

Response ID ANON-QPH7-MTPN-Y

Submitted to **Guidance on Engaging Communities in Decisions Relating to Land**
Submitted on **2017-06-16 10:38:19**

About You

What is your name?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Built Environment Forum Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response with name

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

Key Considerations

1 Does the draft Guidance (Chapter 3 of this consultation) respond appropriately to the considerations of Section 44(2) of the Act?

No

Please explain your answer.:

Thank you for consulting on the above draft guidance. BEFS is an umbrella organisation that brings together 23 non-governmental organisations across Scotland's built environment sector. Drawing on extensive expertise and knowledge in a membership-led forum, BEFS informs, debates and advocates on the strategic issues, opportunities and challenges facing Scotland's built environment.

The Act states that guidance should include information about the types of land and types of decision in relation to which community engagement should be carried out. The draft Guidance adopts a pragmatic, common sense approach to this, however the content is arguably light in that it does not elaborate beyond requiring a land owner to consider whether a decision will have impact on the local community.

2 Do you agree with our proposed scope for the Guidance?

No

Please explain your answer.:

The scope of the guidance needs to be clarified in terms of how community is defined. The Community Empowerment (Scotland) Act 2015 defines community as 'any community based on common interest, identity or geography'. The draft guidance suggests a locus on the geographic aspect, with repeated reference to 'local community'.

Clarity is sought on paragraph 16 of the consultation which states 'if a community requests engagement and dialogue, then land owners and land managers should consider the benefits of responding positively to such a request'. The guidance does not set out a process for the community seeking engagement – rather the emphasis is on the land owner initiating the engagement.

Clarity is sought on how this guidance is to be applied in urban areas – the definition of land in the Land Reform (Scotland) Act 2016 including 'bridges and other structures built on or over land'. The draft guidance touches on this point at the start of section 2 'why should I engage with communities' referring to the 'use and management of land and buildings'.

3 Do you agree with our approach to the relationship with existing statutory requirements?

Not Answered

Please explain your answer:

It may be clearer if this section of the guidance were to identify the circumstances when community consultation is a statutory requirement. The references section should include reference to PAN 81 – Community Engagement.

Clarity is sought on the final sentence of paragraph 23 of the draft guidance which reads ‘..and land owners and managers may wish to consider the benefits of supplementary engagement in relation to any decisions which are not subject to statutory engagement’.

4 Do you agree with our approach to using the National Standards for Community Engagement to inform this Guidance?

Yes

Please comment if you have ideas on how we could better integrate these Standards.:

Regarding the methods for community engagement, it seems pragmatic to refer to the existing National Standards which have been updated relatively recently. The Standards are also written and accessed in a user-friendly way.

Draft Guidance

5 Have we identified appropriate uses for the Guidance in section 1 of the draft Guidance?

Not Answered

Please explain your answer:

See question 3 – the guidance must be clear about when engagement is being encouraged under this responsibility being placed on land owners, as distinct from statutory consultation.

6 Have we identified appropriate reasons for why community engagement should take place in section 2 of the draft Guidance?

Not Answered

Please explain your answer:

This section could highlight the immediate/local outcomes arising from effective community engagement perhaps through case study material. Listing the national outcomes as a set of bullet points seems less appropriate in a public facing document.

7 Have we identified appropriate best practice principles in section 3 of the draft Guidance?

Not Answered

Please explain your answer.:

Clarity is sought on the reference to engagement being two-directional. It is assumed that this refers to communication during an engagement process as being two-directional. The consultation places the responsibility on land owners to engage communities - clarity is sought on whether communities may likewise initiate engagement with land owners? This is increasingly likely as communities prepare plans as community development trusts, become recognised as community bodies, and possibly in the future take a stronger role in preparing the proposed local development plans (as proposed in the recent consultation on the future of the Scottish planning system).

It would be appropriate to ensure that these principles align with those set out in the National Standards.

8 Have we identified appropriate situations for when engagement should or should not take place in section 4 of the draft Guidance?

No

Please explain your answer:

The content is light here - it would be useful to include examples of the types of engagement considered appropriate in different scenarios.

The box on statutory engagement is confusing – it suggests that land owners may wish to engage on decisions not subject to statutory engagement – yet this is in fact the objective of the guidance; that land owners should engage.

The draft guidance suggests that the size of the land involved is a relevant factor – that the guidance will be more readily applied to ‘significant land holdings’. Use of the word ‘significant’ is open to interpretation. Similarly, the anticipated impact on a local community is couched in terms of significance. Inclusions of scenarios/case studies may help clarify the policy intention here.

9 Have we identified appropriate methods for engaging with communities in section 5 of the draft Guidance?

Not Answered

Please explain your answer:

The chart starts to set out different approaches according to types of decision. However this section is titled ‘How should I engage?’; there needs to be stronger linkage here with methods of engagement as set out in the National Standards.

10 Have we identified appropriate ways of identifying who to engage with in section 6 of the draft Guidance?

Not Answered

Please explain your answer :

Linkage with the National Standards for Community Engagement should suffice here.

11 Considering the draft Guidance as a whole, do you agree that it has proportionate and reasonable expectations of land owners, land managers and communities?

Not Answered

How could we improve the Guidance in this respect? :

As discussed in response to question 7, the guidance is biased towards the responsibility on land owners and managers to engage with communities – the responsibilities being placed on, and expectations of, communities is less clear.

Cross-referencing to existing tools and guidance is a pragmatic approach.

12 Do you agree that, as a whole, the draft Guidance balances the concerns detailed below?

No

How could we improve the Guidance in this respect? :

No - for the reasons set out above further clarity is sought around when to engage communities – setting out expectations in the context of a range of scenarios will help. Further content is also needed on monitoring and the consequences of no/poor engagement.

13 In the final published Guidance we would like to include examples of when engagement should be carried out. Can you provide examples of situations in which you think that engagement either is, or is not, necessary?

Comments::

BEFS would support the inclusion of examples and would be happy to seek input from its members with examples once there is more clarity around the range of scenarios.

14 Do you have any other comments?

Comments::

No further comments.

Impact Assessment

15 Please tell us about any potential impacts, either positive or negative, that you consider the proposals in this consultation may have on people who may be differently affected in relation to the protected characteristics.

Comments::

16 Please tell us about any potential impacts, either positive or negative, costs and burdens that you think may arise as a result of the proposals within this consultation.

Comments::

17 Please tell us about any potential environmental impacts, either positive or negative, that you consider any of the proposals in this consultation may have.

Comments::

18 Please tell us about any potential impacts on privacy, either positive or negative, that you consider may arise as a result of the Guidance.

Please be as specific as possible.:

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Slightly dissatisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Slightly satisfied

Please enter comments here.: