

EXMOOR NATIONAL PARK AUTHORITY

PUBLICITY FOR PLANNING APPLICATIONS : NEIGHBOUR NOTIFICATION

Report of the Head of Planning and Community

Purpose of Report:

To inform Members of the notification requirements for planning applications and to agree the approach to be adopted by the National Park Authority.

Legal Implications including Human Rights Act 1998:

Town & County Planning Act 1990 (as Amended)

Financial Implications:

None

National Park Purposes:

More efficient procedures will ensure higher quality service delivery and more effective implementation of National park purposes – National Park Management Plan Objective 21/3 (improving the quality and efficiency of the planning service).

RECOMMENDATION:

- (i) To NOTE the statutory requirements for the notification of planning proposals, and
- (ii) To ADOPT the practices set out in the Report in respect of initial notifications and dealing with proposed amendments.

1. INTRODUCTION

1.1 There are both statutory and discretionary requirements for the notification of the public of planning applications. This report sets out the statutory requirements so Members are aware of the background. The report goes on to explain the discretionary element and makes recommendations so that the National Park Authority continues to operate best practice in a consistent way.

2. THE STATUTORY REQUIREMENTS

2.1 In the case of a planning application for development which :

- (a) is the subject of an Environmental Assessment Schedule 1 or Environmental Assessment Schedule 2 application accompanied by an environmental statement; or
- (b) does not accord with the provisions of the development plan, or
- (c) would affect a right of way to which Part III of the Wildlife and Countryside Act 1981 (a) (public rights of way) applies.

The application shall be publicised by :-

- (i) a site notice for not less than 21 days and
- (ii) local advertisement (in a newspaper).

2.2 In the case of a planning application for major development (not falling within 2.1 above) the application shall be publicised by :

- (i) a site notice for not less than 21 days or neighbour notification letter to any adjoining owners or occupiers and
- (ii) local advertisement

“Major development” means development involving one or more of the following :-

- (a) the winning and working of minerals or the use of land for mineral working deposits
- (b) waste development
- (c) the provision of dwellinghouses where :-
 - the number of dwellings is 10 or more; or
 - the development area is 0.5 ha or greater and it is not known whether 10+ dwellings would be provided.
- (d) the provision of a building or buildings where the floorspace to be created is 1,000 sq. m. or more.

2.3 In the case of a planning application which does not fall within 2.1 or 2.2, the proposal shall be publicised by :

- (i) a site notice for not less than 21 days or
- (ii) neighbour notification letter to any adjoining owner or occupier.

3. **CIRCULAR 15/92 “PUBLICITY FOR PLANNING APPLICATIONS” GIVES GUIDANCE ON HOW THE GENERAL PERMITTED DEVELOPMENT ORDER IS TO BE IMPLEMENTED**

3.1 This advises that Planning Authorities should take account of the circumstances of the site in deciding the most appropriate form of publicity.

3.2 Site Notices should be displayed on or near the site and should be visible and legible to anyone passing by without the need to enter the site to be read. A large site, one bounded by several roads and footpaths, or with more than one frontage will normally require more than one notice.

3.3 Circular 15/92 indicates that it is for the LPA to decide, on a case by case, and beyond the minima set down by the General Permitted Development Order, which developments falling outside the “major” category are likely to create wider concerns. Such developments may warrant newspaper advertising in addition to either site notice or neighbour notification. Circular 15/92 indicates that such types of development are likely to be:

- (a) those affecting nearby property by causing noise, smell, vibration, dust or other nuisance;
- (b) attracts crowds, traffic and noise into a generally quiet area;

- (c) causing activity and noise during unsocial hours;
- (d) introducing significant change, for example particularly tall buildings;
- (e) resulting in serious reduction or loss of light or privacy beyond adjacent properties;
- (f) those affecting the setting of an ancient monument or archaeological site;
- (g) proposals affecting trees subject to a TPO.

3.4 Public Rights of Way: Where a development does affect a public right of way, the LPA should ensure that this is made clear, both on site notices and in newspaper advertisements.

4. OTHER NOTIFICATION REQUIREMENTS

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| Development affecting the setting of a Listed Building | - Advertisement in newspaper and site notice |
| Development affecting the character or appearance of a Conservation Area | - Advertisement in newspaper and site notice |
| Permitted development requiring prior notification to local planning authority | - Site Notice posted by developer |

5. NOTIFICATION OF CHANGES, CONDITIONS, RESERVED MATTERS

5.1 There is no statutory obligation to publicise changes to applications once they are accepted as valid; or required by a condition on a previous application; or for approval of reserved matters following the grant of outline planning permission. The Circular indicates, nevertheless, that such matters are often of most concern to objectors. It is at the discretion of the LPA to decide whether further publicity is required, taking into account the following considerations:

- (a) were objections or reservations raised at an earlier stage substantial and in view of the local authority enough to justify further publicity?
- (b) are the proposed changes significant?
- (c) did earlier views cover the matters now under consideration?
- (d) are the matters now under consideration likely to be of concern to parties not previously notified?

6. EXMOOR NATIONAL PARK AUTHORITY : PROPOSED/EXISTING PRACTICE

6.1 The General Permitted Development Order indicates that it is appropriate in many cases to notify “any adjoining owners or occupiers”. The Circular advises that although not part of the statutory requirements, LPAs may find the definition of “neighbouring land” used in Scottish legislation helpful in deciding which other neighbours to notify.

6.2 It is important that the minimum procedures for notification are followed for every case. Other and additional notification should be at the discretion of the Case Officer. It is recommended that for all sites a Site Notice be erected in a publicly readable position and this should help to demonstrate that the General Permitted Development Order minimum requirements are always met. Individual neighbour notification letters are helpful in publicising an application, particularly in more rural locations where properties are not immediately adjoining the application site. This would be over and above the minimum requirements but it is considered good practice and takes place at the present time. The weekly list of new planning applications are in addition published on the Authority’s website.

6.3 It is therefore recommended that the following notification practice be adopted for planning applications:

- 1) The General Permitted Development Order minimum notification requirements be met
 - 2) A Site Notice or Notices be erected
 - 3) Individual neighbour notification takes place to properties which, in the opinion of the Case Officer, may be materially and adversely affected by the application proposals.
 - 4) Parish or Town Councils be notified by letter (21 days).
- 6.4 It is not possible within the resources or time available to try to identify the owners of open land. In some cases this may be widely known, such as The National Trust. In these rare cases, it may be appropriate if the Case Officer believes that this owner may be materially and adversely affected, to notify by letter. However, the site notice should be the normal method to alert owners of open land of a planning application.
- 6.5 In accordance with criteria (3) adjoining properties (both dwellings commercial buildings and other identifiable buildings) should normally be notified by letter if in the opinion of the Case Officer that property may be materially and adversely affected by the application proposals. Whether buildings which do not adjoin the application site should be notified is a matter of judgement for the Case Officer. It is always better to be cautious and over notify rather than to under notify. Much will depend on the scale of the proposal. If, for instance, a new use is likely to generate traffic which may be considered to be materially greater than existing levels it may be appropriate to notify these properties along the access drive which may be materially and adversely affected.
- 6.6 The types of development set out in Circular 15/92, a – g – should normally be considered as significant development and advertised by local advertisement, a site notice and individual neighbour notification where appropriate.

7. **AMENDMENTS – DURING THE PROCESSING OF THE APPLICATION**

- 7.1 It may not be legally necessary to notify on amendments, however it is best practice to do so. Amending a scheme may appear to over-come local objections but may raise new objections from other residents. If in the opinion of the Case Officer the amended works may materially or adversely affect any adjoining property then it will be appropriate to renotify. If other neighbours have expressed views then it will normally be appropriate to notify these residents as well. In practice it would normally be appropriate to notify all previously notified residents, Town/Parish Councils, and those who have previously expressed views in writing.
- 7.2 14 days should normally be given for residents to express their views on amended plans, however, it may be appropriate to specify 21 or 10 days in specific cases.
- 7.3 It is recommended that the Case Officer should always question whether the appropriate procedure is to try to deal with revised plans as amendments. If a proposal is materially different from the original submission or the red lined application site has been altered, for instance, then the submission of a new application will normally be required. The original application would usually be withdrawn or, if necessary, recommended for refusal. This approach has legal rigour and may help to improve the 8 week figure.

8. **MINOR AMENDMENTS AFTER THE GRANTING OF PERMISSION**

- 8.1 Again, it is necessary for the Case Officer to consider whether the proposed modification is acceptable and if so whether there is a need to renotify. Very minor modifications are usually agreed by the Case Officer, however, if there is any doubt the officer will normally renotify the Parish Council and any materially and adversely affected adjoining properties.
- 8.2 It is recommended that Officers question whether the appropriate procedure is to try to deal with revised plans as amendments. As above if a proposal is materially different from the approved application, or the red line has altered, then a new application will be required. A good test will be that if an amendment requires renotifying to previous parties then a new application is likely to be required.

David Wyborn
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15 August 2002

Background papers on which this report, or an important part of it are based, constitute the list of background papers required by Section 100 D (1) of the Local Government Act 1972 to be open to members of the public comprise:-

- **The Town and Country Planning (General Development Procedure)**
- **Circular 15/92 "Publicity for Planning Applications" Order 1995**