Briefing 20-78   September 2020

Proposed Changes to Pre-Application Consultation Requirements in Planning - Scottish Government Consultation

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland. For information only: England, Northern Ireland and Wales

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Key Issues:

Scottish Government is consulting on proposed changes to pre-application consultation (PAC) requirements in planning. The results of the consultation will be used to assist finalising the changes to legislation and guidance on pre-application consultation.

The consultation can be completed by visiting:

https://consult.gov.scot/planning-architecture/pre-application-consultation-requirements/

The consultation paper is available here:

https://www.gov.scot/publications/proposed-changes-pre-application-consultation-requirements-planning-consultation/

1.0   Introduction

Pre-application consultation (PAC) is a statutory requirement in relation to applications for planning permission for national and major developments. The requirement for PAC to be undertaken is contained in the following pieces of legislation:

- [The Town and County Planning (Scotland) Act 1997 (sections 35A, 35B and 35C)](#)
- [The Town and County Planning (Development Management Procedure) (Scotland) Regulations 2013](#)

The basic requirements of pre-application consultation are that:

- The prospective applicant must serve a proposal of application notice on the planning authority describing the proposal/location and indicating what consultation they intend carrying out
- Consult the community councils where the proposal site is located or is adjoined to
- Hold a public event
- Publish a notice in a local newspaper on where information about the proposal can be obtained, how residents can make their views know and details of the aforementioned public event
- Any measures that are required by the planning authority must be carried out

Scottish Government is consulting on proposed changes to pre-application consultation (PAC) requirements in planning. This has been suggested because:

- A [2016 independent panel report](#) suggested that PAC can "be a tick box exercise and that there was a lack of feedback to communities on their views in the pre-application phase"
- The requirement for PAC to be repeated when an application is made for the same basic development where a PAC has already been conducted previously; an exemption under certain circumstances has been suggested as a potential solution for this, which would also reduce the time/resource cost for some applicants
- There are concerns about the lack of local community feedback received as part of the pre-application consultation process
- They believe that further clarity could solve 'consultation fatigue' issues of having to consult at various stages

Proposed changes include that proposal information should be available in both hard copy format and available online, that a minimum of two public events should be held rather than just one, additional requirements for the content of pre-application consultation reports (to improve their consistency and transparency - such as a list of bodies, groups and organisations who were consulted by the applicant) and an exemption from PAC for applications in certain circumstances (the current requirement is that the party who makes the original PAC application must be the same as the party who makes any related PAC applications).

2.0   Consultation Questions

The consultation questions are outlined below:

1. Do you agree with the proposal to require the PAC information, which is to be made available to the public, to be available both by electronic means and in 'hard copy' format?

2. Please give us details of your experience using online alternatives to public events during the COVID-19 emergency.

3. Do you agree with the proposal to make a second physical public event a minimum requirement of PAC?

4. Do you agree that a second physical public event required as part of PAC must include feedback to the public on their earlier engagement in PAC?

5. Do you agree with the proposed minimum time period between the required public events in PAC?

6. Do you agree with the proposed requirement for an additional newspaper notice for the second required public event?

7. Do you agree with the proposed list of required content for PAC reports?

8. Do you agree with the PAC exemption being limited to the same applicant who made the earlier application?

9. Do you agree with the circumstances regarding an 'earlier application' (withdrawn, refused etc.) in which a second application would be able to get exemption from PAC?

10. Do you agree with the approach to linking the description of the proposal in the earlier application and that in the second application for the purposes of a PAC exemption?

11. Do you agree that the exemption from PAC should be linked to the content of the PAN served in relation to PAC for the earlier application?

12. Do you agree with the proposed time limit on exemptions from PAC?

13. Do you agree with the proposed transitional arrangements for bringing into force the new PAC requirements, including the time limit for making applications to which PAC requirements apply?

14. Please give us your views on the proposed approach to pre-application engagement with disabled people.

15. Please tell us what issues you think should be covered in guidance for PAC.

16. Please give us any views you have on the content of these partial BRIA (Business and Regulatory Impact Assessment) and combined EQIA/CRWIA (Combined Equalities and Child's Rights and Welfare Impact Assessment).

17. Do you have or can you direct us to any information that would assist in finalising the BRIA and combined EQIA/ CRWIA?

18. Please give us your views on the Island Communities Impact Assessment screening paper and our conclusion that a full assessment is not required.

19. If you consider that a full Island Communities Impact Assessment is required, please suggest any information sources that could help inform that assessment.

20. Please give us any general comments on the PAC proposals or related issues not covered by earlier questions.

3.0   APSE Comment

APSE encourages our members to respond to the above consultation on pre-application consultation to ensure that local authorities' opinions are taken into consideration in the process of finalising the guidance and legislation on this issue. The changes considered will have a lasting effect on Scotland's planning system, and many of the suggested changes should bring benefits to both residents and applicants. The deadline for responding is October 9 2020, so please make sure to submit your responses by then.

APSE has continued to host online Building and Housing advisory groups throughout the global COVID-19 pandemic to allow officers, managers and councillors to stay up-to-date on important issues and developments in the field, and to share knowledge and best practice. For more information on upcoming meeting dates, please [visit our website](#) or contact the APSE Scotland office at [glee@apse.org.uk](#).

Reminder: APSE has set up a COVID-19 Information Hub to deal with frontline service issues as they arise, ensuring greater resilience and learning between each other during this difficult time. You can access this hub by [clicking here](#) **and you can also join our WhatsApp Support Network by** [clicking here](#).

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