

Guidance on Engaging Communities in Decisions Relating to Land



Comments by the Scottish Property Federation

Our Ref: PS-2017(21)

Introduction

1. The Scottish Property Federation (SPF) is a voice for the property industry in Scotland. We include among our members: property investors including major institutional funds, developers, landlords of commercial and residential property, and professional property consultants and advisers. We are happy for our comments to be published and shared within the public sector.
2. This Advisory Guidance is a helpful statement of principles although it leaves many questions unanswered and is unfortunately very open to subjectivity. This will lead to uncertainty and ambiguity in its application. Also, there is a surprising lack of reference to local authorities even allowing for the fact that the guide is aimed at

General Remarks

3. While the guide is a useful summary of key issues to be assessed by landowners and managers, it should also be a useful aide for community groups in determining matters upon which to engage. The document is however quite light on specifics and does leave significant ground for subjective interpretation. Ultimately decisions over or relating to land in urban and rural settings and the level of community engagement to be associated with such decisions, will be a matter of judgement for landowners, managers and long-term occupiers of land and buildings.
 - 3.1. **Should long-term tenants/leaseholders be included?** The government may wish to consider if the description of landowners and managers is adequate for the stated purpose of the guidance. Although less prevalent than they once were some commercial lease can extend to 20 or more years for a major occupier and indeed, including some major public-sector occupiers.
 - 3.2. **Geographic and/or interest group related?** The guidance sometimes offers contradictory suggestions as to who the guidance is intended for. In some parts, it appears to clearly target those who have a geographic connection to the area – but elsewhere including in its opening remarks the guidance appears to be more broadly directed.
 - 3.3. **Are community groups representative?** Our members have reported issues with correctly identifying community groups and even encountering contradictory community groups. This makes it difficult to know if a landowner, developer or manager is being properly informed by a community group which may or may not actually have the confidence of their community area or interest constituency. Neither should it be assumed that the community group ‘knows best’ because while each case must be judged on its merits, it is not automatically the case the community group will decide appropriately.
 - 3.4. **The guidance is advisory and includes significant passages of subjectivity**, particularly over defining a decision as having significant impacts. It is likely that many landowners or managers will adopt a cautious approach and engage with groups over a broader range of

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activities rather than risk being perceived as non-compliant with s42. That said, the table seeking to delineate Good Neighbour/Informal Engagement/Formal Engagement is helpful and well thought-through.

3.5. Role of local authorities. We understand that the guidance is aimed at landowners and managers and how they engage with community groups. However, it is a surprise to see next to no mention of the role of local authorities within this guidance. The local authority would often be the key relationship for a land owner or manager, or a developer.

3.6. Communications – The focus of the guidance is on improving communications from landowners and managers to community groups. However, the best communications are two-way and there is a need for groups to seek to understand the position of landowners and managers as well. Engaging with communities should therefore be about mutual respect: it is not all one-sided.

Conclusion

4. The guide is a welcome document but it could be more balanced. Land owners and managers should also be entitled to expect a fair hearing from community groups who should seek to understand their perspectives and imperatives as well as have their concerns addressed. This guidance is intended to aid compliance with the 2015 Act but nonetheless, decisions relating to land is a very broad concept and may include complex and time/commercially sensitive issues. Understanding is therefore required by both landowners, managers or investors as well as community groups and the guidance could more clearly state that community groups should come to engage positively, as well as owners, investors and managers.
5. It should also be expected that the local authority will be a source of guidance and leadership on which community groups to engage with. In particular, guidance on the representativeness of certain groups perhaps not well known to a landlord, an investor or a land manager would be welcome.
6. The government may also wish to consider enhancing the scope of the guidance to include those with longer term interests in land and buildings yet who are not explicitly landowners or managers.

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