



Comhairle nan Eilean Siar

Planning Service

Planning Application Consultation Protocol

Parties:

The Planning Service
Development Department

and

Comhairle Departments
(consulted on Planning
Applications)

Adopted - April 2014



1. Introduction

1.1 The Planning System

The Planning System is about where Development should happen, where it should not and how it interacts with its surroundings. The system involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time. The planning system therefore has a critical balancing role to play when competing interests emerge in the consideration of future development.

Every Planning Authority requires to have a 'Development Plan' and that Plan, which is intended to provide a clear vision of how the area should develop, lies at the heart of the Planning System. By law, planning decisions, require to be made in accordance with the development plan, unless material planning considerations indicate otherwise. The Outer Hebrides Local Development Plan sets out the vision, policies and proposals for future development in the area and is the core document against which planning applications are assessed for determination.

1.2 The scope of Development regulated by the Planning System

Planning Permission is required for most 'development' that takes place with the exception of some minor works and works granted 'deemed' planning permission by an Order or Direction. e.g. Permitted Development.

'Development' is defined in planning legislation as 'the carrying out of building, engineering, mining or other operations, in, on, over or under land, or the making of any material change in the use of buildings or land or the operation of a marine fish farm...'

1.3 Planning Application Consultation

The circumstances in which Planning Authorities must consult on a planning application are set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, Regulations 25, 30 and Schedule 5. In addition there are a range of circumstances where the Comhairle being the statutory Planning Authority requires the specialist input of other Comhairle Departments and Services in order to properly discharge its statutory planning duty to determine Planning Applications, EIA Applications and a range of other development consents.

2. Background

The Scottish Government contracts with Local Authorities to deliver Public Services under a Single Outcome Agreement. As part of its drive to accelerate sustainable economic growth across Scotland, the Scottish Government had increased its focus on the performance of Planning Authorities.

The Comhairle Planning Service has committed to a range of Service Improvements to deliver more certain, proportionate and timeous planning decisions.

The introduction of a Protocol for Internal Planning Consultation is one of the improvement measures set out in the Comhairle's Plan for 2013/14. A national protocol is already in place with external consultees.

3. Aim and Purpose of Protocol

The aim of a Protocol on Planning Application consultation is to improve efficiency on the part of the Planning Service and that of internal consultees to the process through gaining a better understanding of the requirements and challenges of both parties, identification of improvements and efficiencies and thereafter implementation of a range of pre-agreed measures. Increasing efficiency in the process will release time to drive quality in development and to reduce Planning Decision timescales to the benefit of delivering developments on the ground across the Outer Hebrides.

4. Purpose of Planning Consultation

The nature and scale of application types considered by the Comhairle as Planning Authority is varied.

The Planning Service consults specialists within other Departments of the Comhairle in order to inform planning assessments against Development Plan Policy.

The advice informs the Conditions on development proposals which may be unacceptable in the absence of such Conditions.

5. Planning Conditions and Informatives

A Planning Authority can only impose a planning condition which satisfies the legal tests for Conditions namely they must:

1. be for a planning purpose (and not for any ulterior use);
2. fairly and reasonably relate to the Development to be permitted;
3. not be 'unreasonable';
4. be certain in their terms;
5. be necessary.

There are also planning policy tests to be satisfied (which cross over the above) and are that a Condition must be:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise;
6. reasonable in all other respects.

6. Consultation Process and Timescales

Planning Consultations are carried out formally through electronic Planning Consultation requests. The address for responses is identified within the consultation template.

The time period allowed for both statutory and non-statutory consultations is as follows:

- Planning Applications - 2 weeks from date of electronic request;
- EIA Applications - 4 weeks from date of electronic request;
- EIA Screening - 2 weeks from date of electronic request;
- EIA Scoping - 4 weeks from date of electronic request.

Adherence to these timescales is essential to allow the Planning Service to determine straightforward applications at the earliest possible date i.e. as close as possible to 3 weeks from registration and all others within the statutory timescales of 2 and 4 months. The Planning Service will make reasonable endeavours to contact the consultee if a consultation response is outstanding. While, the absence of a response can be interpreted as 'no comment', this can increase the risk of crucial matters being missed and therefore a response seeking an extension to respond or a 'No comment' response is the expectation of the Planning Service.

7. DRAFT PROTOCOL

7.1 The Planning Service will:

- once registered, upload the planning case documents to the on-line planning portal;
- timeously consult the internal consultees electronically via the e-Planning System (utilising e-Consultation mechanisms and best practice guidelines);
- ensure that information necessary to allow the consultee to respond is available and identify a clear reason for the consultation request;
- seek further information required by a consultee timeously;
- place due weight on the advice of consultees so far as relevant to the planning assessment;
- attach conditions to address the reasonable requirements of the consultee, subject always to satisfying the legal and policy tests for planning conditions;
- add advisory notes (Informatives) where an issue raised by a consultee cannot be addressed by a condition;
- circulate by e-mail, following the request of a consultee the weekly planning list;
- accompany the consultee on a visit to the site if they consider that is required to aid their response;
- keep stakeholders to the planning process informed of changes and topical issues through our quarterly stakeholder newsletter.

7.2 The Consultee will:

- provide the Planning Service with an email address to which planning consultations will be sent;
- put in place arrangements that the email will be checked on a basis that will allow timeous responses within the deadline and holiday and sickness cover will be put in place;
- provide a professional written response in terms of their Service's remit within 14 days (excepting EIA or Major Applications – 28 days) unless an e-mail request for an extension of time is made and agreed with the Case Officer; Note: The text of Consultation responses is made available to the public via the Planning Portal and is incorporated within Committee Reports and Reports on Handling of the case;
- provide a 'No Objection' or 'No issues' response where there are no issues;
- if they wish to be consulted on any application identified from the weekly list, request to be consulted within five working days of the list being issued;
- if raising adverse issues in their assessment, endeavour to suggest alternative proposals for consideration by the applicant and Planning Service;
- engage with the Planning Service to reach agreement on particular circumstances where planning consultations are not to be requested from them.



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