



MORAY COUNCIL ENVIRONMENTAL SERVICES DEVELOPMENT MANAGEMENT

DELIVERING MAJOR DEVELOPMENTS - A Pre-application Guide

Purpose

The Moray Council is committed to promoting economic growth across the area whilst safeguarding and enhancing the natural and built environment, and promoting overall sustainability.

To ensure that these aims are met, and in line with the expectations of the Scottish Government, the Council is promoting the use of processing agreements for dealing with all National and Major applications, as defined under the Hierarchy regulations. The attached table sets out the National and various classes of Major development that would fall within this new procedure.

Processing Agreements

A processing agreement is essentially an agreed framework to ensure the efficient processing of an application for a major or national development. An agreement can offer:

- Effective project management with a focus on delivery
- Greater certainty over the timing of key stages
- More transparency in decision making
- Clarity about information requirements early in the process
- More effective and earlier engagement of key stakeholders, and
- Clearer lines of communication

It should be borne in mind that a processing agreement does not guarantee the grant of planning consent. Any associated planning applications will continue to be considered on their merits and against the development plan and other material considerations. The agreement should be based on a shared understanding about the key stages in the process, which involves key statutory consultees at the outset.

The Planning Authority has 4 months to determine planning applications for major and national developments. Where a processing agreement is in place you should be aware that there would be no right of appeal against non-determination until the period of the agreement has expired.

Preparing an Agreement

The processing agreement should be discussed as early as possible and this will often be prior to the Pre-application Consultation (PAC) process. See 'Getting started' below. You will be informed about the level of information required to support an application at the outset. The detail of the agreement may be concluded during the pre-application consultation stage, which is likely to help front-load the planning system and speed up determination.

While an agreement should be put in place early in the process, it should be seen as a "live document" which can be altered with the consent of the principal parties to accommodate changes which may not have been anticipated at the outset. It should be promoted as a project management tool, not as a lengthy complex legal contract.

Scope

Processing agreements can cover applications for planning permission and any resulting permissions, or approvals required by conditions imposed on national or major developments. The agreement will aim to cover all stages to enable the development to proceed including the signing of any related agreement. The elements for inclusion in the processing agreement will be discussed at the outset.

Form and Content of processing agreements

The processing agreement will be as concise, clear and simple as possible and need not require lengthy discussion. The key objective is to establish a realistic timescale for processing which takes account of the amount of information which needs to be considered and the process to determine the application. Likely components of the agreement will include:

- Roles and responsibilities - the agreement should set out the roles and responsibilities of all parties, including the planning authority, applicant and statutory consultees, in delivering the determination to schedule.
- Information requirements - parties should agree in advance, taking into account comments from statutory consultees, the additional information beyond the validation requirements needed to determine the application. This information will be listed in the agreement to give applicants certainty about what they need to provide and aid the efficient processing of the application.
- Decision-making framework - the agreement will set out the management process and forum for decision-making. This will involve the a Major developments team which can agree direction and sign off completed tasks, and whether and when the application will be determined under delegated powers or by members.
- Project Plan - a project plan should be included in setting out the realistic overall timetable for handling the application and its key stages/milestones. The views of statutory consultees shall inform the setting of timescales. Milestones would provide the basis for monitoring progress.
- Timescales - where parties agree that the proposal will take longer than the statutory period to determine they should agree to extend the period after which an appeal may be made to Scottish Ministers against non-determination of the application and record this in the agreement. It will not be possible to appeal against non-determination in advance of that agreed timescale.

Getting Started

As a developer, you are asked to submit a pre-application meeting request, containing details of your proposal for a major development.

The relevant form can be found at http://www.moray.gov.uk/moray_Standard/page_41669.html It outlines all the details we require to be able to consider your proposal properly. The more information that you are able to provide, the more comprehensive our response will be. A major developments team made up of officers and consultees has been established. Within 4 weeks of submitting your request for a pre-application meeting the team will get together to discuss your proposal. You will be asked to attend the meeting to present your proposal to the team and receive initial feedback.

What advice can you expect to receive?

Within four weeks of the pre-application meeting, you will receive a pre-application response outlining the key outcomes of discussions about your proposal together with two copies of the processing agreement for you to sign (one for you to retain and one to be returned to the Council). This response will contain an overview of:

1. Principle and Policy - The principle of development and the planning policies relating to the site.

2. Constraints - Details of constraints that we are aware of on the site i.e. flood risk, archaeological interests, nature conservation designations, historic buildings etc.
3. Design - Comments on built form, scale, massing, views, patterns, historic context etc.
4. Sustainability – SUDs, carbon emissions etc
5. Amenity - Which properties may be affected and how, what further assessment is required, requirements in terms of noise impact studies, tree surveys etc.
6. Drainage – Drainage Impact Assessment etc
7. Transport - Advice and comments on servicing, access, parking standards, cycle parking, public transport linkages and requirements for Traffic Impact Assessment and Transport Scotland.
8. Pre-Application Consultation - What Pre-Application Consultation is likely to be required in order to satisfy the regulations.
9. Developer Contributions - Possible contributions that may be necessary, taking account of Council Policy to mitigate against any potential impacts of the proposed development.
10. Documentation or information requirements - What you will need to submit with a subsequent application, Processing Agreement to be signed by both parties, likely timescales for processing your application, Committee dates etc.

We will make it clear where we consider that modifications or amendments could make your proposal acceptable in principle, and equally, if the scheme is wholly unacceptable as it conflicts with policy or guidance.

Disclaimer

The Council will make every effort to ensure that the advice given in the pre-application process is as accurate as possible. However any advice given by Council officers for pre-application enquiries does not constitute a formal decision of the Council with regards to any planning application and, whilst it may be a material consideration, cannot be held to bind the Council in its validation of or formal determination of a subsequent application.

There is a possibility that, under the Freedom of Information Act, the Council will be asked to provide information regarding enquiries for pre-application advice and copies of any advice provided or correspondence entered into. This information may only be withheld if its disclosure could prejudice commercial interests or inhibit free and frank provision of advice or exchange of views during the planning process. Those seeking pre-application advice should provide a covering letter that sets out the reasons why, and for how long, any information relating to the case needs to remain confidential.

**TABLE
NATIONAL DEVELOPMENTS AND DEFINITIONS OF MAJOR DEVELOPMENTS**

Description of Development - National	
Electricity grid reinforcement – upgrade of the Beaulay-Keith transmission line	
Description of Development – Major	Threshold or criteria
1. Schedule 1 development Development of a description mentioned in Schedule 1 of the Environmental Impact Assessment (Scotland) Regulations 1999(2)	All development
2. 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
3. Business and General Industry, Storage and 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; or d) for use for storage or a distribution centre	a) the gross floor space of the building, structure or other erection constructed as a result of the development exceeds 10,000 sq metres; or b) the area of the site is or exceeds 2 hectares.
4. Electricity Generation Construction of an electricity generating station.	The generating station has capacity of or exceeding 20 megawatts.
5. Waste Management Facilities Construction and facilities for use for the purpose of waste management or disposal.	The facility has a capacity of or exceeding 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.
6. 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 km.
7. 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.
8. Minerals Extraction of minerals	The area of the site is or exceeds 2 hectares.
9. Other Development 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 sq metres, or b) The area of the site is or exceeds 2 hectares.

