Circular 15/92
(Department of the Environment)

Circular 32/92
(Welsh Office)

Joint Circular from the
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3 June 1992

PUBLICITY FOR PLANNING APPLICATIONS

1. The amendment made to the Town and Country Planning Act 1990 by section 16 of the Planning and Compensation Act 1991 enables provision to be made in the Town and Country Planning General Development Order 1988 (the GDO) for compulsory publicity for all planning applications. An amendment to the GDO sets out the statutory requirements for different categories of development. This Circular offers guidance on interpretation of those provisions, and gives advice on good practice and other matters.

Terms

2. The term "publicity" in this Circular means giving notice of a planning application (as required under article 4 of the amending Order, new article 12B of the GDO), or of some types of development permitted under Schedule 2 to the GDO under a general permission, so that neighbours and other interested parties can make their views known. Schedule 5 of the amending Order prescribes the forms publicity for planning applications should take. "Consultation" (under Article 18 of the GDO) invites the views of specialist bodies on particular types of development. "Notification" (under Article 3 of the amending Order, new article 12 of the GDO) requires developers to notify owners and agricultural tenants of a planning application they intend to submit in relation to the owner's or tenant's land. Part 1 of Schedule 4 to the amending Order prescribes the notification forms. Part 2 lists the certificates which must be completed to inform the local planning authority and, on appeal the Secretary of State, that the notification requirements have been fulfilled.

Responsibility for publicity

3. The responsibility for publicising planning applications falls to local planning authorities. In appropriate circumstances, parish councils (in Wales, community councils), may post notices on behalf of the local planning authority, but the statutory obligation remains with the local planning authority.

4. Where publicity is required in advance of the exercise of permitted development rights, by a condition attached to the relevant part of Schedule 2 to the GDO, it will be the statutory duty of the developer to carry out the publicity. Local planning authorities will expect confirmation from developers that appropriate site notices have been displayed.

Types of Publicity

5. The GDO makes provision for three basic types of publicity:

(a) publishing a notice in a newspaper circulation in the locality;

(b) posting a site notice, visible to the general public;

(c) neighbour notification to occupiers and owners of adjoining properties.

6. The table at the end of this Circular sets out the statutory publicity requirements for different types of development. In most cases, local planning authorities can either post a site notice or carry out neighbour notification. In determining which is the more appropriate method, authorities will need to take account not only of their existing practices but also of the circumstances of the site.

7. **Neighbour notification** may be the more appropriate method where interested parties are limited to those living in the immediate vicinity. In many cases, the development will only be of interest to close neighbours, whose main concern may be about a loss of light or privacy. It enables those who are unable to see a site notice, for example the housebound, to express their views. Although not part of the statutory requirements, local planning authorities may find the definition of "neighbouring land" used in Scottish legislation (which is annexed to this Circular) helpful in deciding which other neighbours to notify.

8. Written communications should be addressed to "the owner and/or the occupier" of land adjoining the site. It will be particularly difficult to ensure timeshare owners are aware of developments likely to affect them. Where local planning authorities are aware that a neighbouring property is owned under timeshare arrangements, neighbour notification may be the most appropriate method of publicity. The letter should be addressed to "the owner's association or trustee."

9. **Site notices** can be particularly effective where there is doubt about who interested parties are, perhaps because the ownership of adjoining land is uncertain; or because the siting or design of the development is likely to be of interest to more than immediate neighbours. They also allow information about the proposed development to be passed by word of mouth to a larger audience than might otherwise be possible.

10. 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. The main disadvantage of site notices is that they are susceptible to damage from vandalism and inclement weather. Where a site is thought to be particularly prone to such problems, neighbour notification is preferable.

11. Apart from the statutory minimum requirements, local planning authorities should consider what other methods of publicity are available for attracting a wider audience. Parish and community councils are an integral part of the development control process. They may have a more intimate knowledge of their area than the local planning authority, and could be invited to participate fully in publicising planning applications, particularly in rural areas where local newspapers may not be widely available. Lists of applications should be available in public places such as libraries, notice boards and citizens advice bureaux. Local planning authorities should also ensure that the press, local civic and amenity societies, and residents' associations are made aware of proposed developments.

Major and minor development

12. The GDO defines "major" developments, requiring either site notices or neighbour notification and, in either case, a newspaper advertisement.

13. Categories of development defined as major are:

(a) the erection of 10 or more dwellings, or, if this is not known, where the site area is 0·5 hectares or more;
(b) in other cases; where the floorspace to be created is 1,000 square metres or more, or the site area is 1 hectare or more;
(c) the winning and working of minerals or the use of land for mineral working deposits;
(d) all waste developments, meaning any development designed to be used wholly or mainly for the purpose of treating, storing, processing or disposing of refuse or waste materials.

14. With the revocation of Article 11 of the GDO, there is no longer a list of developments classified as "bad neighbour". It will be the responsibility of local planning authorities to decide, on a case by case basis, and beyond the minima set down in the GDO, which developments falling outside the "major" category are likely to create wider concern. Such developments may warrant newspaper advertising in addition to either site notices or neighbour notification. The following list, whilst not exhaustive, indicates the likely types of development:

(a) those affecting nearby property by causing noise, smell, vibration, dust or other nuisance;
(b) attracting 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 tree preservation orders.

Environmental Assessment

15. Article 12B of the GDO refers to applications accompanied by an environmental statement required under the Town and Country Planning (Assessment of Environmental Effects Regulations) 1988. Where an environmental statement is submitted with a planning application, the local planning authority is responsible for publicising both the application and the statement. This replaces the requirement in regulation 12 of the Environmental Assessment Regulations. Where an environmental statement is submitted after the planning application, regulation 13 of the Environmental Assessment Regulations applies, making the developer responsible for publicising the statement. For such cases the advice in Circular 15/88 (WO 23/88) (Appendix B, paragraphs 40-44) continues to apply.

16. Developers are also required under the Environmental Assessment Regulations to make copies of the environmental statement available to the public either at a reasonable cost or free of charge. They may also wish to make copies of the non-technical summary available separately. Site notices and newspaper advertisements should state where these documents may be inspected, from where copies may be obtained, and at what charge.

Public Rights of Way

17. If in doubt whether a proposed development affects the setting of a public right of way, local planning authorities should consult the highway authority, who will be able to check the location. Where a development does affect a public right of way, the local planning authority should ensure that this is made clear, both on site notices and in newspaper advertisements.

Duplication

18. The new GDO provisions are designed to allow local authorities maximum discretion to continue using the procedures many have had in place for some time, and to avoid duplication with provisions for publicity in other legislation. Nevertheless, the Government recognises that there will be some element of overlapping and duplication in the new arrangements. Local authorities will need to take care to keep such duplication to a minimum, whilst ensuring that the distinctions between publicity, notification and consultation described in paragraph 2 above are observed.

19. For example, the obligation under article 12(2) of the GDO for developers to post site notices for minerals development involving underground mining operations is a notification requirement and different from local authorities posting site notices to inform the wider public as part of the publicity requirements. Whilst this may seem a duplication of effort, the target of the notices is different. To combine or use such notices as alternatives to one another is likely to cause confusion and result in failure to comply with the statutory provisions.

20. Conversely, it makes no sense where separate publicity requirements apply to one development, to publicise twice (for example, where a "major" development also requires an environmental assessment). In such circumstances, the more demanding of the publicity requirements will apply. Similarly, there will be no need to advertise separately two simultaneous

applications for the same development on the same site (the practice of so-called "twin tracking"). In this situation, the publicity should make it clear that there are two applications. Where identical applications are not made simultaneously, so that the first application has already been advertised, it will also be necessary to advertise the second.

21. Where an application straddles the boundaries of two or more local authorities, the authorities concerned will need to agree which is the most appropriate method of publicity.

Good practice

22. The Government has set local authorities the target of determining 80% of planning applications within eight weeks (PPG1, March 1992). Authorities are asked to ensure that their obligations to publicise applications do not jeopardise this timetable. Clearly defined policies in codes of practice will be particularly useful, and will enable local amenity groups and others to become familiar with the authority's standard practice. But authorities should also review their operational procedures to ensure that unnecessary delays are eliminated. Wherever possible, publicity arrangements should be undertaken in parallel with other necessary action so that the consideration of applications is not delayed. But no system for publicising planning applications can be foolproof, however extensive. There needs to be a balance between considerations of cost, speed of decision making, and providing a reasonable opportunity for public comment. Decisions on operational procedures are matters for local authorities' own judgement, having regard to all these factors.

23. As soon as a valid application has been accepted and entered in the planning register, authorities should arrange for information in the form prescribed in the GDO to be sent out as quickly as possible. Wherever practicable, they should indicate when the application is likely to be determined, and the latest date when representations can be accepted. This must be not less than 21 days from the date when notice was given, or 14 days from the date the advertisement appeared in a local newspaper.

24. Those invited to express their views should be made aware that failure to meet the deadline may jeopardise the chances of their comments being considered in determining the application, and that only remarks relating to land use considerations will be taken into account in reaching a decision.

Notification of changes, conditions, reserved matters

25. There is no statutory obligation on local planning authorities to publicise changes to applications once they are accepted as valid; or required by a condition on a previous application (for example, a time-limited permission); or for the approval of reserved matters following the grant of outline planning permission. Nevertheless, such matters are often of most concern to objectors. It will be at the discretion of the local planning authority to decide whether further publicity is desirable, taking into account the following considerations:

(a) were objections or reservations raised at an earlier stage substantial and, in the 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?

Notification of decision

26. Authorities must of course notify their decisions to applicants, but apart from notifying owners and agricultural tenants who have made representations on any planning application affecting their land, their is no statutory requirement for authorities to notify decisions individually to third parties. However, the Government considers that planning authorities should decide, in the light of representations made, whether, and by what means, publicity for decisions is warranted. They may take the view that it is only courteous to do so. In reaching this decision however, the costs involved will need to be taken into account.

27. How decisions are announced will also be a matter of judgement, on a case by case basis. Where a development has generated a considerable degree of interest, a press release may be suitable. Where individuals or local groups expressed particular concern, a more personal approach, by letter for example, may be appropriate. Posting notices in libraries, citizens advice bureaux, or parish noticeboards etc. may again be a cheap and effective way of informing a wider audience.

28. Irrespective of what method is used to advise third parties, authorities should take care to ensure that the applicant and others to whom they have a statutory responsibility to inform of the decision, are told first.

Appeals and called-in applications

29. The Secretaries of State will expect local planning authorities to have completed all their publicity obligations before applications come before them on appeal or following call-in. Where such obligations have not been discharged by this time, authorities will remain responsible for completing any outstanding action, and for informing the appropriate Secretary of State that they have done so.

Crown Development

30. Developments by the Crown not requiring planning permission should receive the same publicity as if permission were needed. Where Crown development proposals involve matters of national security, it may not be possible fully to comply with normal publicity requirements. In such cases, the local authority should discuss the appropriate level of publicity with the Government department involved. Any unresolved disputes should be referred to the Department of the Environment or, in Wales, to the Welsh Office.

Permitted development

31. Under certain parts of Schedule 2 to the GDO, developers must apply in advance for a determination as to whether the authority's prior approval is required for certain details of the Development. Articles 8 and 9 of the amending Order provide that, for agricultural and forestry buildings and operations (under parts 6 and 7 of Schedule 2 to the GDO), if the authority

gives the applicant notice that such prior approval is required, the applicant shall display a site notice. The Order prescribes the contents of the site notice, and stipulates that it is to be left in postition for not less than 21 days in the period of 28 days from the date on which the authority gave its notice.

32. Developers wishing to carry out permitted development which requires them to post a site notice should have regard to the guidance given in paragraphs 9 and 10 above on the posting of notices. The Secretaries of State will expect local planning authorities to take any representations made into account when reaching their decision.

33. Although not governed by the statutory provisions for publicity, statutory undertakers exercising their permitted development rights should inform both local planning authorities and the public of developments likely to have a significant effect on amenity and environment well in advance of work starting. In many cases, a site notice strategically posted for at least 21 days will allow interested parties to express their views. The notices should be clearly headed "Notice of permitted development". It should include a brief description of the development proposed and the addresses of the developer and local planning authority to whom representations should be made. In residential or particularly sensitive areas, statutory undertakers should also consider the suitability of neighbour notification. Where appropriate, particularly where a proposed development will straddle local authority boundaries, newspaper advertising may also be desirable. When in doubt about the type of publicity required, the advice of the local planning authority should be sought.

Financial and Manpower Implications for Local Authorities

34. It is acknowledged that the introduction of the new statutory procedures will represent an extra burden on local planning authorities. But since most authorities already undertake some form of publicity for planning applications, the new procedures should not represent a significant increase in costs overall. However, they will be taken into account when planning application fees are next increased.

Cancellation

35. This Circular supersedes advice in Appendix B to DOE Circular 22/88 (WO 44/88).

R JONES, *Assistant Secretary*

H R BOLLINGTON, *Assistant Secretary*

The Chief Executive
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District Councils }
London Borough Councils
Council of the Isles of Scilly

The Town Clerk, City of London

The National Park Officer
Lake District Special Planning Board
Peak Park Joint Planning Board
The Chief Executive, Broads Authority

The Chief Executive, Urban Development Corporations

The General Manager, New Town Development Corporations

For information:

The Chief Officer, the Residuary Bodies

The Secretary, London Planning Advisory Committee

[DOE PDC 17/5/001]
[WO P 12/78/01]

TABLE—STATUTORY PUBLICITY

Nature of Development	*Publicity Required*	*GDO or other statutory provisions*
Development where application accompanied by environmental statement Departure from development plan Affecting public right of way	Advertisement in newspaper *and* site notice	Article 12B of the GDO
Major Development	Advertisement in newspaper *and* either site notice *or* neighbour notification	Article 12B of the GDO
Minor development	site notice *or* neighbour notification	Article 12B of the GDO
Development affecting the setting of a listed building	Advertisement in newspaper *and* site notice	section 67 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Development affecting the character or appearance of a conservation area	Advertisement in newspaper *and* site notice	section 73 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Permitted development requiring prior notification to local planning authority	site notice posted by developer	Relevant part of Schedule 2 to the GDO

EXTRACT FROM THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (SCOTLAND) ORDER 1992

"neighbouring land" means land which is conterminous with or within 4 metres of the boundary of land for which the development is proposed but only if any part of such land is within 90 metres of any part of the development in question:

Provided that—

(a) where the proposed development is taking place within a building divided into separate units "neighbouring land" shall include—
  (i) those parts of the building conterminous with or within 4 metres of the boundary of that unit; and
  (ii) all units directly above and below the unit for which the development is proposed and all units directly above and below those parts of the building conterminous with or within 4 metres of the boundary of that unit; and
  (iii) land outwith the building which is conterminous with or within 4 metres of the boundary of the unit for which the development is proposed;

(b) Where the "neighbouring land" consists of or includes a building divided into separate units, and the proposed development is taking place within a building which is not divided into separate units, only those units of that building which are conterminous with or are within 4 metres of the boundary of the land for which the development is proposed and all parts of the building directly above and below those units shall constitute neighbouring land;

(c) where the "neighbouring land" consists of or includes a building divided into separate units, and the proposed development is taking place within a building which is also divided into separate units, only those units of the former building which are conterminous with or are within 4 metres of the boundary of the unit for which the development is proposed and all parts of the building directly above and below those units shall constitute neighbouring land;

(d) where a road falls within the distance of 4 metres measured from the boundary of the land or the boundary of the unit (as the case may be) for which the development is proposed, the width of such road shall be disregarded in calculating the specified distance unless the road is more than 20 metres in width;

Printed in the United Kingdom by HMSO
Dd 0293047 C63 6/92 824327

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First published 1992

ISBN 0-11-752672-X

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