

Introduction

The Application for Prior Notification Form allows you to notify Scottish Borders Council (as planning authority) of proposals to determine whether prior approval is required. The form is to be submitted as part of your proposal.

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

When to use this form

Unlike planning permission and other consents, 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'. The end result will be a determination that "prior approval" is or is not required. If the decision is that approval is required, further information may be requested by the planning authority in order for it to determine whether approval should be given. The granting of prior approval can result in conditions being attached to the approval. Prior approval can also be refused, in which case an appeal can be made or a Local Review of the decision can be sought (depending on the scale of the application).

The form should not be used to apply for planning permission – advice and appropriate forms for planning applications can be provided by the planning authority. The form also should not be used if the property lies within a "Natura 2000" site. You should contact the planning authority if you think this may apply to you. If you have already carried out the work you should inform the planning authority.

Farm And Forestry

What Type of Development Needs to be "Notified"?

Anyone intending to **build or significantly alter / extend** a farm or forestry building is required to notify the planning authority of their intention to carry out such development. Also anyone wanting to form or alter a private way or carry out excavation or engineering operations in relation to a farm or forestry undertaking must also **notify** the planning authority in advance. The above works may be permitted development and this notification applies to the exercise of permitted development rights only, i.e. to development for which planning permission is not required.

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.

What Needs Planning Permission?

For the avoidance of doubt, the types of development for which planning permission is required is as follows.

- a) development on farm holdings of less than 0.4 hectares. In certain parts of Scotland this holding must be a single entity. In other parts it is the overall holding. You should check with your planning authority;

- b) the construction, alteration or extension of a dwelling;
- c) any building or works not designed for agriculture;
- d) the construction, extension or alteration of any building or structure or plant over
 - i. 465 square metres in area, or
 - ii. 12 metres in height, or 3 metres in height where the building is within 3km of an aerodrome;
- e) development which is within 25 metres of a metalled trunk or classified road;
- f) 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 protected building is a building normally occupied by people, but does not include buildings forming part of a working farm or certain specialist industrial buildings.

If your proposals fall into this category you should make an **application for Planning Permission**, rather than proceed with this form. 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.

If the work you propose does not fall within any of the descriptions in points (a) to (f) above, you must use this form to give notification to the planning authority before you start work on site.

Domestic Micro Wind Turbines

What Type of Development Needs to be “Notified”?

Anyone proposing 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, must apply to their planning authority for prior approval of the design and size of the proposed wind turbine and notify the planning authority with regard to the siting and external appearance of the proposed wind turbine. In other words, your proposal should maintain at least 100 metres distance separation from the boundary of the nearest residential property, otherwise you will be required to apply for planning permission.

In practice, a proposal of this nature should not proceed until the approval of the planning authority has been received in respect of the design and size of the proposed wind turbine.

What Needs Planning Permission?

For the avoidance of doubt, the types of development for which planning permission is required is as follows.

- a) If the development exceeds one or more of the following thresholds, a planning application is required:
 - b) the wind turbine would result in the presence of more than one freestanding turbine within the property boundary;
 - c) the wind turbine would have a generating capacity in excess of 50 kilowatts;
 - d) the wind turbine would be located less than 100 metres from the boundary of a neighbouring residential property;

- e) the wind turbine would be within a conservation area;
- f) the wind turbine would be within a World Heritage Site;
- g) the wind turbine would be within a Site of Special Scientific Interest;
- h) the wind turbine is within a site of archaeological interest;
- i) the wind turbine would be within the boundary of a Listed Building; or
- j) j. the wind turbine is subject to Environmental Impact Assessment.

Domestic Air-Source Heat Pumps

What Type of Development Needs to be “Notified”?

Anyone proposing to install an 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, must notify their planning authority in advance.

What Needs Planning Permission?

If the development exceeds one or more of the following thresholds, a full planning application is required:

- a) the installation of the heat pump would result in more than one air-source heat pump within the property boundary;
- b) the air-source heat pump would have a generating capacity in excess of 45 kilowatts (thermal);
- c) the air-source heat pump would be located less than 100 metres from the boundary of a neighbouring residential property;
- d) the air-source heat pump would be located on land within a conservation area and visible from a road;
- e) the air-source heat pump would be within a World Heritage Site; or
- f) the air-source heat pump would be within the boundary of a listed building

Demolition

What Type of Development Needs to be “Notified”?

You generally need to notify the planning authority in advance if you wish to demolish a building. There are exemptions to this:

- a) Where the demolition of the building is required as a matter of urgency for health and safety reasons – if this is the case, you should write to the planning authority and provide a written justification for proposed demolition; or
- b) Where demolition is related to other redevelopment proposals which have already obtained the necessary planning permissions; or

- c) Where demolition is required or permitted under an Act of Parliament or under a legal agreement (S75) or
- d) Where 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 or
- e) Where demolition includes buildings of less than 50 cubic metres (when measured externally) or
- f) Where demolition includes gates, fences, walls or other means of enclosure or
- g) Where demolition is 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 or
- h) Where demolition is required as a result of a demolition order, made under the Housing (Scotland) Act 1987 and
- i) Where demolition is required as a result of an enforcement notice

Unless demolition falls into one of these exemptions, you will have to notify neighbours. You must also notify the planning authority and allow 28 days to lapse before commencing demolition work. The planning authority may within that 28 day period respond by requesting that you seek prior approval. If the planning authority does not respond, you may proceed without further notification.

What Needs 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, you will require planning permission to demolish the building. If this is the case, you should use the planning permission form rather than the Prior Notification form.

Neighbour Notification – For Demolitions Only

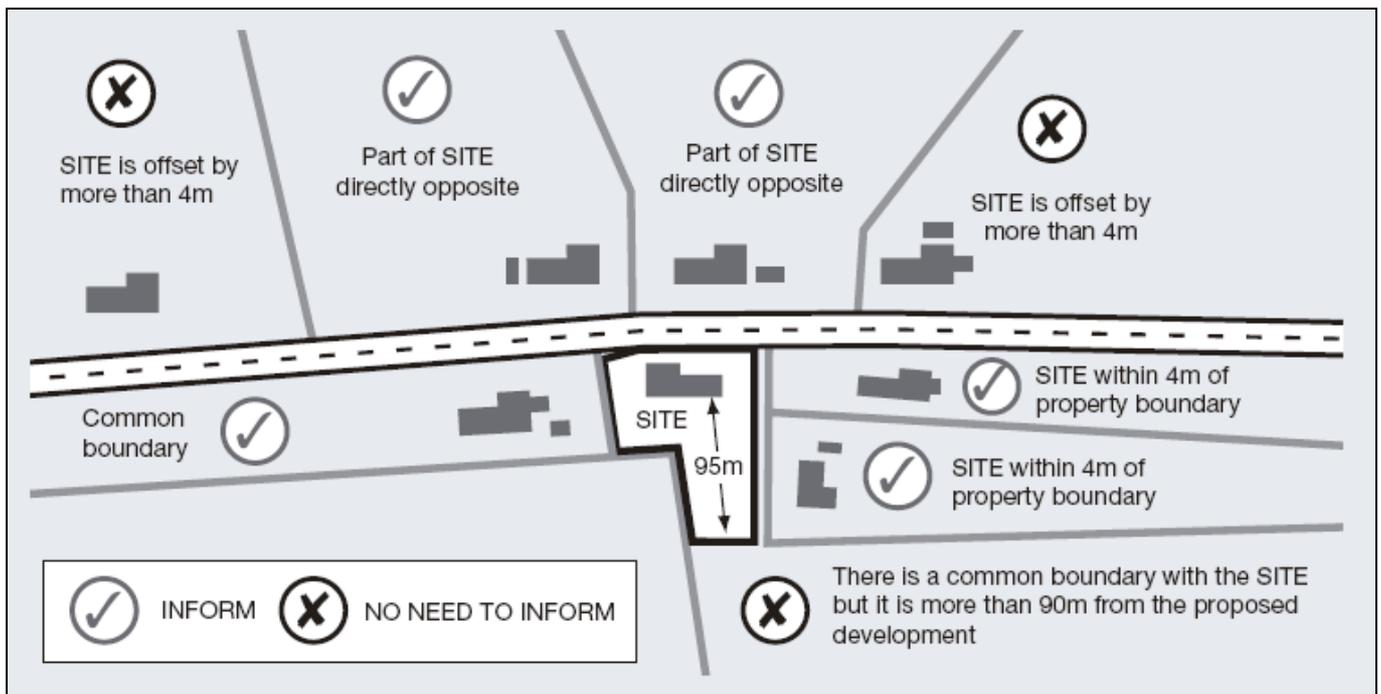
Please note that there is still a requirement under Part 23 Class 70 (3) (ii) and (iii) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO) to notify neighbours if you are proposing to demolish a building.

The procedures for notifying neighbours should continue to follow the procedures set out in Article 9 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (GDPO), despite revocation of the GDPO.

You must notify your neighbours if you are making a notification in respect of a **proposed demolition**. 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 or
- if your garden is surrounded by public roads more than 20m wide.

In every other instance you must serve notices on both domestic and non-domestic neighbours. The following diagram has been prepared to illustrate who would in theory be defined as a “neighbour” and how you serve notice on them.



For demolition: Which Neighbours Must I Notify?

Notify:

- 1) any land or buildings which share, or lie within 4m of, a boundary of the land for which your development is proposed (ignore any road of 20m or less when measuring the 4m);
- 2) **where your proposed development is in a sub-divided building and neighbouring land does NOT consist of a sub-divided building** – all parts of the building adjoining or within 4m of your part, plus all parts of the building directly above and below your part and those parts. (1.) above also applies;
- 3) **where your proposed development is NOT a sub-divided building but neighbouring land consists of a sub-divided building** – only parts of the sub-divided building which are adjoining or within 4m of the boundary of the land for which your development is proposed, plus all parts of the building directly above and below these parts;
- 4) **where the proposed development is in a sub-divided building (e.g. a tenement) AND neighbouring land also consists of a sub-divided building** – follow (2) and (3) above.

For demolition: How Do I Notify The Neighbours?

To do this, you should send neighbours:

- 1) a completed copy of the “ NOTIFICATION OF NEIGHBOURS ” form;
- 2) a copy of a location plan showing the site of the proposed development
- 3) a copy of the guidance note “ NOTIFICATION OF NEIGHBOURS ”

The location plan must meet the requirements described below.

The description of the proposed development on the form served on neighbours must be exactly the same as the description given on the application form.

If the neighbouring property is DOMESTIC (a house/flat), you must send one copy of the above 3 items to "The Owner" and another copy to "The Occupier". You must do this for every property which is a domestic neighbour.

If the neighbouring property is NON-DOMESTIC (any property other than a house/flat or its garden ground), you must send a copy of each of the above 3 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 your planning authority who will then arrange for a notice to be placed in the local paper, for which a fee may be charged.

There are several ways of serving the notices and documents. It is recommended that you send them by recorded delivery as you will then have a traceable record of the notice being served. You may also serve the notice in person.

What Must I submit?

The notification must include:-

- a) a Location Plan (to a scale of 1:2500 or 1:1250), with the site of the proposed building outlined in red (for domestic micro-wind turbines or air-source heat pumps 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 outlined in red and the boundaries of neighbouring residential properties outlined in green);
- b) a written description of the proposed building works (including size of a freestanding wind turbine);
- c) the materials to be used;
- d) any fee required to be paid.

It also appropriate to submit further details with your notification form, such as detailed elevations and/or any other reasonable information that the planning authority may require to enable it to process your application.

For demolitions you should also indicate which neighbours you have notified and when.

What Happens Next?

The planning authority has **28 days from receipt** of the notification to respond¹. You should receive acknowledgement informing you of the date of receipt. You should not start work within the period of 28 days from the date on which the planning authority received your notification unless the planning authority indicate in writing that you are permitted to do so. If the planning authority does not respond within this 28 day period, then the development can proceed exactly as notified.

¹ For domestic micro-wind turbines, the application is in two parts. The first part deals with the design and size of the wind turbine. Approval of those aspects of the development is required in all cases for domestic micro-wind turbines before development can begin. The planning authority has **2 months from receipt** of the form in which to make a determination. If the Planning Authority fails to make a determination within 2 months, the development cannot automatically proceed and the applicant can appeal or seek a Local Review (depending on the scale of the development) of the non-determination. The second part is a notification (as described in paragraph 23) which addresses siting and external appearance of the wind turbine.

If the planning authority indicates, within the 28 day period, that it requires the formal submission of details for approval, work should not begin until details have been approved by the planning authority.

Informal discussions may take place with the planning authority and you may agree to modify your proposal. The planning authority may refer to this in their formal response.

Prior Approval

If the planning authority responds by advising that prior approval is required, it may request modifications or additional information. If so, please comply with the planning authority's request.