
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 155

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

PART 2

Pre-application consultation

Pre-application consultation – classes of development

4. The classes of development prescribed for the purposes of section 35A(1) of the Act (pre-application consultation: preliminary) are development belonging to the categories of national developments and major developments.

[^{F1}Pre-application consultation – exemptions

4A.—(1) The circumstances specified for the purposes of section 35A(1A)(b) of the Act (pre-application consultation: preliminary) in which section 35A(1) of the Act does not apply to an application for planning permission are set out in paragraph (2).

(2) The circumstances are where all of paragraphs (a) to (d) apply—

- (a) the application for planning permission relates to proposed development—
 - (i) of the same character or description as development (or part of the development) in respect of which an earlier application for planning permission was made (“the earlier application”),
 - (ii) comprised within the description of the development contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
 - (iii) to be situated on or within the same site as the development to which the earlier application related and on no other land except land which is solely for the purpose of providing a different means of access to the site of the proposed development,
- (b) there has been compliance with the requirements of section 35B in respect of the earlier application,
- (c) the planning authority have not exercised their power under section 39 to decline to determine the earlier application, and
- (d) the application for planning permission is made no later than 18 months after the validation date of the earlier application.

(3) Where the applicant believes that section 35A(1) of the Act does not apply to an application for planning permission by virtue of section 35A(1A)(b) a statement to that effect must accompany the application for planning permission and that statement must identify the earlier application.]

F1 Reg. 4A inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 3

Content of pre-application screening notice

5.—(1) A notice under section 35A(3) of the Act in addition to the information mentioned in paragraphs (a) to (d) of section 35B(4) of the Act (pre-application consultation: compliance), must also contain a statement as to whether or not the planning authority have adopted a screening opinion or the Scottish Ministers have made a screening direction in respect of the development to which the notice relates.

[^{F2}(1A) If the notice under section 35A(3) of the Act relates to a prospective application for planning permission for development of the same character or description as development in respect of which an earlier application for planning permission was made, or part of that development, the notice must contain—

- (a) sufficient information to enable the earlier application to be identified by the planning authority,
- (b) the information contained in the proposal of application notice given to the planning authority under section 35B(2) of the Act in respect of the earlier application, and
- (c) a statement (for the purposes of assessment of the need to comply with section 35B), confirming the date, or latest date, on which the prospective applicant intends to make that application for planning permission.]

(2) In this regulation “screening opinion” and “screening direction” have the same meaning as in the *Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations* [^{F3}2017].

F2 Reg. 5(1A) inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 4

F3 Word in reg. 5(2) substituted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/102\)](#), regs. 1, **57(3)** (with regs. 2(10), 38, 39, 40, 60(7))

Content of proposal of application notice

6. A proposal of application notice must, in addition to those matters required by section 35B(4) of the Act, also contain an account of what consultation the applicant intends to undertake, [^{F4}including information as to] when such consultation is to take place, with whom and what form it will take.

F4 Words in reg. 6 inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 5

Pre-application consultation

7.—(1) The prospective applicant is to consult as respects 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 the community council.

(2) [^{F5}Subject to regulation 7A,] the prospective applicant is to—

- (a) hold at least [^{F6}two public events] where members of the public may make comments to the prospective applicant as regards the proposed development; and
- [^{F7}(b) publish in a local newspaper circulating in the locality in which the proposed development is situated—
- (i) a notice in respect of the first public event containing the information specified in paragraph (2A), and
 - (ii) a further notice in respect of the final public event containing the information specified in sub-paragraphs (a) to (c) and (e) of paragraph (2A).]

[^{F8}(2A) The information is—

 - (a) a description of, and the location of, the proposed development,
 - (b) details as to how (including by what electronic means) 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 when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
 - (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.]

(3) A public event held by the prospective applicant in accordance with paragraph (2)(a) is not to be held earlier than 7 days after notification of the date and place of [^{F9}the public event is given under paragraph (2)(b)(i) or (ii), as the case may be, and the final public event must be held at least 14 days after the first public event].

[^{F10}(4) The prospective applicant must at the final public event provide feedback to members of the public in respect of comments received by the prospective applicant as regards the proposed development.]

F5 Words in reg. 7(2) inserted (24.4.2020) by The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (S.S.I. 2020/124), regs. 1, **2(2)**

F6 Words in reg. 7(2)(a) substituted (1.10.2021) by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/99), regs. 1(1), **6(a)** (with reg. 10(a))

F7 Reg. 7(2)(b) substituted (1.10.2021) by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/99), regs. 1(1), **6(b)** (with reg. 10(a))

F8 Reg. 7(2A) inserted (1.10.2021) by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/99), regs. 1(1), **6(c)** (with reg. 10(a))

F9 Words in reg. 7(3) substituted (1.10.2021) by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/99), regs. 1(1), **6(d)** (with reg. 10(a))

F10 Reg. 7(4) inserted (1.10.2021) by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021 (S.S.I. 2021/99), regs. 1(1), **6(e)** (with reg. 10(a))

[^{F11}Temporary relaxation of pre-application consultation requirements during Coronavirus emergency period

7A.—(1) This regulation applies in relation to an application for planning permission submitted—

- (a) either—
 - (i) during the emergency period, or
 - (ii) within the period of 6 months immediately following the expiry of the emergency period, and
 - (b) in respect of which a proposal of application notice is given to the planning authority before, or during, the emergency period.
- (2) Where this regulation applies in relation to an application for planning permission, regulation 7 applies in relation to that application—
- (a) as if paragraphs (2)(a) and (b)(iii) and (3) were omitted, ^{F12}...
 - ^{F12}(b)
- (3) For the purposes of this regulation, the “emergency period” is the period beginning on 24 April 2020 and ending [^{F13}at the end of [^{F14}30 September 2022]].]

F11	Reg. 7A inserted (24.4.2020) by The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (S.S.I. 2020/124) , regs. 1, 2(3)
F12	Reg. 7A(2)(b) and word omitted (29.9.2021) by virtue of The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (S.S.I. 2021/292) , regs. 1(1), 7(3)(a)
F13	Words in reg. 7A(3) substituted (29.9.2021) by The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (S.S.I. 2021/292) , regs. 1(1), 7(3)(b)
F14	Words in reg. 7A(3) substituted (30.3.2022) by The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2022 (S.S.I. 2022/66) , regs. 1(1), 7(2)

[^{F15}Form and content of pre-application consultation report

- 7B.** A pre-application consultation report must contain—
- (a) the dates on which, and places where, public events were held as required in accordance with regulation 7(2),
 - (b) a description of—
 - (i) any additional consultation or notification required by the planning authority in relation to the proposed application under section 35B(7) of the Act,
 - (ii) any additional steps taken by the prospective applicant to consult with members of the public as regards the proposed development,
 - (c) a list of bodies, groups and organisations who were consulted by the prospective applicant,
 - (d) evidence as to how the prospective applicant carried out the activities described under subparagraphs (a), (b) and (c),
 - (e) copies of—
 - (i) any materials sent to consultees,
 - (ii) any materials provided to those attending a public event, and
 - (iii) any visual presentation shown or displayed at a public event,
 - (f) photographs of any display boards or models at public events,
 - (g) confirmation as to whether consultees and attendees at public events were informed that pre-application consultation does not remove the right or the potential need to comment on the final application once it is made to the planning authority,

- (i) a summary of—
 - (i) the written responses to consultations, and
 - (ii) views raised at public events,
including an indication of the number of written responses received and the number of persons who attended the public events,
- (j) an explanation of how the prospective applicant took account of views raised during the pre-application consultation process, and
- (k) an explanation of how members of the public were given feedback on the prospective applicant's consideration of the views raised during the pre-application consultation process.]

F15 Reg. 7B inserted (1.10.2021) by [The Town and Country Planning \(Pre-Application Consultation\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/99\)](#), regs. 1(1), 7 (with reg. 10(b))

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, PART 2.