



FCS Briefing Note

Briefing for Forestry Commission Scotland, Planning Authority staff and forestry practitioners:

Opportunities for aligning the information required under forestry approvals consented by Forestry Commission Scotland (FCS) with the Prior Notification(PN) of forestry private ways administered by local Planning Authorities (PA) through the planning system ¹:

PURPOSE OF THE BRIEFING NOTE (including the rationale for PA/FCS liaison and alignment)

The purpose of this briefing note is to help identify and outline how the alignment of information required by different consenting regimes might best be done to the mutual benefit of all stakeholders so as to minimise duplication and optimise efficient administration for all concerned. By so doing this will help deliver well-designed and considered forestry private ways (including forest roads and constructed footpaths) which comply with best practice and meet the intentions and requirements of separate planning legislation and Environmental Impact Assessment Regulations (EIA) concerning forestry private ways.

TARGET AUDIENCE

The main target audience for this briefing note will be FCS Conservancy staff, forestry owners, managers, on-site operators and other practitioners who are required to submit PNs to PAs prior to undertaking the formation or alteration of a private way intended for forestry purposes. PA staff dealing with PN requests will also have an interest in this guidance.

BACKGROUND

The Amendment Order came into force on 15 December 2014. The Order requires that, prior to the formation, or alteration, of agricultural or forestry private ways, the developer or landowner **must notify** the relevant planning authority to ascertain if the proposal can be considered as permitted development and, if so, whether prior approval is required in relation to the design, manner of construction or route. This process is known as '*prior notification*'.

Detailed guidance on permitted development rights in relation to forestry and agricultural private ways is available on <http://www.gov.scot/Publications/2015/06/3717> (Annex F) and should be read in conjunction with this briefing note.

FORESTRY CONSENTING REGIMES ADMINISTERED BY FORESTRY COMMISSION SCOTLAND

Forestry Commission Scotland serves as the forestry department of the Scottish Government including having specific responsibilities for forestry roads and quarries in respect of the

¹ See The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2014 (SSI 2014 No. 300)

Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999

<http://scotland.forestry.gov.uk/supporting/grants-and-regulations/environmental-impact-assessment> In administering its responsibilities for forestry approvals, permissions and licences for felling, woodland creation and its related activities, FCS requires applicants to comply with the UK Forestry Standard <http://www.forestry.gov.uk/ukfs> and related guidance on forestry activities.

In addition, FCS Conservancy staff act as a competent authority for certain forestry proposals which may impact on a Natura 2000 site and consult with SNH accordingly (see FCS Guidance Notes 18, 27 & 31-34 <http://scotland.forestry.gov.uk/supporting/grants-and-regulations/legacy-grant-schemes/scottish-forest-grant-scheme/guidance-notes-archive>).

Similarly, FCS Conservancy staff work with SEPA to monitor, report and regulate compliance with the Water Environment (Controlled Activities) Regulation Scotland 2011 (CAR) for forestry activities and approvals in relation to diffuse pollution.

Forestry activities, including forestry roads, are subject to forestry consenting regimes administered by Forestry Commission Scotland through its 5 regional Conservancy teams. For such forestry consents, there is a formal consultation procedure with PAs, SNH (in particular for designated sites and European protected species), SEPA (including CAR and diffuse pollution concerns), as well as other statutory bodies. In addition there is a public register whereby members of the public can view forestry applications. Responses to FCS are duly considered, revised as required, and approved for implementation, including any required conditions, or rejected if appropriate.

Forestry roads are essential to the routine and everyday management of forests and can also deliver other benefits in addition to their primary forestry role, such as recreational access for walkers and cyclists, as well as management for conservation purposes. They are a substantial operational activity. For example in Scotland in 2014 there were around 70 to 80 forest road/quarry EIA determinations (of which usually 2 to 3 would, typically, proceed to full EIA consent being required); over 200 felling licences; 200 or so Forest Plans; and around 400 woodland creation cases considered of which some 150-200 required EIA determination (with around 3 to 4 requiring EIA consent in any one year). It is thus likely that some 300 to 400 forestry cases per year will be subject to the planning PN process in addition to the above forestry processes.

PLANNING AUTHORITIES AND PRIOR NOTIFICATION FOR FORESTRY PRIVATE WAYS

PA's are responsible under the Town & Country Planning (Scotland) Act 1997 for planning matters within their area of responsibility, which include administering the Prior Notification process as outlined in the 2014 Amendment Order.

WHY ALIGN THE INFORMATION REQUIRED FOR FCS and PA CONSENTING REGIMES ON FORESTRY ROADS/PRIVATE WAYS?

PAs are used to being consulted on forestry activities, including forestry roads, and have good procedures for liaising with and responding to FCS. Accordingly, there is scope for FCS and PAs to *align* the consideration of information required for forestry approval and PN processes where this

makes sense to do so. Provided the required information is submitted at the appropriate stage, the processes should be able to run alongside one another.

Scottish Government Guidance² encourages alignment where appropriate as a means through which more efficient handling of applications can be achieved, whilst reducing the need for any duplication of information. Forestry Commission Scotland considers that alignment can help to:

- Minimise the need for a PA to require prior approval simply because insufficient detail has been supplied at the prior notification stage
- Minimise duplication of approval processes for applicants and unhelpful separation of the felling approval from associated forest road approvals
- Utilise existing forestry consultation procedures to facilitate and inform sound decision making by the relevant PA

Proposals for forestry private ways which are **NOT** submitted to FCS as part of a forestry application (ie are not subject to EIA determination or part of an approved Forest Plan/woodland creation or felling licence application) still require to comply with the PN process for which the relevant planning authority has responsibility.

PAs are advised to liaise with local FCS Conservancy staff if they wish to confirm the forestry purpose and context of any submitted forestry private way PN or wish advice and guidance on forestry matters including whether FCS has considered the need for EIA determination under the EIA Forestry Regulations.

WHAT DOES ALIGNMENT ACTUALLY MEAN IN PRACTICE?

As most forestry roads are included in forestry applications to FCS which are then subject to consultation with the PA, there is merit in aligning the information required as part of the forestry consent process to facilitate the PN process in this way. The key steps to aligning this information will be:

- Ensuring that forest roads proposals are contained in forestry applications submitted to FCS
- That any such proposal contains all the necessary information and specifications required (ie similar to what is required for PN submissions. See Annexes 2 & 3)
- That PAs are aware of forestry road proposals as part of any forestry scoping /EIA screening/consultation and can thus input their views via routine liaison **or** that any PN proposals submitted directly to PAs have complied with the EIA Forestry Regulations or any other forestry requirements as outlined in the UKFS

² Annex F to the Scottish Government's Planning Circular 2/2015 refers, <http://www.gov.scot/Resource/0047/00479839.pdf>

- That FCS and the relevant PA satisfy themselves that forestry roads are genuinely for forestry purposes and thus may be permitted development (assuming all other criteria for PD are met).

It is a matter for the applicant to ensure they have complied with all relevant statutory obligations before any work is undertaken.

Where forestry applicants include all the necessary information with regard to any proposed forestry way and associated operations as part of their forestry application, PAs will be able to scrutinise such proposals as part of the FCS forestry consultation approval process and to understand and confirm the forestry context. This can be done either at the time of screening/scoping (as part of the routine EIA determination or Forest Plan process) or at the point of formal consultation depending on the sensitivity, scale and details of the proposal.

Applicants may themselves determine the most appropriate stage to submit a Prior Notification and thus help align the respective consents (or not if they so wish). **Applicants should also be aware that any prior notification should be made at least 28 days before they intend to start any work**, in order to allow time for the PA to consider the application and determine if prior approval is or is not required.

It will be critical for any forestry applicant to **demonstrate the necessity** for any proposed forestry private way to help the PA assess how to deal with the PN. If necessity cannot be demonstrated then PDR may not apply and an application for planning permission is likely to be required.

In helping deliver this alignment, FCS will ask applicants to submit forestry private way proposals associated with a forestry consent application in a uniform manner which follows the requirements of the PN process and which demonstrates compliance with the UKFS and associated guidance as outlined in the PN example at Annex 2. This will include:

- A statement of the purpose of the private way showing it as necessary for forestry purposes (NB this, and any appropriate forestry approvals, should be referred to in any subsequent PN application to a PA. This will help avoid additional duplication and delay)
- A description of the construction and design specification of the private way, including material (with reference to the recognised published guidance on such specifications. See Annex 3)
- A site plan detailing the route and length the track is to take along with identified key related aspects such as water crossings, turning areas, and timber stacking area (NB PAs are used to having such details outlined in red and forestry applicants are encouraged to adopt this practice) and its possible significant effects on the environment
- Proposed tolerances associated with the road line and associated activities. Experience to date indicates that tolerances used in Forest Plan approvals are similar to the tolerances accepted by PAs in approval of private ways for other purposes (eg windfarms)

Forestry applicants should also make reference to Annex 3 '**Forest Road Standard Specifications**' as lifted from the 'The design and use of the structural pavement of unsealed roads' Timber Transport Forum (2014) which lists specifications and standards including forest road width, alignment, gradient, passing and turning places, harvesting ramps, construction (including materials), etc and make sure any PN application refers to this guidance and specification (and includes the intended numbers and locations of turning places, timber stacking areas, and other associated activities)

PAs may decide, for most forestry private way proposals that by having them considered under the forestry approval procedures, including consideration and determination under the EIA Forestry Regulations, this has satisfactorily demonstrated that the road is required for forestry purposes. Accordingly they may be content that the road be considered and approved under the forestry procedures with input from the PA on standards, design, etc all accommodated within the forestry consultation and approval process. For those significant larger forest road projects subject to EIA Forestry Regulations consent, PAs are already fully involved and consulted on. **It is important to stress that, irrespective of the above, there remains the statutory requirement to apply for PN to the relevant PA. Alignment of required information does not remove this requirement but can facilitate progress.**

There are already good examples of collaboration between PAs and FCS to facilitate alignment where this is deemed to be in the best interests of all (see the example from Dumfries & Galloway Council at Annex 1). Different PAs will interpret the SG guidance on Prior Notification for agricultural and forestry private ways according to the circumstances and sensitivities in their areas. Nevertheless, given the existing forestry roads consenting regime and the expressed desire to align the forestry and planning authority roles on private ways/forestry roads, **PAs may wish to consider similar agreements with local FCS Conservancies to help better align PA and FCS procedures.**

WHAT MAY AND MAY NOT REQUIRE PRIOR NOTIFICATION

The SG Circular on *Non-Domestic Permitted Development Rights Annex F* should be referred to.

Specific aspects are covered in paragraphs 7 & 8 (definitions of a private way) and paragraphs 15 to 18 (formation, alteration and maintenance).

In general, maintenance should not require PN but forestry applicants are advised to specify exactly what they propose to do for forest road maintenance in any forestry application so as to minimise any potential for confusion with 'alteration'. *NB forest road maintenance may still require EIA Forestry determination and applicants should seek appropriate guidance from local FCS Conservancy staff and/or include their maintenance proposals and specification in any submitted forestry application.*

Forwarder/harvesting tracks integral to forestry harvesting operations and other standard forestry operations may not be included in the definition of a private way and therefore may not require PN (but may require determination under the EIA Forestry Regulations - local FCS Conservancy staff can confirm if EIA determination is required) though these should comply with the UK Forestry Standard

and be included in any forestry applications as per current practice. If in doubt, speak to the local Conservancy office or PA for further guidance.

Forestry Commission Scotland
Grants and Regulations
National Office
Silvan House
Edinburgh

Annex 1: Example of a Local Agreement between Dumfries & Galloway Council and FCS South Scotland Conservancy for Private Ways (Forestry) Casework

Annex 2: Example of a Prior Notification submitted to South Ayrshire Council which contains the necessary information for a forestry road proposal and which was accepted as permitted development

Annex 3: Forest Road Standard Specifications as lifted from the 'The design and use of the structural pavement of unsealed roads' Timber Transport Forum (2014)

Annex 4: Checklist of likely requirements for submitting a forest road/private way for forestry/Prior Notification consents

Annex 5: Table of acronyms

References

- 'Consolidated Circular on Non-Domestic Permitted Development Rights' Scottish Planning Series Circular 2/2015 Scottish Government (2015) Annex F <http://www.gov.scot/Publications/2015/06/3717>
- The UK Forestry Standard <http://www.forestry.gov.uk/ukfs>
- 'The design and use of the structural pavement of unsealed roads' Timber Transport Forum (2014)
<http://timbertransportforum.org.uk/work/toolkit/forest-roads/constructing-and-upgrading>
- 'Constructed tracks in the Scottish Uplands' SNH 2nd Edition (2013)
<http://www.snh.gov.uk/publications-data-and-research/publications/search-the-catalogue/publication-detail/?id=513>

Annex 1

Agreement between Dumfries & Galloway Council and FCS South Scotland Conservancy for Private Ways (Forestry) Casework (as an example of collaboration between FCS and a Planning Authority on dealing with forestry roads)

DUMFRIES AND GALLOWAY COUNCIL AND FORESTRY COMMISSION

FCS SOUTH SCOTLAND CONSERVANCY

2015 AGREEMENT FOR PRIVATE WAYS (FORESTRY) CASEWORK

BACKGROUND

This is an agreement between Dumfries and Galloway Council (DGC) and FCS Scotland on procedures and collaboration with respect to applications for Determination of Prior Approval for Private Ways (Forestry)

DGC is the relevant planning authority responsible under the Town and Country Planning (Scotland) Act 1997 and, in respect of this particular agreement, the planning authority responsible for making assessments under the Town & Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2014

Forestry Commission Scotland serves as the forestry department of the Scottish Government, It has specific responsibilities for Forest Roads and Quarries in respect to the EIA Forestry Regulations 1999.

It is therefore clear that both DGC and FCS have a shared interest and responsibility in respect to Forest Roads and that we wish to work collectively together to best meet these responsibilities. Specifically working collaboratively together will best allow us to achieve the shared objectives of:

- Supporting compliance with Determination of Prior Approval (DPA) procedures under Town & Country Planning (General Permitted Development) (Scotland) Amendment (No. 2) Order 2014
- Minimising duplication of approval processes for applicants & unhelpful separation of the felling approval from associated forest road approvals
- Utilising existing forestry consultation procedures to facilitate sound decision making by DGC

AGREED APPROACH

The proposed approach for dealing with notifications from the sector is as follows:

- Applicants wishing to form or alter a 'private way' for forestry purposes submits suitable proposals to FCS as part of a forestry plan / proposal / EIA request and completes the associated form
- FCS consults DGC as normal on forestry approvals BUT ALSO specifically highlights road / 'private way' proposals (enclosing form and relevant documents) as requiring DPA
- Within 28 days, DGC responds to FCS indicating either
 - Prior approval is required by DGC (and notifies applicant directly of this requirement)
or
DGC is content that prior approval is not required and that case should (where applicable) be determined under the forestry approval process (FCS will notify the applicant)
- Any 'private way' not submitted as part of a forestry approval process would require 'the submission of a DPA application to DGC as per the Order

Signed

David Suttie

Service Manager Planning

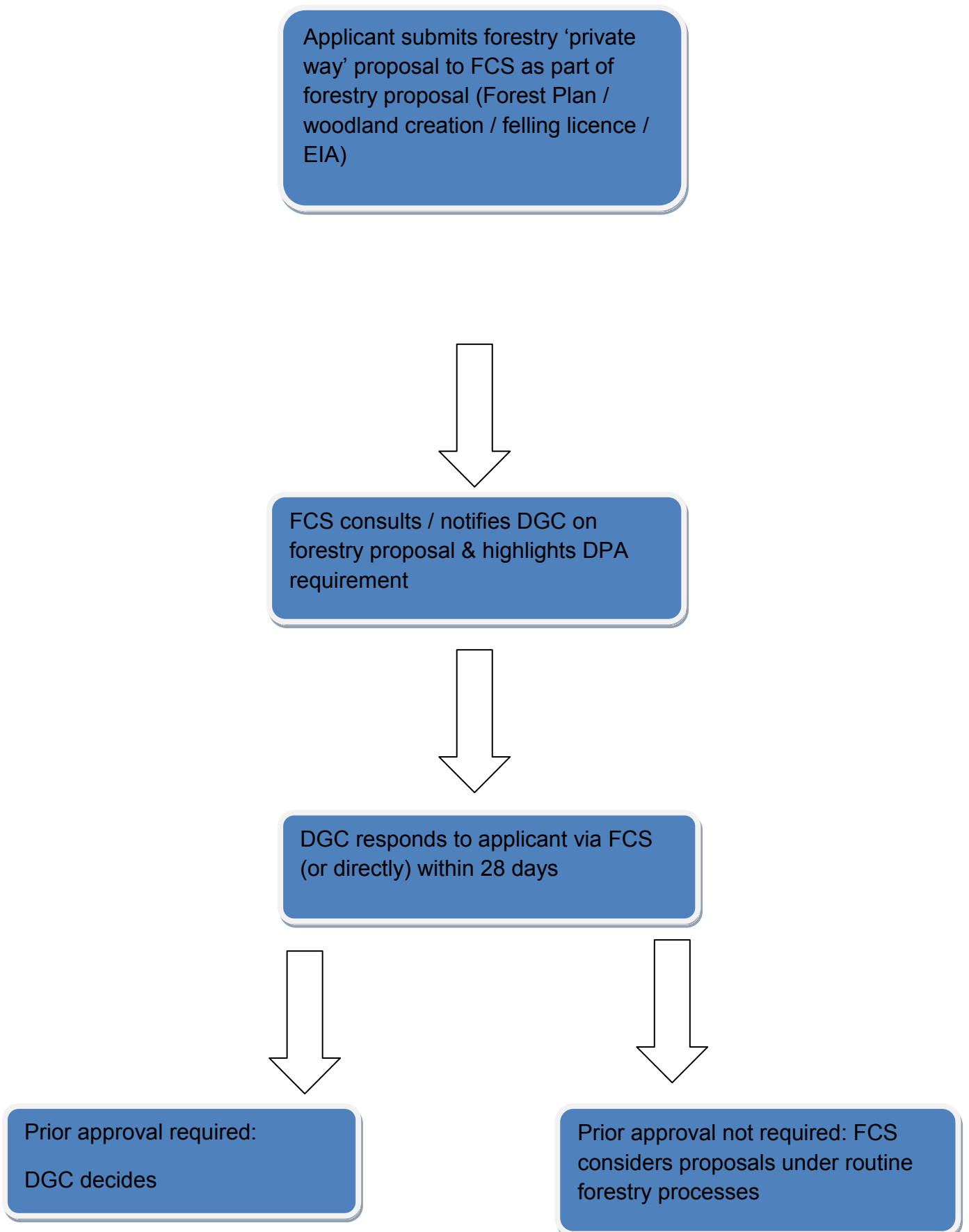
Date:

John Dougan

Conservator, South Scotland Conservancy, FCS

Date:

Flow chart Illustration of Process



Appendix A

Key Contact Names and Addresses

1. FORESTRY COMMISSION SCOTLAND SOUTH SCOTLAND CONSERVANCY

- a. John Dougan, Conservator, South Scotland Conservancy, 55/57 Moffat Road, Dumfries, DG1 1NP

(john.dougan@forestry.gsi.gov.uk, Tel: 01387 272440, Fax: 01387 257888))

- b. Alasdair Hendry, Operations and Development Manager, South Scotland Conservancy, 55/57 Moffat Road, Dumfries, DG1 1NP

(alasdair.hendry@forestry.gsi.gov.uk, Tel: 01387 272440, Fax: 01387 257888)

2. DUMFRIES AND GALLOWAY COUNCIL

- a. David Suttie, Service Manager Planning, Kirkbank, English Street, Dumfries DG1 2HS


(david.suttie@dumgal.gov.uk Tel: 01387 260158 Fax: 01387 260188)

- b. Jessica Taylor, Team Leader (Minor Applications & Enforcement), Kirkbank, English Street, Dumfries DG1 2HS

(jessica.taylor@dumgal.gov.uk Tel: 01387 260824 Fax: 01387 260188)

Annex 2

Example of a Prior Notification submitted to South Ayrshire Council which contains the necessary information for a forestry road proposal and which was accepted as permitted development.

 North Ayrshire Council <i>Comhairle Siorrachd Àir a Tuath</i> Cunninghame House Friars Croft Irvine KA12 8EE Tel: 01294 324 319 Fax: 01294 324 372 Email: epanning@north-ayrshire.gov.uk Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid. Thank you for completing this application form: ONLINE REFERENCE 000113981-001 The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.			
Application for Prior Notification and Prior Approval This form is to be used for notifying the planning authority that you intend to carry out certain development which is "permitted development" for the following types of proposals: * <input type="checkbox"/> Farm-related works (non-residential) <input checked="" type="checkbox"/> Forestry-related works (non-residential) <input type="checkbox"/> Demolition of buildings Please see the guidance notes for additional details and an explanation of the procedures. Please note that 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. NB You should not use this form if your site is located within a "Natura 2000" site. If you are not sure about this you should contact the planning authority.			
Site Address Details Planning Authority: <input type="text" value="North Ayrshire Council"/> Full postal address of the site (including postcode where available): Address 1: <input type="text"/> Address 2: <input type="text"/> Address 3: <input type="text"/> Address 4: <input type="text"/> Address 5: <input type="text"/> Town/City/Settlement: <input type="text"/> Post Code: <input type="text"/> Please identify/describe the location of the site or sites. <input type="text" value="Kilpatrick, Isle of Arran"/> Northing <input type="text" value="623102"/> Easting <input type="text" value="198534"/>			

Applicant or Agent Details

Are you an applicant, or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

Applicant Details

Please enter Applicant details

Title: *

Other Title:

First Name: *

Last Name: *

Company/Organisation:

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

You must enter a Building Name or Number, or both:*

Building Name:

Forestry Civil Engineering

Building Number:

1

Address 1 (Street): *

Galloway Forest District

Address 2:

Creebridge

Town/City: *

Newton Stewart

Country: *

UK

Postcode: *

DG8 6AJ

Proposed Farm or Forestry Works

What farm or forestry related works are proposed? *

- ☐ A new building
- ☐ An extension to an existing building
- ☐ An alteration to an existing building
- ☒ To form or alter a private way

Please describe the materials to be used and the manner of construction of the private way: *
(Max 500 characters)

This application is for the construction of a new private way for forest operations. The specification for forest road construction can be found in Timber Transport Forum - 'the design and use of the structural pavement of unsealed roads 2014' (TTF guidance as attached). Materials to be won on site or adjacent forest land.

Please describe the proposed design of the private way: *
(Max 500 characters)

The private way will be designed and constructed in accordance with the specification provided in Appendix 1. of the TTF guidance as attached. The road is 1335 metres long from an existing forest road, one turning point (as per attached figure 1a), lorry passing bay's constructed approximately every 200 metres (intervisible where possible) and two culverted water crossing point's (as per Appendix 1. of TTF guidance).

You must provide a site plan detailing the route the private way is to take. Please tick the box to confirm that you will attach a valid site plan:*

☒ I confirm that I will attach a site plan giving details of the location of the private way

What is the purpose of the proposed development? * (Max 150 characters)

To facilitate timber haulage from approved clear fell site (approved FDP Kilpatrick No. 0320602). EIA determination requested ref no. S7/32

Prior Notification - Demolition

Are you proposing to demolish a building? *

☐ Yes ☒ No

Checklist - Application for Prior Approval

The additional information below is required if the Planning Authority has responded to a previous prior notification and informed you that your development proposal requires Prior Approval.

I am applying for Prior Approval, and have been asked to provide additional information: *

☐ Yes ☒ No

No additional checklist items are required at this time, and this application will be for Prior Notification only.

Declare - Prior Notification and Prior Approval

I/we hereby give prior notification to the planning authority that I am/the applicant is intending to carry out the works described in this form and the accompanying plans/drawings and additional information.

I certify that the proposed building works are required for the purposes of agriculture and/or forestry and will be designed accordingly. None of the works includes the construction, extension or alteration of a dwelling.

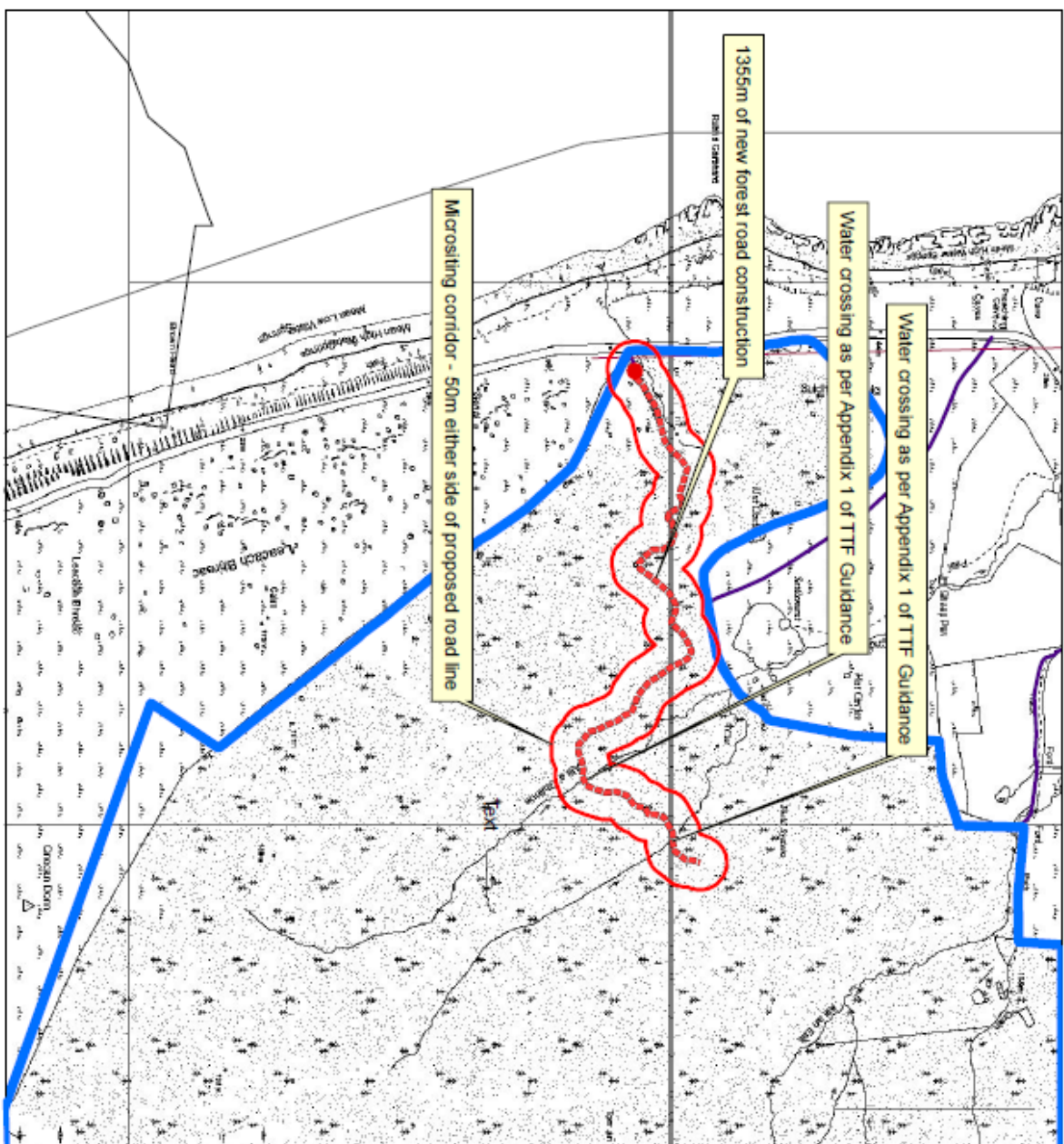
I/we hereby give prior notification to the planning authority that I am/the applicant is intending to carry out the works described in this form and the accompanying plans/drawings and additional information

I confirm that the building has not been rendered unsafe by the action or inaction of any person with an interest in the land and it is not practicable to secure the safety of the building through repair or temporary support works.

Declaration Name:

Declaration Date: 11/03/2015

Submission Date: 11/03/2015



SITE PLAN

Prior Notification for
Forest Road
Kilpatrick

NR 9015 2593

11 March 2015



Legend

- Existing Forest Roads
- Kilpatrick
- Microsilting proposed road corridor



Forestry Commission
Scotland

Galloway Forest District

Creelbridge

Newton Stewart

DG8 6AJ

Tel. 01671 402420

Fax. 01671 403708

Map Scale

1:10,000

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Annex 3

Forest Road Standard Specifications are lifted from the 'The design and use of the structural pavement of unsealed roads' Timber Transport Forum (2014)

Refer to

http://www.timbertransportforum.org.uk/Upload/Documents/22_Thedesignanduseofthestructuralpavementofunsealedroads2014.pdf for full details but see Appendix 1 for specific detailed guidance on standard forest road specifications including road width, alignment, gradients, passing places, harvesting facilities, earthworks, cuttings, roadside drains and ditches, culverts, geosynthetics, construction materials, road material thickness, cross slope as well as reference to compliance with the UK Forestry Standard, EIA Regulations and SEPA requirements.

Annex 4

Checklist of likely requirements for submitting a forest road/private way for forestry/Prior Notification consents

- Does the proposed activity come under the definition of a private way (para 7, Annex F, SG Planning Circular 2/2015 provides guidance on the criteria to be met)? If so PN will be required. If unsure, then discuss with the relevant PA
- Have you commenced work on your proposed forest road/private way? NB no work should begin on a likely proposal until the appropriate consent is given.
- If you are undertaking maintenance, have you confirmed with the relevant PA or FCS that this does not require PN or EIA consent?
- Have you undertaken preliminary/informal discussion with the Planning Authority/Forestry Commission Scotland to identify any potential sensitivities and/ or whether or not your proposal is likely to be considered as permitted development? Have you addressed any identified sensitivities in any proposed submission?
- Do you require additional permission/consent? For example:
 - for accessing directly onto a public road
 - permitted development rights affected by a planning consent condition
 - the proposal is located within a National Scenic Areas
 - impact on a Natura 2000 sites
 - Permits or licences from SEPA under the Water Environment (Controlled Activities) Scotland Regs 2011

- Is the proposed road contained within an application for approval/consent under an FCS approval/consent regime?
- Is an EIA determination required from FCS under the EIA Forestry Scotland Regs 1999?
- In seeking approval for any forest road/private way under the respective consent regimes, have you submitted the information required?
 - Statement of purpose showing the proposal is necessary for forestry purposes
 - Description of the construction and design specification (including reference to agreed standard specifications)
 - Site plan with details of route and length, , water crossings, turning areas, timber stacking areas
 - Tolerances proposed for road lines and associated activities
- Have you aligned the information required for both the PN and forestry consent procedures? If so, you will help facilitate prompt consideration of your application(s)

Annex 5

Table of acronyms

CAR	Controlled Activity Regulations administered by SEPA http://www.sepa.org.uk/regulations/water/
EIA	Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999
FCS	Forestry Commission Scotland
PA	Planning Authority http://www.gov.scot/Topics/Built-Environment/planning/Roles/Planning-Authorities
PN	Prior Notification. Guidance on Permitted Development and the PN process for agricultural and forestry private ways is available at http://www.gov.scot/Publications/2015/06/3717
SEPA	Scottish Environmental Protection Agency
SNH	Scottish Natural Heritage
UKFS	UK Forestry Standard http://www.forestry.gov.uk/ukfs