

Introduction

New regulations mean that developers must carry out a community consultation exercise for certain types of development **before** a formal planning application is made. This pre-application consultation (PAC) is a statutory requirement* for planning applications submitted to the Council from 3rd August 2009.

Objectives

The aim of the new procedure is to make sure that communities are made aware of (and have an opportunity to comment on) major development proposals at the pre-application stage. This allows community views to be reflected early in the process and gives the developer the opportunity to incorporate them into the proposals before making a formal application. There is, however, no statutory obligation on the developer to take on board any views expressed at this stage.

Type of developments

These regulations only apply to applications for developments that are **'national'** or **'major'**. National developments are defined in the National Planning Framework 2. Within Highland only applications for grid reinforcements to support renewable energy developments are defined as 'national'.

'Major' developments cover a range of different development types – e.g. housing, business, minerals - which are over a specific size or threshold. These definitions are given overleaf.

The procedure

All applications for 'national' or 'major' developments must be accompanied by a valid pre-application consultation (PAC) report to demonstrate that the consultation has been carried out and legislation complied with. This applies to applications for both full planning permission and planning permission in principle. Figure 1: *Pre-application Consultation Flowchart* sets out the procedure which must be followed by the developer.

Pre-application Screening

While it will generally be clear from the definitions whether proposals are major or not, a screening process is available for developers who are unsure whether or not a PAC will be required.

A Screening Notice form is available from the Highland Council Planning & Development Service. This should be completed and submitted to the Planning Authority along with a site location plan. We will respond within 21 days with a decision on whether or not PAC is required. If the view is taken that no PAC is required this response is valid for a period of 12 months.

PAC Statutory Requirements

The following are the statutory minimum requirements that must be carried out by the developer as part of the PAC. If the Council decides that additional consultation is required, they must notify the developer within 21 days of receipt of the Proposal of Application Notice, giving full details of the additional requirements. These must be both reasonable and proportionate.

1. Submit Proposal of Application Notice

A Proposal of Application Notice form is available from the Planning & Development Service (online?). This should be completed and submitted to the Planning Authority, along with a site location plan, **at least 12 weeks** before the submission of a planning application. The notice will be included in the Council's weekly list of applications.

2. Community Council consultation

The developer must identify every Community Council whose area is within or adjoins the development site. Developers must formally consult each of these Community Councils and provide copies of the Proposal of Application Notice to them.

*Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

3. Advertisement in the local press

The developer must place an advert in a newspaper circulating in the local area. This must include:

- A description of, and location of, the proposed development; and details as to where further information can be obtained.
- The date and place of the public event.
- Information on how, and by when, people can make comments.
- A statement stressing that any comments made are not representations to the Council.

An advert template is available from the Highland Council's Planning & Development Service (online?). The advert must be displayed at least **7 days** before the public event is to be held.

4. Public Event

At least one public event must be held to allow members of the public to make comments to the developer on the proposals. In order to gain as much as possible from these events, the developer should ensure that they are run in such a way that members of the community can contribute meaningfully to the proceedings. To maximise attendance the event should be held in an accessible location and, if appropriate, it should take place over a number of days, times or places. The Council is **not** usually involved in this process.

It should be emphasised to the community that the plans presented to them at this stage may be subject to change before the formal planning application stage. It must also be made clear that any comments made at this point are between the community and the developer and are **not** being made to the Planning Authority, and do not replace the need for formal representations to be made in respect of any planning application that may be submitted in the future.

5. Pre-application Consultation Report

Following completion of the consultation process, the developer must prepare a PAC report which demonstrates that the statutory requirements have been carried out. The PAC report should be in writing and should:

- Specify who has been consulted.
- Set out what steps were taken to comply with the statutory requirements, including evidence where possible (e.g. copies of advert, programme for meeting etc); and any additional requirements specified by the Council.

- Set out how the applicant has responded to comments made, including whether the proposals have changed as a result of the PAC or not, and by what extent.
- Confirm that steps were taken to explain to the community that the PAC does not replace the requirement for representations to be made at the planning application stage.

This report must be submitted along with the planning application. A minimum period of 12 weeks must have expired since the submission of the Proposal of Application Notice. The PAC report is a formal requirement, without which the application will be invalid.

Highland Council Major Development Team

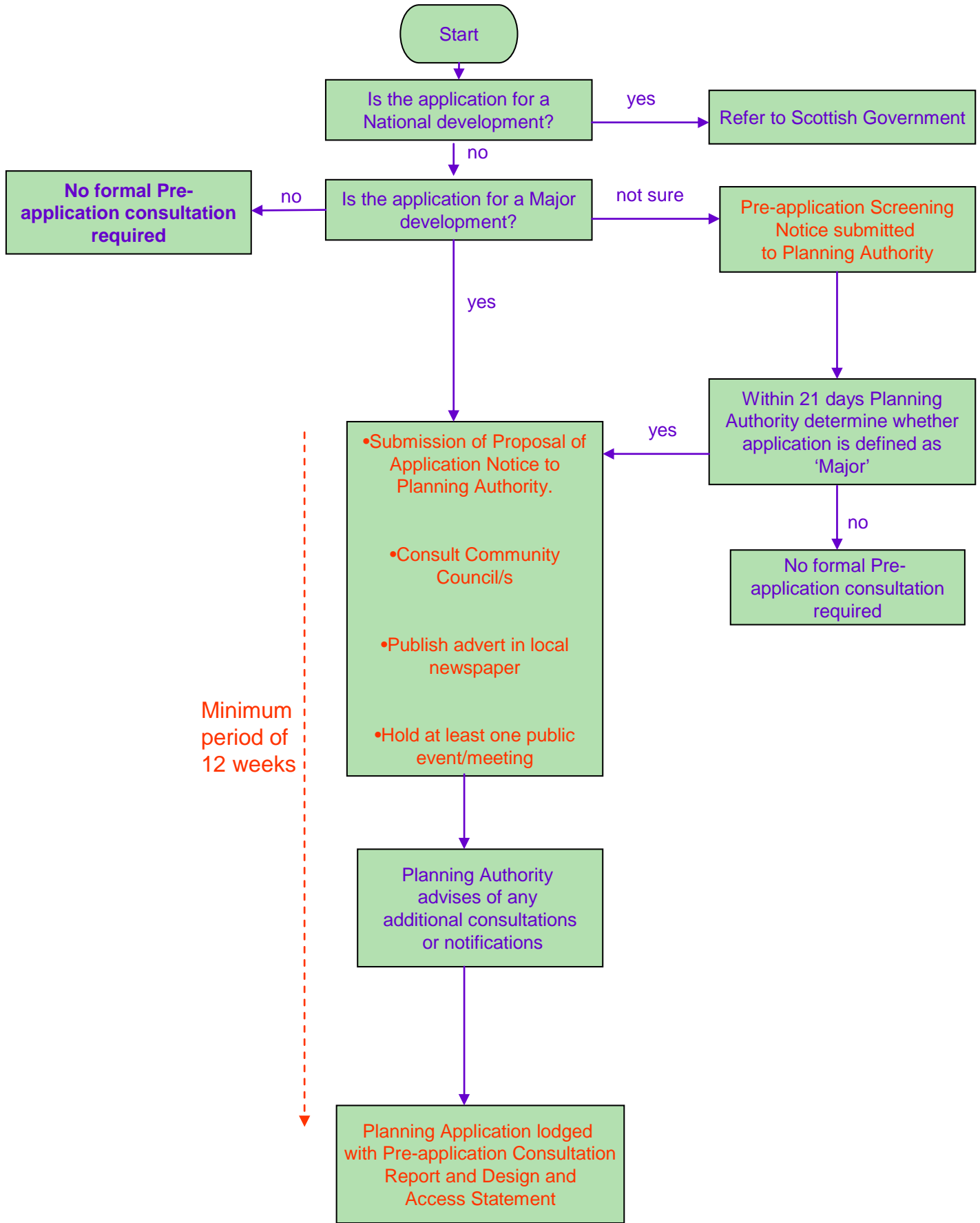
Recognising the benefits to developers and the Council alike in an early and coordinated approach to pre-application advice, the Highland Council have introduced a new method of dealing with the pre-application phase of major developments.

This gives the developers of **major** applications (see definition) an opportunity to put their proposal before a '**major developments team**', consisting of officials from across the Council's services and other agencies. This team holds regular meetings and will discuss each proposal within 4 weeks of a request being submitted. Within 6 weeks of the meeting the council will supply the developer with a pre-application pack outlining the key outcomes of the discussion, and an overview of any relevant issues e.g. policy, constraints, design, transport, financial contributions, further information requirements etc.

Unlike the regulations described in the rest of this advice note, this service is **not** compulsory, but we would actively encourage all developers to engage in pre-application discussions with the Council and hope that the benefits of this coordinated approach will be clear.

For more information a publication called '*Delivering Major Developments – a Pre-application Guide*' is available from the Council's website.

Figure 1: Pre-application Consultation flowchart



MAJOR DEVELOPMENTS (DEFINITION)

<i>Type of Development</i>	<i>Threshold/criterion</i>
SCHEDULE 1 DEVELOPMENT	
Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999(3) (other than exempt development within the meaning of those Regulations).	All Development
HOUSING	
Construction of buildings, structures or erections for use as residential accommodation	(a) The development comprises 50 or more dwellings, or (b) The area of the site is or exceeds 2 hectares
BUSINESS & GENERAL INDUSTRY, STORAGE & DISTRIBUTION	
Construction of a building, structure or other erection for use for any of the following purposes: (a) as an office (b) for research and development of products or processes (c) for any industrial process (d) for use for storage or as a distribution centre	(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres, or (b) The area of the site is or exceeds 2 hectares
ELECTRICITY GENERATION	
Construction of an electricity generating station	The capacity of the generating station is or exceeds 20 megawatts
WASTE MANAGEMENT FACILITIES	
Construction of facilities for use for the purpose of waste management or disposal	The capacity of the facility is or exceeds 25,000 tonnes per annum. In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge
TRANSPORT AND INFRASTRUCTURE PROJECTS	
Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines	The length of the road, railway, tramway, waterway, aqueduct or pipeline exceeds 8 kilometres
FISH FARMING	
The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act	The surface area of water covered is or exceeds 2 hectares
MINERALS	
Extraction of minerals	The area of the site is or exceeds 2 hectares
OTHER DEVELOPMENTS	
Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above	(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres, or (b) The area of the site is or exceeds 2 hectares

Further information

For more information please contact:

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