

Relevant legislation:

- The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (the GPDO), Schedule 1, Parts 1A, 6, 7, 20 and Part 23 - Permitted Development Classes 6G, 18, 18B, 18C, 20A, 22, 22A, 22B, 67 and 70 .
- The GPDO, Schedule 1, Part 1B (Classes 6K and 6L) on Non-Domestic Microgeneration Equipment – biomass in relation to farm and forestry activities - also include prior notification and prior approval requirements for certain permitted development. At present applications in this regard cannot be made via e-planning.

Introduction

1. The application for prior notification form allows you to tell the planning authority about certain proposals which benefit from permitted development rights so they can decide whether you need to get approval beforehand (prior approval). You should include this form as part of your proposal.
2. These guidance notes aim to help you fill in each section of the form. Circular 2/2015 (as amended) on Non-domestic permitted development rights, contains more guidance and information for the permitted development rights covered in these guidance notes, and the relevant sections **should be read** before proceeding with prior notification/ prior approval.

When to use this form

3. Permitted development rights remove the need to apply for planning permission where proposals comply with the terms of the rights. Unlike applications for planning permission and other types of permission, prior notification is a procedure where a developer must tell the planning authority about their proposals before taking advantage of permitted development rights. The result will be a decision that 'prior approval' is or is not needed. If the decision is that approval is needed, the planning authority may ask for more information before they can decide whether to give prior approval. If the planning authority decide to grant prior approval, they may set conditions or limitations that you will have to meet as well as any restrictions that apply to the development set out in the GPDO.
4. Do not use the form to apply for planning permission – your planning authority can give you advice on the appropriate forms for planning applications. Also, you should not use the form to seek approval from the planning authority required where the development is likely to have a significant effect on a 'Natura site (see paragraph 8 below). You should contact the planning authority if you think this may apply to you. If you have already carried out the work, you should tell the planning authority.

Environmental impact assessment

5. Permitted development rights, with some exceptions, are subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA regulations).
6. If a development is listed in Schedule 1 to the EIA regulations, permitted development rights do not apply. If a development is listed in Schedule 2 to the EIA Regulations and meets or goes beyond the threshold outlined in Schedule 2, or is in a sensitive area (as defined by the EIA regulations), permitted development rights do not apply unless the planning authority or the Scottish Ministers have told you that an environmental impact assessment is not needed. There is more information and guidance on environmental impact assessment in Planning Circular 1/2017: The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Forestry development (under class 22 of the GPDO) is covered by different EIA requirements and you have to check whether an environmental impact assessment is needed with the Forestry Commission. You still need to send in a prior notification form.
7. The requirements on EIA described above apply whether or not prior notification is needed.

The Habitats Regulations

8. The Conservation (Natural Heritage &c.) Regulations 1994 (The Habitats Regulations) places a further requirement to get approval from planning authorities regarding permitted development. This applies where the proposal is likely to have a significant effect on a Natura site (also known as European site) and is not directly connected with or necessary to the management of the site. This would be a separate approval from that required under the GPDO, and would also require an appropriate assessment to be carried out in accordance with the Habitats Regulations due to the nature of the impact. These e-planning procedures do not apply where such an assessment is required, and those intending to carry out works under permitted development which may affect a Natura site, should contact their relevant planning authority. Where approval is required under the Habitats Regulations, this is in addition to a requirement for prior notification or prior approval under the GPDO.

Farm and forestry

What type of development do I need to 'notify' the planning authority about?

9. If you want to **build or significantly alter or extend** a farm or forestry building, you must tell the planning authority about this. Although the work may be permitted development (that is, development which does not need an application for planning permission), the planning authority's prior approval may still be required for the siting, design and external appearance of the building.
10. A **significant** alteration or extension is one which would result in:
 - the cubic area of the original building being increased by more than 20% (10% in the case of forestry buildings); or

- the building being taller than it was originally.
11. If you want to **create or alter** a private hill track or road, you must apply to the local authority for their view as to whether prior approval of the design, materials, construction methods and the route is required. You must send in a site plan with your application to indicate the route.
12. If regarding farm and forestry, you want to create, alter or extend a non-domestic building for the purposes of generating energy from biomass (either through burning or anaerobic digestion) or storing biomass, (including works for the installation, alteration or replacement of a flue forming part of the biomass equipment) you must apply to the local authority for their view as to whether prior approval of the siting (location), design and external appearance (materials) is required. Your application must include a written description of the proposed development and the materials to be used and a site plan to indicate the location of the proposals. **Please note at present e-planning does not accommodate on-line applications in this regard.**

What needs an application planning permission?

13. To avoid any doubt, you need to apply for planning permission for the following types of development on agricultural or forestry land:
- Development on agricultural land of less than 0.4 hectares. In certain parts of Scotland this must be a single piece of land. In some areas it may however include separate parcels of land. You should check with your planning authority.
 - Constructing, altering or extending a home.
 - Any building or work not designed for agriculture (excluding the burning, anaerobic digestion or storage of biomass within certain limits).
 - Constructing, altering or extending a building if the land is within a historic battlefield (excluding the burning, anaerobic digestion or storage of biomass within certain limits).
 - Constructing, extending or altering any building, structure or plant over:
 - 1,000 square metres in area (only applies to agricultural land, and other, existing structures may need to be included in the calculation in some circumstances) – or 465 square metres if located within a national scenic area, National Park, World Heritage Site, historic garden or designed landscape, the curtilage of a category A listed building, a site of archaeological interest or conservation area;
 - 12 metres in height (not applicable to biomass or other buildings on forest land); or
 - 3 metres in height (if the building is within 3km of an aerodrome).
 - Development within a historic battlefield.

- If any part of the development is within 25 metres of a trunk or classified road.
 - Constructing or carrying out any work to a building used, or to be used, for housing pigs, poultry or rabbits or animals which are bred for their skin, or for storing slurry or sewage sludge, if that building is within 400 metres of a 'protected building'. A protected building is a building normally used by people, but does not include buildings forming part of a working farm or certain specialist industrial buildings.
 - Development for the burning, anaerobic digestion or storage of biomass on forestry (including afforestation) or agricultural land where it would exceed any of the relevant restrictions above, or:
 - where any part of the development would be situated within 400m of the curtilage of a protected building.
 - where it would result in a total microgeneration capacity within the curtilage of a non-domestic building over 50kw of electricity 45 kilowatts heat.
 - within an air quality management area
 - where it would require more than one flue
 - where the diameter of the flue would be greater than 500mm or where a replacement or altered flue exceeds the diameter of an existing flue if it is greater than 500mm.
14. If your proposals fall into the categories listed above, you should make an **application for planning permission instead of filling in this form**. Please note that whether you need to notify the planning authority about a development or apply for planning permission depends on all developments on the site within the last two years.
15. If the work you propose involves an agricultural or forestry building or a private way and does not fall within any of the categories listed in the bullet points above, you must use this form to notify the planning authority before you start the work.

Domestic micro-wind turbines

What type of development do I need to 'notify' the planning authority about?

16. If you want to install a domestic micro-wind turbine capable of generating up to 50 kilowatts of electricity within the boundary of a residential property, and the wind turbine would be at least 100 metres from the boundary of a neighbouring residential property, you must apply to your planning authority for prior approval of the design and size of the proposed wind turbine. You must also notify the planning authority about the location and appearance of the proposed wind turbine, which may also require their approval.

17. In practice, a proposal of this type must not go ahead until the planning authority have approved the design and size of the proposed wind turbine. If prior approval of the location and appearance of the mast is required, then development should not proceed until that too is approved.

What needs an application for planning permission?

18. To avoid any doubt, you need to apply for planning permission for the following types of development.
- The new wind turbine would mean there is more than one freestanding turbine within the property boundary.
 - The wind turbine would be capable of generating more than 50 kilowatts of electricity.
 - The wind turbine would be less than 100 metres from the boundary of a neighbouring residential property.
 - The wind turbine would be within a conservation area.
 - The wind turbine would be within a World Heritage Site.
 - The wind turbine would be within a Site of Special Scientific Interest.
 - The wind turbine is within a site of archaeological interest.
 - The wind turbine would be within the boundary of a listed building.
 - Environmental impact assessment is an issue (see paragraphs 5 and 6).

Electronic Communications Code operators

What type of development do I need to 'notify' the planning authority about?

19. Where an electronic communications code operator, or someone acting on their behalf, proposes:
- erecting a new ground based mast up to 30m in height (excluding the extent to which any antenna protrudes beyond the height of that mast structure)
 - apparatus on a building by virtue of Class 67(10) e.g. back-up power generators, maintenance ladder or fencing where the proposal is to be located in a conservation area, a historic garden or designed landscape or within the setting of a category A listed building or a scheduled monument.
 - installation of dish and other antenna systems (other than small cell systems or Regulation 2020/1070 small cell systems) where the proposal is to be located in a conservation area, a historic garden or designed landscape, the setting of a category A listed building or a scheduled monument, historic battlefield or in a world heritage site.

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- underground apparatus where the proposal is to be located in a conservation area, a historic garden or designed landscape, the curtilage of a category A listed building, or a site of archaeological interest.

they have permitted development rights, but must notify the planning authority to see if their prior approval of the siting, appearance etc of the development The requirement to notify does not apply in an emergency or to a 'link antenna' (as defined in Class 67 of the GPDO)

What needs an application for planning permission?

- New ground based masts above 30 m in height;
- New ground based masts erected in various designated areas (world heritage sites, conservation areas, historic battlefields, National parks, national scenic areas, European Sites, sites of special scientific interest, historic gardens and designed landscapes and the settings of both category A listed buildings and scheduled monuments).
- Development which does not meet the PDR criteria set out in Annex G of Circular 2/2015.

Demolition

What type of development do I need to 'notify' the planning authority about?

20. You will need to notify the planning authority beforehand if you want to demolish:

- a house;
- a building which contains one or more flats; or
- a building which shares a wall with, or has a main wall which joins onto the main wall of, a house or a building which contains one or more flats.

This rule does not apply if the demolition:

- is needed urgently for safety or health reasons – if this applies, you should write to the planning authority as soon as possible to explain why the demolition is needed; or
- is related to other redevelopment proposals which already have the necessary planning permission in place; or
- is needed or allowed under an Act of Parliament or through a planning agreement or obligation (Section 75 of the Town and Country Planning (Scotland) Act 1997)).

Which developments need an application for planning permission?

21. If any person with an interest in the land on which a building stands has done something or failed to do something which has made the building unsafe or unfit for living in, and it is possible to make the building safe by carrying out repairs or temporary support work, you will need planning permission to demolish the building. If this is the case, you should use the **planning permission form rather than the prior notification form**.
22. The EIA requirements mentioned in paragraphs 5 to 6 apply to demolition as well as to permitted development rights for constructing buildings and other structures.

Peatland Restoration

What type of development do I need to 'notify' the planning authority about?

23. Permitted development rights apply to works carried out on a peatland to restore that peatland. All such projects require the prior notification of a 'peatland restoration scheme' to the planning authority.
24. Where a project has been granted funding by the Scottish Government or one of direct delivery partners (under the Peatland Action scheme), or where a project has been registered under the IUCN Peatland Code, this information can assist the planning authority.
25. See Circular 2/2015 for more details on these permitted development rights and the context for their use.
26. Works in this context include:
 - (i) works for the stabilisation, revegetation and re-profiling of bare peat and related drainage works, and
 - (ii) the extraction of peat from within a peatland site for the purpose, and only for the purpose, of the use of such peat in the restoration of peatland within that peatland site.

27. In this context:

"re-profiling" means changing the surface of the peatland to reduce water runoff and encourage revegetation by spreading turves across the bare surface,

"revegetation" means by planting, applying locally won turves or seeding with peatland plants,

"stabilisation" means re-establishment of vegetation by seeding and the introduction of pre-grown seedlings (known as plug plants) with the use of temporary protective coverings, including a plant mulch or manufactured stabilisation product or fertilisers."

Peatland Restoration Schemes

28. A peatland restoration scheme must:

- Set out the works to restore the peatland
- Identify the area of peatland within which works will take place
- Include details in respect of any measures to mitigate:
 - (i) impacts of the proposed development on archaeology,
 - (ii) the risk of contamination or flooding as a result of the development on the peatland site, and
 - (iii) the impacts of the proposed development on soil.
- Details in respect of the removal, felling, lopping or topping of any trees.

29. “peatland site” is the area identified in the peatland restoration scheme as the area of peatland to be restored in accordance with that scheme.

30. The ‘restorer’ has to consider the specific issues mentioned as regards potential mitigation measures and should identify any others that may arise in a particular case. The PRS should demonstrate that consideration and set out how their proposal addresses, as appropriate, any mitigation of such impacts and risks. The specific issues mentioned are the ones most likely to arise, but not a definitive list. In some cases even some of those mentioned may not be an issue, but the ‘restorer’ will need to explain how they reached that conclusion for their project.

31. The restorer will have to show they have considered the issues and sought to address them appropriately, if, for example, the planning authority is to be satisfied that as long as the project proceeds in line with the peatland restoration scheme, there is no need for them to move to consider prior approval, conditions or potential refusal. Again, see Circular 2/2015 for more guidance.

32. Where funding is obtained through Peatland Action or a project is registered under the Peatland Code, that may help planning authorities in making judgements around prior approval. Details of any engagement in these processes should be included in the PRS, even if a decision on funding or registration has not been reached.

33. The restorer should also include in the PRS the date, or latest date, by when restoration operations specified in the project will be completed.

Which developments need an application for planning permission?

34. The permitted development rights do not apply to works for the formation or alteration of a private way (or 'hill track'). The form contains a 'yes/no' question on the inclusion of such works – projects where the answer is 'yes' do not have permitted development rights.
35. The EIA requirements mentioned in paragraphs 5 to 6 above could apply to peatland restoration, depending on the content of the proposal. See Circular 2/2015 as regards EIA.

Conversion of Agricultural and Forestry Buildings to Residential or Commercial Use

What type of development do I need to 'notify' the planning authority about?

36. Permitted development rights apply to the change of use of an agricultural or forestry building to either a use as a dwelling or for flexible commercial use. The change of use applies to the building and land within its curtilage
37. The permitted development rights also allow certain building works, insofar as they are reasonably necessary to convert the building, and partial demolition to allow such work. They also allow the provision of access and hard standing for vehicles incidental to the use of the building.
38. See Circular 2/2015 for more detail on these permitted development rights, including their purpose and relevant conditions and limitations that apply.

Which developments need an application for planning permission?

39. The permitted development rights only apply to agricultural or forestry buildings which were used or in use as such on or before 4 November 2019.
40. The permitted development rights do not apply to agricultural or forestry buildings constructed after 4 November 2019
41. In the case of an agricultural building the building must have been part of an agricultural unit on or before 4 November 2019
42. The floor space of any residential unit must not exceed 150 square metres or, in the case of a flexible commercial use must not exceed more than 500 square metres.
43. In the case of change of use and conversion of an agricultural building to use as a dwelling, no more than five residential units in total can be developed on the original agricultural unit. See Circular 2/2015 for further information.
44. The building developed under these permitted development rights must not extend beyond the external dimensions of the existing building.

45. The EIA requirements mentioned in paragraphs 5 to 6 above could apply, depending on the proposal. See Circular 2/2015 as regards EIA.

What must I include in my notification?

46. Your notification must include the following:

- Farm and Forestry Buildings (including those for biomass): a written description of the proposed development, the materials to be used and the a plan indicating the site.
- Farm and Forestry private ways: a description of the proposed development, including the proposed design and manner of construction, details of the materials to be used and a plan indicating the route of the private way.
- Domestic wind turbines: a written description of the proposed development, including details of the design and size of the proposed wind turbine and a plan indicating the site.
- Ground based masts: a description of the development including its siting, appearance and dimensions, including the height of any mast and the height of any apparatus attached to it to the extent that it would protrude above the highest part of the mast; the postal address of the land or, if none, a description of the location; a plan sufficient to identify the land and showing its situation in relation to neighbouring land; other plans and drawings necessary to describe the development, showing in particular the dimensions, appearance and position of the development on the site; where antennas are involved a declaration regarding compliance with the relevant guidelines produced by the International Commission on Non-Ionising Radiation Protection (ICNIRP); and evidence of compliance with requirements to notify other owners or agricultural tenants of the site and any relevant body where the mast is to be located in a safeguarded area.
- Apparatus on buildings by virtue of Class 67(10), antennas (not small cell systems) and underground apparatus: a description of the proposed development including details of the design, the materials to be used, dimensions and a location plan.
- Demolition: a written description of the proposed development.
- Peatland Restoration – a peatland restoration scheme and location plan.
- Conversion of Agricultural and Forestry Buildings – a written description of the development (including a description of any building operations and materials to be used, a plan showing the location of the development and other plans and drawings that are necessary to describe the development.
- Location plans should be to a scale of 1:2500 or 1:1250, with the site of the proposed building outlined in red. However, for ground base masts they must also identify neighbouring land. Also, for domestic micro-wind turbines the boundary of the property within which the development will take place should be outlined in blue,

the location of the development within that area should be outlined in red and the boundaries of neighbouring residential properties should be outlined in green.

- All applications require to be accompanied by the relevant fee (other than private ways for forestry and agriculture).
47. It may also be appropriate to provide further details with your notification form, such as detailed elevations or other reasonable information that would help the planning authority to process your notification. In the case of the proposed conversion of an agricultural/forestry building this may include, for example, an agricultural holding number, flood risk assessment, noise assessment or contaminated land survey. Discussing this with the planning authority before the submission of a prior notification may help to save time.

What happens next?

Applications other than ground based masts

48. The planning authority have 28 days from receiving the notification to respond (see note below). You should receive an acknowledgement telling you the date the planning authority received your notification. You should not start work within the period of 28 days from the date on which the planning authority received your notification unless they tell you in writing that you are allowed to do so. If the planning authority do not respond within this 28-day period, you can go ahead with the development exactly as stated in your notification.
49. You should not start work until the 28-day period has passed or the planning authority tell you that they have formally approved the details, whichever happens first.
50. You may discuss your proposal informally with the planning authority and you may agree to make changes to your proposal. The planning authority may refer to this in their formal response.
51. Under the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 the planning authority will notify your neighbours about any demolition work which requires prior notification or prior approval.

Note: For domestic micro-wind turbines, the notification is in two parts – see paragraphs 15 and 16. The first part deals with the design and size of the wind turbine. Those parts of the development must be approved in all cases before development can begin. The planning authority have **two months from receiving** your form in which to make a decision. If they fail to make a decision within two months, you cannot automatically go ahead with the development, but you can appeal. The second part is a notification which looks at the location and appearance of the wind turbine, and the procedure for this is as described in paragraph 24 to 26.

Applications for ground based masts

52. With applications for ground based masts, the planning authority has a period of 56 days within which to indicate whether their prior approval is required and, if so, to notify the applicant that such approval is granted or refused. If these decisions are not notified by the end of this period (or any agreed extension), the applicant can proceed. Development should not be started before the end of the 56 day period unless the planning authority has indicated its prior approval is not required or has granted that approval before the end of the period.
53. The planning authority will carry out neighbour notification and consultation on the proposals as required by planning legislation. The applicant must notify any other owners or agricultural tenants of the proposal site and any relevant body if the development is in a safeguarded area, in advance of their notification to the planning authority .

Prior approval

54. If the planning authority tell you that you need prior approval, they may ask you to make changes to your proposal or provide extra information. If so, please do this.

Online notifications

55. Under The Town and Country Planning (Electronic Communications) (Scotland) Order 2004, please note that by sending in your notification electronically you are agreeing that:
- all communication relating to the notification will be made electronically; and
 - the email address you have used is the one which will be included in the notification.

If you want to withdraw your agreement to using electronic communication, you should tell the planning authority in writing, giving at least seven days' notice.