



PRE-APPLICATION CONSULTATION GUIDANCE NOTES

The Planning etc (Scotland) Act 2006* sets out a framework for modernising the planning system in order to make it more inclusive and efficient. Information on the Act is available on the Scottish Government website at www.scotland.gov.uk/Topics/Built-Environment/planning/modernising. Regulations now in force are will result in the provisions of the Act being implemented with the final provisions coming into force on the 3 August 2009.

The new legislation allocates development proposals to one of three categories: national, major or local. Under new planning regulations planning applications for all national and major developments which are to be the subject of a planning application on or after the 3 August 2009 must undertake a statutory 12 week public consultation prior to the submission of a planning application. This is to ensure that communities are made aware of, and have an opportunity to comment on, such proposals before an application is made. It should be noted that "Applications for Matters specified in Conditions" are exempt from this requirement as the PAC will have been undertaken prior to the submission of the Application for a "Planning Permission in Principle".

The receipt of a competent Pre-application Consultation Notice by the planning authority triggers the commencement of the 12 week consultation period.

New Hierarchy of Development

The National Planning Framework (NPF) specifies national developments, such as reinforcing the electricity grid between the Scottish mainland and the Western Isles, Orkney and Shetland Islands, whilst the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 specifies major developments.

National Developments

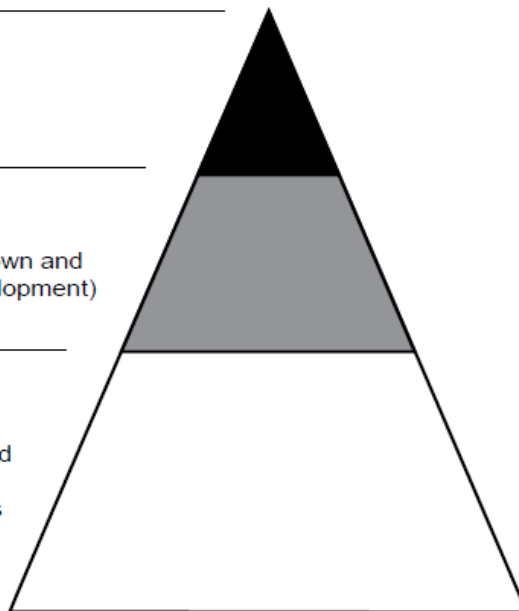
As defined in the NPF

Major Developments

As included in the Schedule of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009

Local Developments

As defined in Reg2(2) of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 as all development which is neither National or Major



A Major development is one that falls within a specified category and triggers one of the thresholds set out in the Schedule to The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 (Scottish Statutory Instrument 2009 No. 51) - a copy of which can be accessed here http://195.99.1.70/legislation/scotland/ssi2009/pdf/ssi_20090051_en.pdf. A brief guide to the categories of development and thresholds which define Major and National developments can be found at Appendix 2 to these guidance notes.

1.0 PRE- APPLICATION SCREENING NOTICE (OPTIONAL)

The submission of a Pre-Application Screening Notice is optional. It is for instances where the applicant is uncertain whether their proposal, by virtue of its nature or scale, falls within one of the categories or thresholds which determines the proposal as either national or major.

Following screening of the information submitted* the planning authority will, within 21 days, issue a statement of opinion as to whether or not the proposal is of a national or major category. The planning authority can request further information where necessary. The issuing of a Statement will be delayed if there is insufficient information on which to base an opinion. The notice should therefore be as comprehensive as possible to enable the planning authority to form an early view on the proposal and the requirement for PAC.

The information submitted must be sufficient to enable the planning authority to determine the nature and scale of the application. The planning authority has 21 days to respond to the notice and advise if the proposal requires Community Pre-application consultation (PAC). A Statement issued by the planning authority that states PAC is not necessary is valid for a period of 12 months.

1.1 Content of a Pre- Application Screening Notice

The Pre-Application Screening Notice must contain:

- A description of the development to be carried out. This should include the site area and the area of any buildings
- If the site has a postal address, that address
- A scale plan showing the outline of the site at which the development is to be carried out
- Contact/correspondence details for the prospective applicant/agent
- A statement as to whether a screening opinion or direction has previously been issued on the need for Environmental Impact Assessment (EIA) in respect of the development
- Details of any previous PACs

2.0 PROPOSAL OF APPLICATION NOTICE

If a development proposal falls within the categories of national or major development and is to the subject of a planning application on or after the 6th August, a 12 week statutory community pre-application consultation is required. Prospective applicants must submit a Proposal of Application Notice at least 12 weeks prior to the submission of the planning application. The receipt of a competent notice by the Planning Authority triggers the commencement of the 12 week statutory period. The notice is placed on the local authority planning register.

The notice must detail the consultation process the applicant will undertake including when, how and with whom. Within 21 days of receipt the planning authority will respond to the notice stating that either the proposed consultation is sufficient or that additional consultation is required.

The Proposal of Application Notice should include:

- A full description of the development to be carried out. The description can be supplemented by any plans and information that aid an understanding of the development
- If the site has a postal address, that address
- A plan showing the outline of the site at which the development is to be carried out
- Contact/correspondence details for the prospective applicant/agent
- An account of what consultation the prospective applicant proposes to undertake

Consultation with communities can begin when the Proposal of Application Notice is submitted, but it should be noted that the planning authority may, within 21 days of receiving the Proposal of Application Notice, notify the prospective applicant of any other persons they consider must also receive a copy of the notice and of any other consultation that must be undertaken, including its

form. Consultations must be carried out in a manner that provides genuine opportunities for members of the public to engage with applicants. For example, the timing and location of events should be considerate of the lifestyles and commitments of all members of the local community.

2.1 What is the statutory minimum requirement for consultation?

The applicant must

- Consult every Community Council whose area is within or adjoins the application site
- Hold at least one public event where members of the public may make comments to the prospective applicant on the development. There are specific requirements regarding the advertisement of this public event

Details of the proposal and consultation must be published in a local newspaper at least 7 days prior to a public the event being held. The public event advertisement must include

- The location and description of development
- Details as to where further information can be obtained
- The date and place of the event
- A statement explaining how and by when persons wishing to make comment to the prospective applicant relating to the proposal may do so
- A statement that comments made to the prospective applicant are not representations to the planning authority

In addition to the statutory minimum, the prospective applicant must carry out any other such additional consultation which is notified to the applicant by the planning authority within 21 days of registration of the PAC Notice following their consideration of the consultation proposals.

2.2 Outcome

The objective is for communities to be better informed about major and national development proposals and to have an opportunity to contribute their views before a formal planning application is submitted to the planning authority. The purposes of PAC are to improve the quality of planning applications, mitigate negative impacts where possible, address misunderstandings, and air and deal with any community issues that can be tackled. The proposals, if adjusted, should benefit from that engagement and assist the efficient consideration of applications once submitted.

On completion of the consultation, the applicant must prepare a Pre-Application Consultation Report for submission with the planning application. The report will detail the consultation undertaken and any changes made to the proposal as a result.

3.0 PRE- APPLICATION CONSULTATION REPORT

The purpose of the PAC report is to confirm that PAC has taken place in line with statutory minimum requirements and/or in line with any further requirements set by the planning authority in their response to the Proposal of Application Notice.

The report should

- Specify who has been consulted
- Set out what steps were taken to comply with the statutory requirements and requirements of the planning authority

It is advisable that the report also includes copies of advertisements of the public events and makes reference to material made available at such events. The report should also set out how the applicant has responded to comments made, including if, and to what extent, the proposals may have changed as a result of PAC. The report must accompany the planning application when submitted and the planning authority is required to include it on part 1 of the planning register along with the application, plans and drawings. The report is to be made in writing and can be submitted electronically.

	Applicant	Planning Authority	Public
Pre-Application Screening	If unsure whether pre-application consultation is required, submit pre-application screening notice to planning authority	Respond to notice within 21 days . (Determination or request for further info)	
Pre-Application Consultation	If PAC required submit Proposal of Application Notice to the planning authority and begin consultation.	Respond to notice within 21 days , stating whether proposed consultation is acceptable, and detailing any further consultation required.* (*Requests must be reasonable and specific)	Respond to applicant with views/opinions on the proposed development.
Planning Application	Submit planning application, including pre-application consultation report. (minimum of 12 weeks from planning authority receipt of Proposal of Application Notice)	Access the application and recommend a decision	Submit formal representation on the application to Planning. (21 day window from application validation date, expiry date of any advert or neighbour notification)

Development Description		Criterion
SCHEDULE 1 DEVELOPMENT	Development of a description mentioned in Schedule I to the EIA (Scotland) Regulations 1999(a).*	All development
HOUSING	Buildings or structures for residential use	Does the development comprise of 50 or more dwellings? Is the site area 2 or more hectares?
BUSINESS & GENERAL INDUSTRY	Buildings or structures for use as Office Space, for Research & Development, for Industrial Process or for Storage or Distribution	Is the gross floorspace 10,000m² or more? Is the site area 2 more hectares?
ELECTRICITY GENERATION	Construction of an electricity generating station.	Is the capacity 20 megawatts or more?
WASTE MANAGEMENT FACILITIES	Construction of facilities for waste management or disposal.	Is the capacity of the facility 25,000 tonnes per annum or more? For sludge treatment facilities is the capacity (wet weight) per day or more?
TRANSPORT & INFRASTRUCTURE	Construction of new/replacement roads, railways, tramways, waterways, aqueducts or pipelines.	Does the length of the road, railway, tramway, waterway, aqueduct or pipeline exceed 8 kilometres?
FISH FARMING	The placing or assembly of equipment for the purpose of fish farming. **	Is the surface area of water covered 2 hectares or more?
MINERALS	Extraction of minerals.	Is the area of the site 2 hectares or more?
OTHER DEVELOPMENT	Any development not falling wholly within any single class of development listed above.	Is the gross floorspace 5,000m² or more? Is the site area 2 or more hectares?

*other than exempt development within meaning of regulations

** within meaning of section 26(6) of the Act

Pre-Application Notices should be sent to:

(For Lewis & Harris)

Development Department, Comhairle nan Eilean Siar, Council Offices, Sandwick Road, Stornoway HS1 2BW

(For Uists & Barra)

Development Department, Comhairle nan Eilean Siar, Council Offices, Balivanich, Benbecula HS7 5LA

Please note that if a national or major application is submitted to the planning authority on or after 3rd August 2009 without the requisite Pre-Application Consultation (PAC) Report, the application cannot be registered as valid or entered on the public register. Please contact the planning service on 01851 709545 (Stornoway) or 01870 602425 (Balivanich) or e-mail planning@cne-siar.gov.uk for further guidance.

PAC Forms can be downloaded at: www.cne-siar.gov.uk/planningservice/development.asp