



Planning etc. (Scotland) Act 2006

2006 asp 17

PART 3

DEVELOPMENT MANAGEMENT

Publicity for applications

10 Publicity for applications

(1) For section 34 of the principal Act substitute—

“34 Notice by planning authority of certain applications made to them

(1) A planning authority are to give notice—

- (a) to such persons or categories of person,
- (b) in such manner,
- (c) for such period, and
- (d) on such number of occasions,

as may be prescribed in regulations or in a development order, of such applications mentioned in subsection (2) as are made to the authority.

(2) The applications are—

- (a) for planning permission,
- (b) for an approval required by a development order,
- (c) for a consent, agreement or approval required by a condition imposed on a grant of planning permission, and
- (d) for agreement under section 75A(2).

(3) The regulations or development order may—

- (a) make provision in relation to the applications generally or in relation to such of those applications as are of a class or classes prescribed in the regulations or order,
- (b) make different provision for different classes so prescribed.

(4) No such application is to be determined until after—

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- (a) the expiry of a period which is to be so prescribed,
 - (b) any requirement imposed by virtue of this section has been satisfied, and
 - (c) any sum recoverable from the applicant in respect of costs incurred by the planning authority in giving notice under subsection (1) has been paid to the authority.
- (5) For the purposes of this section an applicant is to provide—
- (a) to such person or persons,
 - (b) such information with respect to the application,
- as may be so prescribed.
- (6) A planning authority are to provide the Scottish Ministers with such information relating to the exercise by the authority of functions under this section (whether in relation to applications generally or in relation to a particular application or class of application) as the Scottish Ministers may request from them.”.
- (2) In section 38(1) of that Act (consultation in connection with determination of applications)—
- (a) for the words “to which section 34(1) applies” substitute “mentioned in section 34(2)”, and
 - (b) for the words “(1)(h)” substitute “(4)(a)”.

11 Pre-application consultation

After section 35 of the principal Act insert—

“35A Pre-application consultation: preliminary

- (1) Before submitting an application for planning permission for a development of a class prescribed under this section the prospective applicant is, subject to the following provisions of this section, to comply with section 35B.
- (2) The regulations in question may, in prescribing classes of development, make different provision for different cases or classes of case and for different areas.
- (3) A prospective applicant for planning permission for a development may, by notice, require the planning authority to state whether or not, in their opinion, the development is of a class prescribed under subsection (1).
- (4) But the regulations may, in prescribing a class of development, provide that subsections (3) and (5) to (9) are not to apply—
 - (a) as respects that class, or
 - (b) as respects that class in circumstances specified in the regulations.
- (5) Any notice under subsection (3) is to be in such form as may be prescribed in the regulations but must in any event contain the information mentioned in paragraphs (a) to (d) of section 35B(4).
- (6) A planning authority receiving such a notice may, if they do not consider that it contains sufficient information to enable them to provide the statement sought,

request the prospective applicant to provide additional information specified by them.

- (7) Where such a notice is given it is the duty of the planning authority to provide the requisite statement within the period of 21 days after it is given (or within such other period as may be substituted for that period by the regulations).
- (8) The period of 21 days mentioned in subsection (7) (or any other period substituted for that period) does not include any period between a request for information being made under subsection (6) and that information being provided to the planning authority
- (9) If the authority respond by stating that in their opinion the development is not of a class prescribed under subsection (1), then provided that the application for planning permission for the development in question is submitted within 12 months after the notice was given and does not differ materially from the information regarding it contained in the notice and mentioned in paragraphs (a) to (c) of section 35B(4) the prospective applicant need not comply with section 35B.
- (10) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” or “the authority” were a reference to the Scottish Ministers.

35B Pre-application consultation: compliance

- (1) The following subsections apply where compliance with this section is required by virtue of section 35A(1).
- (2) The prospective applicant is to give notice (to be known as a “proposal of application notice”) to the planning authority that an application for planning permission for the development is to be submitted.
- (3) A period of at least 12 weeks must elapse between giving the notice and submitting any such application.
- (4) A proposal of application notice is to be in such form, and have such content, as may be prescribed but must in any event contain—
 - (a) a description in general terms of the development to be carried out,
 - (b) if the site at which the development is to be carried out has a postal address, that address,
 - (c) a plan showing the outline of the site at which the development is to be carried out and sufficient to identify that site, and
 - (d) details as to how the prospective applicant may be contacted and corresponded with.
- (5) Regulations may—
 - (a) require that the proposal of application notice be given to persons specified in the regulations,
 - (b) specify—
 - (i) persons who are to be consulted as respects a proposed application, and
 - (ii) what form that consultation is to take.

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- (6) Different provision may be made under subsection (5) for different cases or classes of case and for different areas.
- (7) The planning authority may, provided that they do so within the period of 21 days after receiving the proposal of application notice, notify the prospective applicant that they require (either or both)—
 - (a) that the proposal of application notice be given to persons additional to those specified under subsection (5) (specifying in the notification who those persons are),
 - (b) that consultation additional to any required by virtue of subsection (5) (b) be undertaken as regards the proposed development (specifying in the notification what form that consultation is to take).
- (8) In considering whether to give notification under subsection (7) the planning authority are to have regard to the nature, extent and location of the proposed development and to the likely effects, at and in the vicinity of that location, of its being carried out.
- (9) In the case of an application for planning permission made to the Scottish Ministers, this section has effect as if any reference to the “planning authority” were a reference to the Scottish Ministers.

35C Pre-application consultation report

- (1) A person who, before submitting an application for planning permission for a development, is required to comply with section 35B and who proceeds to submit that application is to prepare a report (a “pre-application consultation report”) as to what has been done to effect such compliance.
- (2) A pre-application consultation report is to be in such form as may be prescribed.”.

12 Public availability of information as to how planning applications have been dealt with

In section 36 of the principal Act (registers of applications etc.)—

- (a) in subsection (1)—
 - (i) after paragraph (a) insert—
 - “(aa) any variation, by virtue of section 32A(1), to such an application,
 - (ab) documents to which regard was had in dealing with each such application (including documents to which regard was had in considering whether to agree to such a variation),
 - (ac) material considerations to which regard was had by virtue of section 37(2),
 - (ad) any pre-application consultation report prepared under section 35C(1) and submitted with such an application,”
 - (ii) in paragraph (b), for the words “such applications have been dealt with” substitute “each such application has been dealt with and a copy of any notice given by virtue of paragraph (d) or (e) of section 43(1) in respect

- of an application (or, in the case of an application in respect of which notice does not fall to be so given, a statement of the reasons on which the authority based their decision on the application”,
- (iii) the word “and” which immediately follows paragraph (b) is repealed,
 - (iv) after paragraph (b) insert—
 - “(ba) applications under section 242A(2) for planning permission in respect of development in the district of that authority,” and
 - (v) after paragraph (c) insert “and
 - (d) any planning obligation entered into under section 75”, and
- (b) in subsection (3)(a)—
- (i) after the word “applications” insert “and variations to applications”, and
 - (ii) for the word “them” substitute “such applications and variations and copies of documents to which regard was had in dealing with such applications and in considering whether to agree to such variations”.

13 Keeping and publication of lists of applications

After section 36 of the principal Act insert—

“36A Lists of applications

- (1) Every planning authority are, in such manner as may be prescribed by regulations or a development order, to keep a list of—
 - (a) the applications mentioned in section 36(1)(a) which are made to them (including any variations, by virtue of section 32A(1), to those applications),
 - (b) the applications mentioned in section 36(1)(ba) which are made in respect of development in their district, and
 - (c) the proposal of application notices received by them under section 35B(2).
- (2) Weekly, or at such intervals as may be so prescribed, the authority are—
 - (a) to revise the list by removing from it the entries relating to—
 - (i) such applications as have been determined, and
 - (ii) such proposal of application notices as have ceased to be current, and
 - (b) in such manner as may be so prescribed (or, if and in so far as the regulations or development order may admit, in such manner as the authority consider appropriate), to publish that revised list.
- (3) The availability of the list is to be advertised by the authority in a local newspaper at such intervals as may be so prescribed.
- (4) The regulations or development order may make provision as to how any costs incurred by the authority by virtue of this section are to be recovered from the applicants.

Status: This is the original version (as it was originally enacted).

- (5) In this section “publish”, without prejudice to that expression’s generality, may include publish by electronic means (as for example by means of the internet).
- (6) For the purposes of subsection (2)(a)(ii), a notice ceases to be current when—
- (a) an application for planning permission is submitted for the development in question,
 - (b) the prospective applicant gives notice in writing under this paragraph to the planning authority that no application is to be submitted for the development in question, or
 - (c) 12 months have elapsed since the date on which the proposal of application notice was given.”.