



Planning & Architecture

Benefits of using Processing Agreements: April 2015



Processing Agreements

Introduction

The Scottish Government has actively promoted the use of processing agreements as a project management tool for planning applications since 2012. This report provides a review of the progress made and highlights the benefits and practical consideration of their use. It is supplemented by the findings of a survey of planning authorities, applicants and agents which was undertaken during Autumn 2014.

The findings of this report should be used by planning authorities, applicants and developers to consider how uptake in the use of processing agreements can be increased further.

Progress

Since the introduction of processing agreements in Scotland, work has been on-going to promote their use. Their value was highlighted in Planning Reform: Next Steps (2012) when we outlined actions to promote them.

	Commitment	Action Taken
Processing Agreements	<p>We will work with HOPS and the development sector to produce a model processing agreement template.</p> <p>Promote the project management of major planning applications through processing agreements.</p>	<p>The Scottish Government worked with Aberdeen City and City of Edinburgh Councils to identify good practice. We met with a variety of developers to discuss customer experience. A <u>model template</u> for processing agreements was published on 13 December 2012 and promoted at Heads of Planning and convenor events.</p>

Throughout the first half of 2013, the then Minister for Local Government and Planning undertook a Scotland wide tour meeting frontline planning staff to outline his vision for a high performing planning service. A session was delivered at the events by Andrew Trigger, formerly of City of Edinburgh Council on their experience of using processing agreements. The Scottish Government, Planning Authorities, Private Developers and the RTPI also ran Chapter events to share good practice and promote the benefits of using processing agreements during Spring 2013.

The Planning Performance Framework (PPF) was introduced by Heads of Planning Scotland (HOPS) in 2012. All planning authorities prepare a PPF report on an annual basis and receive feedback from the Scottish Government. In September 2013 the High Level Group on Performance agreed to introduce 15 Performance markers which the PPF reports were to be measured against. Performance Marker

2 covers processing agreements and requires planning authorities to provide evidence of:

- Offering agreements to all prospective applicants for major development planning applications; and
- availability publicised on website

Analysis of PPF Reports for 2012-13 showed that 8 authorities had not offered processing agreements or publicised them on their website during the reporting period. Our review of 2013-14 PPF Reports found that all planning authorities now promote, or are committed to using them. More information can be found in the Planning Performance Annual Report 2013/14.

In December 2013, Circular 3/2013: Development Management Procedures was published. It provides guidance on the requirements in relation to applications for planning permission and sets out the circumstances when and how processing agreements should be used. It states that: *“The Scottish Government’s expectation is that planning authorities and statutory consultees should actively promote and encourage the use of processing agreements associated with major or national developments and also substantial or complex local developments”*.

Annual Planning Performance Statistics

Since 2012-13 statistics have been published on the number of processing agreements used by planning authorities and whether they are determined within agreed timescales. The full statistics relating to planning authority performance can be found at: www.scotland.gov.uk/Topics/Statistics/Browse/Planning/Publications

The table below shows the number of decisions reached where the planning authority used a processing agreement. The number of processing agreements being used for all development types has increased, alongside the number of planning authorities using them.

	Major	Local	EIA	Other	Total	Number of Authorities Using Processing Agreements
2012-13	28	9	0	3	40	9/34
2013-14	61	54	1	9	125	15/34
2014-15 Quarter 1	20	32	2	3	57	12/34
2014-15 Quarter 2	7	27	2	6	43	7/34
2014-15 Quarter 3	25	46	1	3	75	17/34

Research - Autumn 2014

Feedback received from some planning authorities at Planning Performance Workshops in February 2014 indicated that they were struggling to get applicants and developers to sign up to processing agreements. We felt that it was important to capture the outcomes where planning authorities have used processing agreements in order to highlight the benefits and encourage further take up, including their use for complex local applications.

Using the Planning Performance Annual Report, local authority websites and the annual planning statistics, we identified and interviewed a selection of planning authorities and applicants who recently used processing agreements. The following authorities and applicants were interviewed during August and September 2014:

Planning Authority	Applicants
Argyll and Bute Council	Archial Norr
Dundee City Council	Barratt West Scotland & David Wilson Homes West Scotland
Dumfries and Galloway	DJ Goode
East Dunbartonshire Council	Hydroplan
Highland Council	Jones Lang Lasalle
Loch Lomond and Trossachs National Park Authority	Savills
Renfrewshire Council	

Benefits of Using Processing Agreements

The benefits highlighted by those interviewed included:

- **Improved Response Times** – Authorities generally considered that processing agreements were leading to improved timescales for applicants providing requested information to support their application. It was also felt that consultees responded more efficiently in most cases.
- **Certainty & Transparency** – Of process and procedures. The use of processing agreements removed any ambiguity about who was to do what and by when. They helped to provide clarity for applicants about what supporting information was required to be submitted alongside the planning application. They also make clear the consequences for not meeting the outlined timescales. For example, delays to application processing times and possibly the need to amend the date for determination. Applicants were generally happy to agree to decisions which took longer than the statutory timescale on the basis that the processing agreement provided the certainty of when a decision would be made.
- **Performance Management Tool** – Authorities highlighted the benefit that applications subject to processing agreements are removed from decision time calculations and reported separately in planning authority performance statistics. In order to demonstrate the effectiveness of processing agreements more clearly interviewees felt it would be useful if the published statistics on processing agreements also included average decision making timescales.
- **Project Management Tool** – The majority of interviewees felt that processing agreements clearly set out the planning application process and enabled authorities to manage caseloads. This helped to ensure that resources are allocated appropriately and assist with business planning purposes. We found that the [SG template](#) which was published in 2012 is widely used by those Planning Authorities we spoke to either in its published format or with minor amendments to reflect individual council processes.
- **Improved Working Relationships** – To help improve relationships, and communication between applicants and authorities, both included named contacts in the processing agreement. Most of the authorities held regular

meetings with applicants to monitor progress. One authority carried out case reviews so that lessons could be learned for next time. Improved relationships with consultees was also highlighted. Most of the authorities we interviewed did not find it necessary to get internal and external consultees to sign up to the agreement as it made the process too complex. It was felt that the use of the processing agreement alone reinforced expectations and helped to ensure that deadlines were adhered to.

- **Supported Pre-Application Discussions** – Most authorities and applicants we spoke to considered that processing agreements supported pre-application discussion by helping to outline and record the required information to be submitted alongside a planning application. One authority remarked that pre-application discussions also helped to identify in the processing agreement key dates around legal agreements and what additional consents would be required.
- **Better Quality Applications** – Authorities and applicants considered that applications subject to a processing agreement were of better quality, however most of them attributed this to the pre-application discussions.

One authority did state that initially they were reluctant to use processing agreements as they didn't see the benefits, but any doubts were overcome once the process had begun.

Issues encountered when using processing agreements

Planning authorities only raised a few issues when using processing agreements:

- **Poor quality information or lack of information being submitted** - Processing agreements do not guarantee that the quality of the information submitted will be of a standard to enable the planning authority to determine the planning application.
- **Difficulty in getting consultees to sign up** – It was highlighted that consultees out with the planning department of the local authority can be more difficult to get on-board and adhere to the timescales set out in the Processing Agreement. Where the applicant is the reason for delay authorities generally didn't have any problem extending the final timescales.

Reasons given for not using processing agreements

- The perception that the right to appeal against non-determination would be lost – Circular 03/2013 clearly outlines the circumstances where an appeal against non-determination can be made when using a processing agreement¹.
- Lodging the application to meet requirements of a land option. Application submitted but there was no intention to proceed in the near future.
- Process viewed as being too complex.
- Time taken to draft and agree a processing agreement is putting people off.

¹ <http://www.scotland.gov.uk/Publications/2013/12/9882/8> - Where the parties agree that the proposal will take longer than the statutory period to determine they should agree to extend the period after which an appeal may be made to Scottish Ministers or review sought from the planning authority against non-determination of the application, in accordance with section 47(2) or 43A(8)(c) as the case may be, and record it in the agreement. It will not be possible to appeal against non-determination in advance of that agreed timescale.

Overcoming issues

To overcome the issues highlighted above most authorities considered that it was crucial that all parties are engaged early in the process. This enables all parties to make their views known and ensure that the required supporting information is submitted alongside the application. Sometimes there can be reluctance on the part of the applicant to invest a significant sum of money to produce the supporting information at the outset. To this end it was considered that the pre-application process was a key element in the process. With the exception of applications that look to retain land options, we consider that these issues could be resolved through better promotion of the benefits of processing agreements and a clearer explanation of the process involved.

The key ingredients to making a processing agreement successful

From our discussions we have identified the key elements which are required to make a processing agreement successful. Work is required in the preparation and throughout the process to ensure that the deadlines are met and the outcomes realised. The key components are:

- **Pre-Application Discussions** - These are crucial to an effective processing agreement. Having all interested parties involved from the outset helps to ensure that all issues are identified early on to ensure there are no surprises once the application is submitted. This helps ensure that the agreed timescales can be met.
- **Culture Change** - The authority must be proactive in offering and promoting processing agreements to applicants/developers. This can be supported through an open for business approach and culture of continuous improvement. Suggestions for improving publicity and take-up included:
 - Offering during pre-application discussions
 - Offering at the proposal of application notice stage
 - Clearer promotion on planning authority websites
 - Promoting through E-planning
 - Planning authority guidance for applicants on processing agreements
 - Discussion and awareness raising via developer forums
- **Project Management Skills** - Each of the authorities we spoke to promoted the sharing of knowledge by staff with project management experience. Some offered staff the opportunity to undertake formal project management training whereas others provided in-house training from project managers who work for the authority. Using live and past examples and regular staff events to promote the use of processing agreements was also provided as an example by some authorities.
- **Setting Realistic Timescales** - To help manage expectations authorities generally asked when the developer needed a decision by or identified which committee meeting the application would be taken to for decision. One authority we spoke to held a review of the processing agreement 4 weeks after submission of the application to check that any issues with the application were being addressed and that timescales remained achievable.
- **Communication** - Both authorities and applicants considered regular communication to be a vital component. Having single points of contact and named individuals meant that either party could get in touch to check with

progress or seek clarification. This also had the benefit of improving working relationships and making both parties seem more open and the process more transparent.

The following points are recommended as best practice for planning authorities, applicants and developers in continuing the progress that has been made:

Best practice for planning authorities, applicant & developers:

<p>1. The offer of a processing agreement for major developments and complex local developments should be considered to be standard practice. Templates, process and benefits should be clearly outlined on planning authority websites. Planning authorities should work with the different sectors of the development industry to promote the value of using processing agreements and increase take-up.</p>
<p>2. Planning authorities and the development industry should work together to investigate whether there is anything that can be done to prevent or mitigate the impact of particular cases on decision making timescales. In particular, this should include applications which are being submitted purely to meet an obligation with regards to triggering a requirement to purchase land.</p>
<p>3. Good practice should be shared between authorities. This could be done through benchmarking families. Authorities could publish more details about applications which have been subject to processing agreements to highlight the benefits. Planning Performance Framework Reports could also be a vehicle for promoting and capturing the work that has been done to promote and use them.</p>
<p>4. As a means of promoting the benefits of processing agreements planning authorities should begin to publicise decision times and the percentage determined within agreed timescales. Methods could include planning authority websites and Planning Performance Framework Reports.</p>
<p>5. Legal Agreements should be included in the processing agreement. This would be a valuable tool in providing certainty and reducing the time taken to sign off legal agreements. The inclusion of other required consents should also be considered and, where possible, this could be agreed and included within the processing agreement timescales.</p>

Conclusion

The Scottish Government has actively promoted the use of processing agreements as a project management tool for planning applications for a number of years. It is therefore encouraging to see that use of processing agreements, both in number and by individual planning authorities, has increased. The feedback received through our survey of planning authorities and applicants has helped to reinforce our belief that they can help improve efficiency, certainty, transparency and better working relationships.

There is still work to do to increase take-up and fully realise the benefits. This will require collective buy-in from planning authorities, applicants and developers.