

Agents/Developers Briefing November/December 2022

Chief Planner's Letter - 11 October 2022

[Chief Planner Letter: Stakeholder Update - Oct 2022](#)

New Legislation Re. Time Conditions

Commencement of Planning (Scotland) Act 2019 Provisions

From 1 October 2022, all planning authorities must ensure that the duration attached to a full planning permission (FPP) or planning permission in principle (PPP) decision is specified in a condition. This replaces the current practice, whereby they are informatives.

The use of Directions is no longer required for FPP or PPP and we can simply specify the period to be longer or shorter than the 'standard' three or five years.

Decisions for FPP are straightforward and use the wording from the previous informative, with a new reason added. A non-standard version of the condition is available for when more or less than three years is required.

The provisions related to PPP have been totally simplified, with the only stipulation being that permission will expire after five years (unless a different period is specified). Previous references to number of applications and appeals no longer apply. However, it is important for everyone to be aware that clearly a PPP cannot be implemented without a subsequent MSC application(s) and therefore a new informative must be applied to every PPP. For the avoidance of doubt, the PPP does not remain extant once a MSC application(s) is granted; it will still be limited by the expiration date set out in the original PPP condition.

Change to Rep Process - roll out 31 October 2022

Change to how we manage and publish letters of representation to planning applications

To fit with continuous improvement objectives and in the interests of aiding the management and efficient publication of letters of representation received in relation to planning applications, the Planning Service has undertaken a recent review of processes.

Currently nearly all letters of representation appear on the public access register (the planning website displaying all application plans and documents) soon after receipt. This has caused issues in some cases, where letters were made public that subsequently were considered to only contain non-material matters. This has, in some cases, resulted in confusion for applicants, agents, and representees about the status of some letters.

From Monday 31 October 2022, all representations received that are considered to meet initial checks on valid contact details and defamatory comments will be acknowledged, with the representee informed that should their comments raise material planning considerations their letter will then be put on the public file within 5 working days of the expiry of the period for public comment. This period for public comment is based on the neighbour notification or advert period whichever is the later.

This means then that publication of letters of representations on the public access register will be later in the process, but it will ensure that only material and valid representations appear on the public file. This is considered to give greater clarity, transparency and consistency for all involved in the planning application process.

All valid representations will continue to be taken into account in the determination of the planning application, with the route of determination governed by the Council's Scheme of Governance.

Site Notices

Posting of Site Notices under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

In response to the Coronavirus Pandemic, the Scottish Government introduced several temporary legislative provisions to enable aspects of the planning system to continue operating. Amongst these was the suspension of requirements to physically post a Site Notice at an application site in relation to applications for developments affecting Listed Buildings and Conservation Areas. The posting of Site Notices was allowed to be online. The suspension of this requirement has now come to an end and as such, as of Monday 31 October 2022, the Planning Service is now re-introducing the process of issuing Site Notices for relevant developments to Agents/Applicants as appropriate for posting at or as near as possible to the application site.

A covering letter will accompany the Site Notice and we ask for your cooperation in complying with the legislation in this respect.

Please note that a copy of the site notice will still appear online for public information.

Interim Masterplan Review Process

Work has continued to develop the process relating to a refined process for delivery of Masterplans as required by the LDP settlement statement or otherwise considered required.

The process is 3 staged:

Initial contact is made with the Service by submitting a copy of a downloadable form which will shortly be on the Council website and sending this to planning.online@aberdeenshire.gov.uk.

Following this the initial screening stage is undertaken where the Lead Officer screens the Masterplan proposal and we will aim to return a screening pack within 20 working days.

The second stage is where and if a meeting or workshop is required with key consultees this can be facilitated – either virtually or in person. We aim to deliver these within 20 working days of the request. This may run concurrent with stage 1. We are committed to delivering the allocated sites and facilitating, where required, any meetings.

Once, and if, a workshop is held we aim to invite a draft masterplan for discussion or further engagement on and to provide comments on any technical aspects. We aim for a response to be provided within 20 working days. Where necessary, a second round of public consultation and consultee engagement may be required.

The third stage is there a finalised draft masterplan is submitted to the Lead Officer for final comments and inviting a formal submission.

The process, which requires Area Committee approval of any Masterplan, will aim to conclude with correspondence from the Service confirming that the Masterplan has been agreed and will result in the Masterplan being uploaded to our revised website page. The aim is for the website and other aspects to be amended for the adoption of the new LDP.

Roll Out of Major Application (interim) Process

Householder/Local Pre-app Process Review

The Planning Service has been undertaking a review of the pre-application process introduced in October 2020 for Householder and Local Development. As a baseline, the review has focussed on pre-application enquiries lodged between October 2020 and February 2022. In total, this equates to 1093 pre-app enquiries comprising of 192 Householder Development and 901 Local Development proposals.

By way of context, the baseline figures that have been assessed as part of this review have also been supplemented by feedback received from customers, consultees and staff in response to surveys issued in October 2021. The comments received via the surveys have assisted in establishing the scope of the review and highlighting specific elements of the process to focus on.

The review undertaken has covered all aspects and stages of the pre-application process from the initial contact through to the decision stage, with the working group focussing on two key elements:

- Potential for customer improvement.
- Potential for process improvement/simplification.

Having considered the baseline figures, as well as benchmarking against other local authorities, the Planning Service has decided to amend the current target of 20 working days to provide a response to a target of 25 working days. It is hoped that

this will provide greater certainty to customers as well as bringing the Service more in line with most other local authorities in Scotland. Where there is some imperative for quicker responses in individual cases, the Planning Service will endeavour to accommodate this. The revised target in providing a response should give greater clarity for customers leading to an improved service. The [Council's Planning Pre-Application Advice](#) webpage has been updated to reflect these changes. This improved certainty for customers should lead to customer improvement and improve the overall pre-application service.

The review has also highlighted the need for pre-application responses to be more concise and outcome focussed with an emphasis on whether a proposal will be supported 'in principle.' It remains that the Planning Service cannot provide a fully definitive or binding response in the absence of matters such as public consultations, the undertaking of a site visit and consultation responses, however, responses will have a greater focus on an 'in principle' conclusion. The Planning Service will therefore be adopting a slightly revised approach to responses which should deliver customer improvement as well as process simplification.

As part of the continued focus on improving service delivery, it is acknowledged that there are opportunities to promote and encourage improvements in communication both in terms of updates and the use of Extension of Time (EoT) correspondence by case officers. The response rates and communication and engagement with customers post validation will continue to be monitored and discussed internally with staff.

In response to feedback received from customers regarding the elements of the validation process and ease of navigation of the website, amendments have been undertaken with the introduction of separate Permitted Development and Planning Pre-application advice information boxes. Revisions to the guidance notes and online enquiry form have been introduced with a view to reducing any confusion in relation to the type of enquiry form and level of information which customers are required to submit at the initial stages of the Pre-app application enquiry process. Finally, no decision has been taken yet in relation to the introduction of a fee charging structure for pre-application advice although this remains under consideration.

Interim Major Pre-Application Process

The Planning Service is currently preparing a formal pre-application process for Major Development. While this work is undertaken, an interim process has been adopted to ensure that pre-application advice can still be provided during this period. Requests for pre-application advice for Major Development can be made by emailing a pre-application enquiry form to planningonline@aberdeenshire.gov.uk. The enquiry form is available at the [Council's Planning Pre-Application Advice](#) webpage.

For Major Development enquiries, the Planning Service will provide responses to within 30 working days of a request being made valid. The view is that the Service can provide a more tailored and useful service if prior to a meeting the case officer provides a written response incorporating feedback from consultees. The written

response will identify specific matters raised either by the case officer or consultees which are considered to merit further round table discussions.

It is recognised that in many instances there is value in holding a meeting for pre-application enquiries for major development. Where the Planning Service consider that this would add value to its response, this will be arranged, however, this is at the discretion of the Service and not all meeting requests will be accommodated. In most instances it is envisaged that meetings will be arranged virtually through MS Teams.

In terms of benchmarking, it is evident that other Local Authorities operate different timescales and different approaches including timescale and stage when a meeting is held, however the overall timescale that the Service are suggesting is considered to be on par with the average timescales. A related view is that roll out of this interim process will allow the Service time to monitor and review how we are performing and if view that process should be revisited. No decision has been taken yet in relation to the introduction of a fee charging structure for pre-application advice although this remains under consideration.

Please note that this pre-application service for Major Development does not replace the need for any masterplan process as set out in the Local Development Plan.

Paul Macari
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