

Guidance for application for Prior Notification and Prior Approval

Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)

Town and Country Planning (General Permitted Development) (Domestic Micro-generation) (Scotland) Amendment Order 2010



Planning Services Development Management

Introduction

Under planning legislation, certain developments are considered permitted development. However, for certain developments you are required to notify the council regarding the proposals in order to determine whether prior approval is required. The form is required for the following types of applications:

- Proposed farm or forestry building works
- Freestanding domestic micro-wind turbines
- Demolition
- Domestic air-source heat pumps

These guidance notes provide clarification and further information to help you complete each section of the form.

When to use this form

Prior notification is a procedure whereby a developer must notify the planning authority of proposals before exercising permitted development rights. This procedure will not result in *planning permission*. We will instead determine whether *prior approval* is or is not required.

This form should not be used to apply for planning permission. If you would like to apply for planning permission, please download a householder's application pack at westlothian.gov.uk/article/3065/Householder-Application or a non-householder application pack at westlothian.gov.uk/article/3067/Full-Planning-Permission, contact us at planning@westlothian.gov.uk, or telephone **01506 280000** to make an appointment to visit us at **West Lothian Civic Centre, Howden South Road, Livingston** during working hours.

If you are unsure as to whether you should use this form or are required to apply for planning permission, the guidance below can assist you.

Farm and forestry

If you can tick any of the below choices, ***you must apply for planning permission***:

- Development on farm holdings of less than 0.4 hectares
- The construction, alteration or extension of a building
- Any buildings or works not designed for agriculture
- The construction, extension or alteration of any building or structure or plant over
 - 465 square metres in area, or
 - 12 metres in height, or
 - 3 metres in height where the building is within 3 kilometres of an aerodrome
- Development within 25 metres of a metalled trunk or classified road
- The construction or carrying out of any works to a building used, or to be used, for housing pigs, poultry or rabbits or animals bred for their skin or for storage of slurry or sewage sludge, where that building is within 400 metres of a *protected building (a building normally occupied by people, but not buildings which form part of a working farm or certain specialist industrial buildings)*

If you can tick any of the below choices, you should apply for prior notification and prior approval:

- Build or *significantly* alter/extend a form or forestry building
A *significant* alteration or extension is one which would result in:
 - The cubic content of the original building being increased by more than 10%, or
 - The height of the building exceeding the height of the original building
- Form or alter a private way
- Carry out excavation or engineering operations in relation to a form or forestry undertaking

If your development does not fall within either of the above categories, you must use the Prior Notification form to give us notification before you start work on the site.

Please note that the threshold between development to be notified and development requiring planning permission is cumulative and takes account of all developments within the last two years.

Domestic micro-wind turbines

If you can tick any of the below choices, **you must apply for planning permission:**

The wind turbine would:

- Result in the presence of more than one freestanding turbine within the property boundary
- Be located less than 100 metres from the boundary of a neighbouring residential property
- Be within a conservation area, world heritage site, site of special scientific interest, or within the boundary of a listed building
- Be subject to an Environmental Impact Assessment

If you can tick the box below, you should apply for prior notification and prior approval:

- Your proposal is to install a domestic micro-wind turbine of 50 kilowatt generating capacity or less within the boundary of a residential property, where the wind turbine would be located at least 100 metres from the boundary of a neighbouring residential property

A proposal should not proceed until approval has been received in respect of the design and size of the proposed wind turbine.

Domestic air-source heat pumps

If you can tick any of the below choices, **you must apply for planning permission:**

The domestic air-source heat pump would:

- Result in the presence of more than one domestic air-source heat pump within the property boundary
- Have a generating capacity in excess of 45 kilowatts (thermal)
- Be located less than 100 metres from the boundary of a neighbouring residential property
- Be within a conservation area and visible from a road
- Be within a world heritage site or the boundary of a listed building

If you can tick the box below, you should apply for prior notification and prior approval:

- Your proposal is to install a domestic air-source heat pump with a generating capacity of 45 kilowatts (thermal) or less within the boundary of a residential property, where the heat pump would be located at least 100 metres from the boundary of a neighbouring residential property

Demolition

If you can tick the box below, **you must apply for planning permission:**

- Where a building has been rendered unsafe or uninhabitable by the action or inaction of any person with an interest in the land and it is practicable to secure the safety of the building through repair or temporary support works

If you can tick any of the below choices, you **do not** need to notify us in advance:

Where the demolition is:

- Required as a matter of urgency for health and safety reasons
- If this is the case, please write to us and provide a written justification for the proposed demolition.
- Related to other development proposals which have already obtained the necessary planning permission
- Required or permitted under an Act of Parliament or under a legal agreement (such as a Section 75 agreement)
- Required as a result of a demolition order made under the *Housing (Scotland) Act 1987*
- Required as a result of an enforcement notice
- Taking place on land for which planning permission for redevelopment has been granted or deemed to be granted and where the demolition is necessary in order to implement that planning permission

Where the demolition includes:

- Listed buildings, buildings in conservation areas and scheduled monuments which are subject to control under other legislation and/or where demolition is required or permitted under any other legislation
- Gates, fences, walls or other means of enclosure

If you have not ticked any boxes above, you must notify us using the Prior Notification and Prior Approval form, and you must notify neighbours. You must allow 28 days to lapse before commencing demolition work. In that 28 day period, we may request that you seek prior approval. If we do not respond in that period, you may proceed without further notification.

The neighbour notification section at the end of this guidance note provides advice on who must be notified and how to carry out the notification.

What happens next (*all types of development*)

Farm and forestry, domestic air-source heat pumps and demolition proposals:

- You will receive a letter acknowledging the receipt of your application.
- You should not start work within the period of 28 days from the date on which we received your notification unless we indicate in writing that you are permitted to do so.
- We have 28 days from receipt of your notification to respond. If we do not respond within this period, the development can proceed exactly as notified.

What may happen:

- We may indicate that we require the formal submission of details for approval. If this happens, work should not begin until we have approved those details.
- We may informally discuss your proposal and ask you to make modifications. If this happens, we may refer to any agreed modifications in our response.

Domestic micro-wind turbines:

For these proposals, the application is in two parts.

Part 1 – The design and size of the wind turbine:

- You will receive a letter acknowledging the receipt of your application.
- Approval of these aspects of the development is required in all cases for domestic micro-wind turbines before development can begin.
- We have two months from receipt of your notification in which to respond.
- If we do not make a determination within two months, your development cannot proceed. Depending on whether your application is a major application or a local application, you have the right to appeal to Scottish Ministers or the right to seek a review by the council's Local Review Body on the basis of non-determination.

Part 2 – The siting and external appearance of the wind turbine

- You will receive a letter acknowledging the receipt of your application.
- You should not start work within the period of 28 days from the date on which we received your notification unless we indicate in writing that you are permitted to do so.
- We have 28 days from receipt of your notification to respond. If we do not respond within this period, the development can proceed exactly as notified.
- As detailed above, we may require the formal submission of details for approval or ask you to make modifications.

Outcomes (*for all types of development*)

Once we have assessed your application, we will determine either that prior approval is *required*, prior approval is *refused* or your proposal *does not require prior approval*. You will receive a decision notice along with details of how to make an appeal or seek a review.

If prior approval is required, we make request modifications or additional information. You should comply with this request.

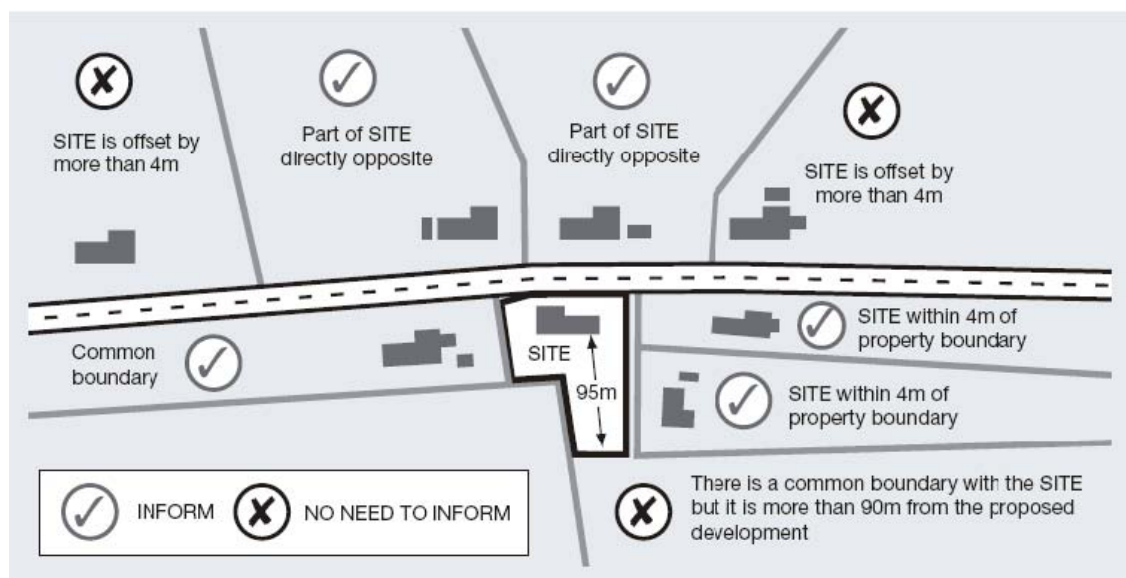
If prior approval is refused, depending on whether your application is major or local, you have the right to make an appeal to Scottish Ministers (for major applications) or to seek a review by the council's Local Review Body (for local applications). Details of your rights will be specified in the papers which accompany your decision notice.

Demolition – neighbour notification

If you do need to notify us, you must also notify domestic and non-domestic neighbours. You must complete the neighbour notification certificate which is included at the end of the application form. You are only exempt from this requirement if:

- Your house is within a plot or garden with a distance of 90 metres or more to all boundaries
- Your garden is surrounded by public roads more than 20 metres wide.

Which neighbours do I need to notify?



You must notify neighbours who own, lease or occupy any land or buildings which:

- Adjoin the application site
- Lie across the road from the site
- Lie within 4 metres of the boundary (ignore any road of 20 metres or less when measuring the 4 metres)

Sub-divided buildings (flats and tenements):

- Where your proposed development **is in a sub-divided building** and neighbouring land does not consist of the sub-divided building
 - You must notify all parts of the building adjoining or within 4 metres of your part, plus all parts of the building directly above and below your part and those parts
- Where the proposed development **is in a sub-divided building** and neighbouring land also consists of a sub-divided building
 - You must notify all parts of the building adjoining or within 4 metres of your part, all parts of the building directly above and below your part and those parts, parts of the sub-divided building on the neighbouring land which are adjoining or within 4 metres of the boundary of the land for which your development is proposed, and all parts of the building directly above and below these parts

- Where the proposed development **is not a subdivided building**, but neighbouring land consists of a sub-divided building
 - You must notify parts of the sub-divided building which are adjoining or within 4 metres of the boundary of the land for which your development is proposed, plus all parts of the building directly above and below these parts

How do I notify the neighbours?

To notify the neighbours you should send them:

- A completed copy of the *Neighbour Notification form*. Please note that the description of the proposed development on this form must be exactly the same as the description given on the application form.
- A copy of the location plan showing the site of the proposed development.
 - The location plan must be a 1:2500 or 1:1250 scale ordnance survey plan. This plan must identify with a red line the land to which the application relates and its situation in relation to neighbouring land. It must also show with a blue line other land in control of the applicant.
 - This plan should be the same one as has been submitted with the application form.
- A copy of the guidance note *Neighbour Notification form*.

For **domestic** properties, send one copy of the above three items to **the owner** and another copy to **the occupier**. You must do this for every property which is a domestic neighbour.

For non-domestic properties (any property other than a house/flat or its garden ground), you must send a copy of each of the above three items to every owner, occupier or lessee at that address. You should consult the *Valuation Roll* for names and addresses. If you cannot find this information, you must address the notice to **the owner, the lessee, or the occupier** (whichever you cannot identify) and send to the neighbouring property.

If you cannot serve a notice because there are no buildings on neighbouring land, you must tell us. We will then arrange for a notice to be placed in the local paper, and invoice you for the cost of the advert.

The neighbours in receipt of these notices have 14 days from the date the application is registered to make comments on the proposal.

The notices should be sent out by recorded delivery as the receipt provides proof of delivery in the event of a dispute. However, post or hand delivery are acceptable. The *Neighbour Notification form* should be sent out at the same time you lodge the application with the council and not before.

Customers with special requirements

Information is available in **Braille, tape, large print** and **community languages**. Please contact the **interpretation and translation** service on **01506 280000**

Text phones offer the opportunity for people with a hearing impairment to access the council. The text phone number is **18001 01506 464427**. A loop system is also available in all offices.

Development Management, West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF

tel 01506 280000 email planning@westlothian.gov.uk web westlothian.gov.uk