



## **Guide to Pre-Application Consultation by Applicants with Local Communities in respect of ‘Major’ and ‘National’ Developments**

### *Classes of Development*

Under part 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, and sections 35A & B of the Town and Country Planning (Scotland) Act 1997, as inserted by the Planning Etc (Scotland) Act 2006, there is a requirement for a **pre-application consultation** process to take place prior to ‘**major**’ or ‘**national**’ planning applications being submitted.

The aim of the process is to improve the planning system by strengthening the involvement of communities and to better reflect local views on proposed developments of national and major significance. The classes of ‘major’ development are as defined in The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and are set out in appendix 1 to this guidance note. ‘national’ developments are those projects of national significance identified in the Scottish Government’s National Planning Framework. The new procedures are effective from 6 April 2009 to enable the mandatory pre-application consultation to have been carried out in respect of any major and national applications submitted on or after 3 August 2009.

### *Pre-Application Screening*

A prospective applicant has the option of serving a notice on the Council as Planning Authority requesting a view on whether a pre-application consultation is required. This is referred to as a **pre-application screening notice**. Such a notice must contain:

1. A description of the development to be carried out (in general terms),
2. If the site at which the development is to be carried out has a postal address, that address,
3. A plan showing the outline of the site at which the development is to be carried out which is sufficient to identify that site,
4. Details as to how the prospective applicant may be contacted and corresponded with.
5. A statement as to whether or not the Council has previously adopted a screening opinion, or the Scottish Ministers have previously made a screening direction, in respect of the development to which the notice relates.

The Council must provide the requested screening opinion within a period of **21 days** after the pre-application screening notice has been received (provided the information contained within the notice is adequate). The 21 days allowed for issuing a screening opinion does not include any period between a request for additional information being

made to the prospective applicant and that information being provided to the Council. The screening opinion is effective for a period of **12 months** from its date of issue.

A form is available from the Council to assist a prospective applicant in requesting a screening opinion, but its use is not mandatory.

### Proposal of Application Notice

A **Proposal of Application Notice** which must be made on the form issued by the Council and must accompany an application for a major or national development must contain:

1. A description of the development to be carried out (in general terms);
2. If the site at which the development is to be carried out has a postal address, that address;
3. A plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site;
4. Details as to how the prospective applicant may be contacted and corresponded with;
5. An account of what consultation the applicant intends to undertake, when such consultation is to take place, with whom and what form it will take.

It is important to note that any public event held by the prospective applicant in accordance with the above requirements, is not to be held earlier than **7 days** after the date and place of such an event has been published in the local newspaper.

A period of at least **12 weeks** must elapse between serving the notice on the planning authority and the submission of any such application. This means that for an application submitted on 3 August 2009 to be made valid, the proposal of application notice would have had to have been served on the Council by 11 May 2009.

Further advice on the planning of community engagement activity can be found in the Scottish Government's Planning Advice Note 81: *Community Engagement - Planning With People*.

Prospective applicants should aim to have a meaningful, proportionate engagement with those who can represent affected communities' views. The purpose of pre-application consultation is to improve the quality of 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.

### Pre-Application Consultation Requirements

A prospective applicant is to consult on a proposed application every **community council** any part of whose area is **within or adjoins** the land where the proposed development is situated and in doing so is to give a copy of the proposal of application notice to such community councils. Details of which community council areas a proposed development site lies within or adjoins can be obtained from the Council's website at <http://www.pkc.gov.uk/>

The planning authority may, provided that they do so within the period of **21 days** after receiving the proposal of application notice, notify the prospective

applicant that they require (either or both):

1. that the proposal of application notice be given to persons **additional** to community councils (specifying in the notification who those persons are);
2. that consultation **additional** to any required by the Regulations be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).

In considering whether additional consultation is required consideration will be given by the Council to the nature, extent and location of the proposed development and to the likely effects it would have at and in the vicinity of the proposed site.

The prospective applicant is to:

1. hold at least **one public event** where members of the public may make comments to the prospective applicant as regards the proposed development;
2. **publish in a local newspaper** circulating in the locality in which the proposed development is situated a **notice** containing–
  - (a) a description of, and the location of, the proposed development;
  - (b) details as to where further information may be obtained concerning the proposed development;
  - (c) the date and place of the public event;
  - (d) a statement explaining how, and by what date, persons wishing to make comments to the prospective applicant relating to the proposal may do so;
  - (e) a statement that comments made to the prospective applicant are not representations to the planning authority and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the planning authority.

A public event held by the prospective applicant in accordance with the above requirements, is not to be held earlier than **7 days** after the date and place of such an event has been published in the local newspaper. It is worth noting that the consultation process requires applicants (not the planning authority) to provide the local community with information about their proposal; to answer any queries; and, where possible, to take account of local views, before a scheme is finalised prior to the subsequent submission of the planning application.

Prospective applicants should ensure that processes are put in place that will allow members of the community to participate meaningfully in any public event. The Council will not normally have a direct role in pre application consultation activities beyond their statutory roles in screening, responding to Proposal of Application Notices and considering pre-application consultation reports when validating applications.

The public event should be reasonably accessible to the public at large, including disabled persons. It may be appropriate for the public event to take place over a number of dates, times and places to ensure engagement reaches as wide a section of the community as is reasonably possible. Prospective applicants should ensure that individuals and community groups can submit written comments in response to the newspaper advertisement.

There is a need to emphasise to local communities that the plans presented to them for a proposed planning application may alter in some way before the final proposal is submitted as a planning application to the planning authority. Even after pre-application consultation, communities should ensure that any representations they

wish to make are submitted as part of the process of considering the planning application.

### Pre-Application Consultation Report

Before submitting an application for planning permission for a 'major' or 'national' development for which pre-application consultation is required, the applicant must prepare and submit with that application a **pre-application consultation report** detailing what has been done to comply with the requirements of the Planning Act and associated Regulations. In other words the report should

- specify who has been consulted; and
- set out what steps were taken to comply with the statutory requirements and additional requirements of the Council.

The report must be in writing and may be submitted electronically, although there is no prescribed format for the report and no form needs to be completed.

The pre-application consultation report should also set out how the applicant has responded to the comments made by the general public and consultees and including whether the proposals have changed as a result of pre-application consultation. Equally, prospective applicants may feel unable to make changes in response to public comment. An outline of their reasoning in such instances would be of assistance.

The report should also provide evidence that the various prescribed steps have been undertaken – e.g. copies of advertisements of the public events and reference to material made available to such events. It is also important to demonstrate that steps were taken to explain that the consultation exercise did not replace the application process whereby representations could in due course be made to the Council when an application was submitted.

**An application received by the Council on or after 3 August 2009 will not be made valid without a pre-application consultation report accompanying it.** Furthermore, where an application is submitted prior to 3 August but cannot be made valid until or after that date, the full pre-application consultation requirements will apply. Under such circumstances, where an applicant has not carried out pre-application consultation in accordance with the Regulations, the application will be returned and should only be resubmitted 12 weeks after the proposal of application notice is served and the required community consultation has been carried out.

### Further Enquiries

Any enquiries relating to the above guidance should be addressed to:

<b>Development Management The Environment Service Perth &amp; Kinross Council 35 Kinnoull Street Perth PH1 5GD</b>	<b>Email: <a href="mailto:DevelopmentManagement@pkc.gov.uk">DevelopmentManagement@pkc.gov.uk</a>  Telephone: (01738) 475000</b>
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## Appendix 1 – Classes of ‘Major’ Development

<i>Description of development</i>	<i>Threshold or criterion</i>
<p><b>1. Schedule 1 Development.</b></p> <p>Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999(a) (other than exempt development within the meaning of those Regulations).</p>	All development.
<p><b>2. Housing</b></p> <p>Construction of buildings, structures or erections for use as residential accommodation.</p>	(a) The development comprises <b>50 or more dwellings</b> ; or (b) The area of the site is or exceeds <b>2 hectares</b> .
<p><b>3. Business &amp; General Industry, Storage and Distribution</b></p> <p>Construction of a building, structure or other erection for use for any of the following purposes–</p> <p>(a) as an office;</p> <p>(b) for research and development of products or processes;</p> <p>(c) for any industrial process; or</p> <p>(d) for use for storage or as a distribution centre.</p>	(a) The gross floor space of the building, structure or other erection is or exceeds <b>10,000 square metres</b> ; or
<p><b>4. Electricity Generation</b></p> <p>Construction of an electricity generating station.</p>	(b) The area of the site is or exceeds <b>2 hectares</b> .
<p><b>5. Waste Management Facilities</b></p> <p>Construction of facilities for use for the purpose of waste management or disposal.</p>	The capacity of the generating station is or exceeds <b>20 megawatts</b> .
	The capacity of the facility is or exceeds <b>25,000 tonnes per annum</b> . In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than <b>50 tonnes (wet weight) per day of residual sludge</b> .

<i>Description of development</i>	<i>Threshold or criterion</i>
<p><b>6. Transport and infrastructure projects</b></p> <p>Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.</p>	<p>The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds <b>8 kilometres</b>.</p>
<p><b>7. Fish Farming</b></p> <p>The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.</p>	<p>The surface area of water covered is or exceeds <b>2 hectares</b>.</p>
<p><b>8. Minerals</b></p> <p>Extraction of minerals.</p>	<p>The area of the site is or exceeds <b>2 hectares</b></p>
<p><b>9. Other Development</b></p> <p>Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above but including development comprising a combination of those classes of development.</p>	<p>(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds <b>5,000 square metres</b>; or</p> <p>(b) The area of the site is or exceeds <b>2 hectares</b>.</p>

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting  
The Environment Service's Equalities Assistant  
on  
01738 476558 or TESEqualities@pkc.gov.uk



Council Text Phone Number 01738 442573