

PE1518/H

Local Government and Communities Directorate

Planning and Architecture Division

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**The Scottish
Government**
Riaghaltas na h-Alba

Mr Ned Sharratt
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c/o Public Petitions Clerks
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Your ref: PE 1518
Our ref: A9776536
3 December 2014

Dear Mr Sharratt

CONSIDERATION OF PUBLIC PETITION [PE1518](#)

Calling on the Scottish Parliament to urge the Scottish Government to clearly define, for the sake of good order within the planning system, the criterion which allows developers to ignore or avoid the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, with particular regard to Major Development applications.

Thank you for your letter of 29 October 2014 and further questions on the above.
Specifically you ask:

- “Whether the Scottish Government will undertake work to ascertain how widespread the practice is of phasing applications to avoid the obligations for a major development?”
- “Whether the Chief Planner would consider writing to all planning authorities and other stakeholders reiterating the Scottish Government’s position on planning hierarchy and the value of consultation in the planning process?”
- “What steps can be taken to create a culture whereby developers see engagement as a positive part of the planning process?”
- “Whether lack of meaningful consultation should become a ground for refusing consent?”
- “Under what circumstances would the Scottish Government use the power of Scottish Ministers to direct planning authorities to treat a local development as a major development and what the process would be?”
- What were the outcomes following the 2010 review of planning authority websites and has there been improvement since the review was completed?

Throughout the planning system, opportunities are available for everyone to engage in the development decisions which affect them. The revised Scottish Planning Policy¹ ('SPP') provides that such engagement between stakeholders should be "*early, meaningful and proportionate*".

The SPP sets out the core values of the planning service, including that it should "*be inclusive, engaging all interests as early and effectively as possible*". It goes on to explain that while this may primarily be for planning authorities, strategic development planning authorities and national park authorities, "*all those involved with the system have a responsibility to engage and work together constructively and proportionately to achieve quality places for Scotland*".

The importance of effective engagement and consultation in the planning system, from the development of national planning policy, through development plans as well as in the consideration of applications for planning permission is a consistent theme of Scottish Government planning legislation, policy and guidance.

With regards specifically to the introduction of the pre-application consultation requirements and pre-determination hearings in 2009, we conducted a wide ranging engagement with stakeholders to promote and explain the new requirements. As well as the statutory requirements, there was also a work strand around culture change, including updating our good practice guidance on community engagement which led to the publication of a Planning Advice Note (3/2010) on Community Engagement in 2010².

Further examples of steps taken to promote engagement as a positive part of the planning process include our annual Scottish Awards for Quality in Planning³ which have a category on Community Involvement, highlighting the best examples of effective public engagement.

Last year we sought stakeholders' views on good practice in pre-applications consultation. As a result, the updated Circular 3/2013 on Development Management Procedures⁴, issued in December 2013, included additional good practice guidance on implementing the requirements in that regard. We currently have a public consultation on-going on good practice regarding "Public Engagement for Wind Turbine Proposals"⁵, which closes on 15 December.

We will continue to promote this message on public engagement as suitable opportunities arise.

In answer to your specific question on whether the Scottish Government will undertake works to ascertain practice on the phasing of applications, at present we have no plans for research on a review of the hierarchy or around the issue of pre-application consultation. However, your comments on exploring the phasing of developments to avoid categorisation as major development and related concerns are noted.

With regard to the direction making powers to require local development to be treated as major development, this was included in the legislation on the basis that there might conceivably be a development categorised as local which might require to be processed as a major development. It was not intended that this power would be used for regular

¹ <http://www.scotland.gov.uk/Publications/2014/06/5823>

² <http://www.scotland.gov.uk/Publications/2010/08/30094454/0>

³ <http://www.scotland.gov.uk/Topics/Built-Environment/planning/SAQP>

⁴ <http://www.scotland.gov.uk/Publications/2013/12/9882>

⁵ <http://www.scotland.gov.uk/Publications/2014/11/7727>

interventions in the planning process and there is no specific procedure around exercising this direction making power. It would however be open to anyone - for example, a planning authority, government agency, non-government agency or an individual - to request that Scottish Ministers exercise this power in a particular case. Any such request would be considered on its individual merits.

On the issue of judging the quality of public consultation undertaken by an applicant, while we appreciate the concerns about the statutory requirements around pre-application consultation, this is a matter of compliance with the statutory requirements in this regard. We have no plans to make such judgements a material consideration in the determination of planning applications. This would be a fundamental shift in the basis for making planning decisions on applications, which relates to the merits of the proposal in the location proposed, and not aspects of processing or the approach of the applicant.

Finally, with regard to the 2010 review of planning authority websites, the 2010 Pendleton reports, which reviewed information displayed on planning authority websites, were issued to the planning authorities with each authority receiving an individual report tailored to their website. They were encouraged to take the report's findings and use these to help provide improved customer service with regards to online planning services. Each report highlighted any weaknesses identified and included best practice recommendations.

Although many planning authorities have made significant improvements to their pages since these reports were issued, these improvements have not been measured. In 2013 the Scottish Government issued guidance developed in association with planning authorities on 'Publishing Planning Applications Online'⁶. This guidance was drawn up to provide further clarity to authorities on the legislative framework for publishing information online (including data protection principles), outline best practice and improve consistency in display of planning information online across Scotland whilst recognising the decision on what information is published online is a matter for individual authorities.

I hope this information is of assistance.

Yours sincerely

ALAN CAMERON

⁶ <http://www.scotland.gov.uk/Resource/0043/00430009.pdf>