty for applicants.

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

Option 1 is particularly onerous in terms of time and cost. Whilst there are some benefits here there will be instances where the requirement for these statements will add little value to the process. A more flexible approach such as that outlined in Option 2 would therefore be more appropriate.

Further flexibility could be incorporated into Option 2 to allow the planning authority to request a statement, providing justification, if this was felt to have some benefit.

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

There should be some flexibility to require only one element. In terms of the circumstances it would be difficult to specify these as there would be some instances of development where this would be appropriate and others where they would not. A caveat as outlined above allowing the planning authority to request a statement, providing justification for this may be useful.

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

This is difficult given the variations across Scotland. Further guidance on the role of access panels and details of the consultation process with them should be developed. Any guidance should be clear about the requirements of the planning system and what is considered under building regulations.

Given the local variations it may be appropriate for local authorities to initially prepare local guidance to outline the consultation process. This should however be clear to applicants.

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 are required?

In general yes, so long as those involved in validating applications are sufficiently trained on this aspect. In terms of validation this should be a quick check rather than going into too much detail.

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

No comment.

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

There needs to be clear guidance about what is required in statement and their assessment. The current CABE advice note provides a useful starting point.

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

The transfer of this requirement to local authorities is to be welcomed.

There may be some dispute regarding the receipt of notices if only first and second class post are used. It is understood that the intention is to keep costs low therefore proof of posting may be sufficient to overcome this.

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?

If this is the case then there needs to be some provision for notification where there is separate owners / occupiers and lessees.

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

In general yes, although as outlined above in Q16 this may result in a significant number of applications creating potential confusion and it should be clear about what they are being informed about..

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

Yes, this is a concise definition.

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

Yes, further guidance will provide more information on this – particularly local advertisements.

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

Yes.

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

Yes. Particularly though where the local authority covers a wide geographical area provision should also be made for the lists to be available at local offices.

The list should be published promptly.

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

Yes, there is no requirement to advertise more often than this due to the potential costs.

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

No particular comments.

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

Yes in the case of national developments. There may however be cases in of major developments which could be determined more

quickly, particularly where all required information has been submitted upfront. This timescale could be potentially detrimental to business interests.

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

Yes, although the planning authority should be clear that all amended drawings have updated drawing numbers to avoid any confusion.

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

This could potentially be done by email, with these details collated at the time of the representation. A copy of the decision notice could be attached or preferably a weblink to the application details where this could be found. In instances where there is no access to email a letter could be send out.

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

Yes, there must however be a requirement to summarise any statement provided by the applicant as well as impact reports. Any discussion undertaken during the process should also be reflected in the report.

It is important that guidance is issued to provide detail on how these reports should be written. This will provide some consistency across Scotland and ensure concise reports.

Q40: Can existing Committee reports, where available, be easily adapted to incorporate the proposed statutory authority's decision?

No comment.

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

This current term invokes a negative perception of these types of development. A suggested alternative could refer to: *'projects that raise issues of regional/ local concern'*.

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

In general yes.

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

No, retail is considered appropriate.

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

Yes, although this could be difficult to monitor

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

Yes, this would seem reasonable.

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

Yes, this will be more specific however could prove difficult to monitor in terms of enforcement.

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

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

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

How these regulations relate to the national park authorities and their procedures will be of particular interest. Often the process can be confusing in relation to call-ins by the national park authorities.

In particular the up-front processes such as pre-application consultation, discussions and processing agreements should involve the national park authorities. This could however be difficult if an application has not been considered as to whether it will be called-in. Early involvement will help to ensure clarity and avoid delays for applicants.