

Scottish Government

Amendments to the Modernised Planning System Consultation – January 2011

Response of Cairngorms National Park Authority (CNPA)

The CNPA does not register or validate planning applications. These are done by the 5 relevant local authorities who make up the Park. The CNPA calls-in planning applications that are significant to the aims of the Park and is currently averaging about 12% per year of all the applications in the Park. Therefore the CNPA does not make requirements on the PAC or organise the neighbouring notification process at that stage.

Statutory Pre-Application Consultation Requirements and Applications to Change Planning Conditions (Section 42).

Q 1 – Do you think that the Scottish Government should amend the requirements on Pre-Application Consultation (PAC) in the 1997 Act?

Yes.

Q 2 – Which of the Options identified would you prefer Option 1, 2(a), 2(b) or 3 and why?

2(b). The CNPA suggest a minimum period of 21 days. This would allow a period of engagement where the Section 42 application may have implications for the wider community.

There may also be some scope to introduce Option 2(a) where 12 weeks is clearly too long for PAC.

Q3 – Which of the Options identified would be your least favoured, Option 1, 2(a), 2(b) or 3 and why?

Option 3. It would be very difficult to get agreement as to which applications would not need PAC and would cause potential problems with writing and implementing legislation.

Q4 - Is there an alternative approach you would prefer to the Options identified and, if so what would it consist of and why would it be preferred?

No. The Cairngorms National Park does not validate the applications or does not deal with the PAC requirements and is only a consultee with regard to PAC.

Q5 – If the statutory minimum 12 weeks period for PAC to be reduced, what should the minimum be for:

- **New proposals which will be for applications for planning permission?**
- **Section 42 Applications to change conditions?**
- **Other types of application you can describe?**

New and other types of applications should have permission to apply once they have complied with statutory and planning authority requirements for PAC. Section 42 applications have a minimum of 21 days for PAC.

The period of PAC is often preceded by pre pre-application consultation as developers want to know from planning authorities whether there is a likelihood of a successful recommendation for their development before they embark on a PAC which can have considerable cost implications for them. The length of time for the whole process from the conception of an idea for development to construction can take even longer than before. This may be considered worthwhile if it leads to a better development with more community buy-in, but the issue should be acknowledged.

Q6 – Should the time period for planning authorities to respond to proposal of application notices with any additional consultation requirements be reduced from 21 days as part of any reduction in the 12 week period?

No.

The Neighbour Notification and Advertising of Planning Applications.

The CNPA does validate planning applications and therefore does not get involved in the neighbour notification and advertising requirements. This is done by the 5 local authorities but the CNPA would be involved in call-in applications if renotification was required.

Q7 – Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is a road?

Yes.

Q8 – Should there be a requirement to advertise applications where neighbouring land includes a private road?

Yes.

Q9 – Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is local authority land with no premises on it?

Yes.

Q10 – Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is owned by the applicant but has no premises on it?

Yes.

Q11 – Do you agree that the requirement to advertise development plan departures should be removed?

Yes.

Q12 – Do you think a requirement to advertise all major developments should be introduced?

Yes if the requirement not to advertise departures from the development plan are adopted.

Q13 – In principle, do you support a nationally set standard charge for advertising (bearing in mind statutory planning powers do not allow such charges to be set at the discretion of the planning authority)?

No. There is potential for some planning authorities to be out of pocket.

Q14 – Would you support an adjustment to planning fees generally to cover advertising costs (rather than a charge on an application by application basis)?

Yes. This has the advantage that the planning authority does not have to separately chase the payment for advertising costs from the applicant. If this proposal is adopted, the CNPA will have to come to a new arrangement with the 5 local authorities within its boundary for sharing the fee.

Q15 – Of the two, which approach would you prefer?

The preference would be for adjustment of planning fees.

Other Changes to the Development Management Regulations.

Development near a Railway Line

Q16 – In terms of ease of identification would planning authorities prefer the distance criterion to relate to the railway line or the boundary of land which has a railway line on it?

To relate to the railway line.

Q17 – Are there any other issues for planning authorities in determining or implementing this requirement?

Safety issues with regard to the proximity of the development and whether there is an issue with derailment of trains and the distances required for a safety zone. We would expect the rail regulator to advise on these matters.

Q18 – How many applications do local authorities think might be covered by this requirement?

The CNPA, as the relevant planning authority, would perhaps deal with one application a year.

Development Affecting Croft Land and Crofting Communities

Q19 - What refinements to the consultation criterion would you suggest in order to meet the policy aim?

The CNPA welcomes further consultation criteria over house development on good quality in byelands and the considerable reduction in the size of the croft for both agricultural productivity and viability of the croft. The Crofters Commission has, since 2008, gradually reduced their involvement in terms of consultation response to the CNPA over applications for new croft houses. Currently, the Crofters Commission has stopped commenting on the need or viability of a new croft house on croftland which makes it difficult to assess applications on the basis of crofting/agricultural need reasons. This outcome does not promote the long term aim to sustain crofting communities as it is difficult to ensure that small crofts are being used for crofting.

It is essential that the Crofters Commission responds to consultations on any applications for new houses on in byelands and common grazing lands. It is also essential that the Crofters

Commission reinstate the 'local potential crofters' list which was dropped in 2009. This provided local information as part of the consultation to assist the planning officer in forming a recommendation to the CNPA Planning Committee about the need for crofts for local young persons who wished to become crofters and the probable need for semi affordable new housing on the croft.

Q20 – Do you think a crofting questionnaire is the best way to identify planning applications on which the Crofters Commission should be consulted, or is there a better way?

Whilst a crofting questionnaire may be useful in helping the planning authority identify the type and detail of the application for the Crofters Commission to be consulted, it needs more refinement. The questionnaire should identify that a new house requires consultation but also be accompanied by an independent agricultural assessment from the Scottish Agricultural College as to the agricultural quality of the land for development and the viability of the croft. This assessment and the questionnaire should not be prophetic about capabilities of the croft in the future but only what is on the ground at the time of application.

The issue for the CNPA dealing with applications on croftland compared to farm holdings is that it could appear as if crofters have a "parallel planning system". The process needs tightening-up so that the sustainability of crofting communities is not lost by new house applications which can be permitted on decrofted land and subsequently sold away to non crofting interests or even as holiday homes.

Q21 – Planning authorities – Approximately how many applications a year in your area do you think would require consultation with the crofters Commission using the proposed criteria?

The CNPA call-in all the new house applications on croftland that are validated in the Highland Council's Badenoch and Strathspey Area. The number is between 4 and 8 applications per year. The CNPA do not call in any other applications such as extensions on croft houses.

Changes to the Neighbour Notification Requirements on Permitted Development Rights for Demolition.

Q22 – Do you have any comments on the proposed changes to neighbour notification in relation to demolition?

No.

Q23 – In particular, do you agree with the removal of the requirement to advertise locally such proposals where there are no premises on neighbouring land to which notification can be sent?

Yes.

Q24 – Do you have any comments on the changes to the list of considerations and items which strategic development planning authorities are required to have regard to in the preparation of strategic development plans?

No.

Q25 – Do you have any comments on the changes to the list of considerations and items which planning authorities are required to have regard to in the preparation of local development plans?

No.

Q26 – Do you have any additional comments on any of the issues mentioned in the paper?

No.

Q27 – Do you have any comments on or information to help inform the partial Business Regulatory Impact Assessment in Annex 11?

No.

Q28 – Do you think that any of the proposals in this consultation document will raise any specific issues for any of the equality groups (including race, disability, age, sexual orientation, gender or religion and belief)?

No.