PLANNING

Consultation on Amendments to the Modernised Planning System

October 2010

one scotland
SCOTTISH GOVERNMENT

THE SCOTTISH GOVERNMENT
DIRECTORATE FOR THE BUILT ENVIRONMENT

CONSULTATION ON AMENDMENTS TO THE MODERNISED PLANNING SYSTEM

GLOSSARY

"The 1997 Act"	The Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
"The Appeals Regulations"	The Town and Country Planning (Appeals) (Scotland) Regulations 2008. Along with the 1997 Act these govern the processing of most planning appeals and called-in planning applications.
"The Development Planning Regulations"	The Town and Country (Development Planning) (Scotland) Regulations 2008. Along with the 1997 Act, these govern the preparation of strategic development plans and local development plans.
"The DMR"	The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. Along with the 1997 Act, these govern the processing of planning applications.
"DPEA"	The Scottish Government's Directorate of Planning and Environmental Appeals who process appeal cases and called-in applications and include the Reporters appointed to deal with such cases.
"PAC"	Pre-application consultation with communities required under Section 35A of the 1997 Act.
"Section 42 Application"	An application for a replacement planning permission with changes to the conditions on the original permission.
"draft Regulation"	A regulation in the draft Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2010 contained in Annex I.

INTRODUCTION

1. The modernisation of the planning system introduced a range of new procedures in relation to development planning, development management and appeals. The efficient operation of these procedures is important to ensure that the planning system is supporting planning's contribution to sustainable economic growth.

2. The purpose of this consultation is primarily to seek views on a number of refinements and amendments to the procedures on development management and appeals introduced in 2009. We are inviting written responses to this consultation paper **by Friday 28 January 2010**. See Annex IV on how to respond.

3. Work is ongoing on a review of the first 12 months of these new procedures, but having discussed implementation of the reforms with key stakeholders over the last year we have already prioritised a number of the issues and provisions set out in this paper as candidates for change. The 12 month review and this consultation should not be taken as a signal that we are doing a fundamental review of planning modernisation, the key elements of which have been introduced relatively smoothly.

4. The consultation paper is a mixture of detailed draft legislative proposals as well as the scoping of potential options to address specific issues. It is important that consultees read both the paper and the accompanying draft Regulations before answering the questions which appear throughout the paper and are collated in Annex IV.

5. The consultation paper is organised as follows:

Section A – Statutory Pre-Application Consultation Requirements and Applications to Change Planning Conditions

Section B – The Neighbour Notification and Advertising of Planning Applications

Section C – Other Changes to the DMR
- New Consultation Requirements
- Amendment of Requirements for Design Statements for Marine Fish Farming
- Requirements on Decision Notices

Section D – Amendments to the Appeals Regulations

Section E – Changes to Neighbour Notification Requirements on Permitted Development Rights for Demolition

Section F – Changes to Development Planning Regulations

Section G – General Questions

Annex I - Draft Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations - which include legislative proposals for some of the issues discussed in the paper;

Annex II - Partial Business Regulatory Impact Assessment;

Annex III - Partial Equalities Impact Assessment; and

Annex IV - Responding (includes list of the consultation questions).

6. There is no accompanying environmental report and the strategic environmental assessment pre-screening report (reference number PRE/00295) can be viewed on the SEA database at:

http://www.scotland.gov.uk/Topics/Environment/SustainableDevelopment/14587/Register

Section A – Statutory Pre-Application Consultation Requirements and Applications to Change Planning Conditions

7. Statutory requirements for Pre-Application Consultation (PAC) apply in relation to major and national developments. A number of practitioners have expressed concerns about PAC applying to applications for the alteration or removal of conditions on an existing permission (often referred to as a Section 42 application) for major or national development. Some practitioners have highlighted similar concerns regarding PAC for applications for material changes to an existing permission for major or national development where the changes are relatively minor (applications for minor material changes). In some of these situations PAC is not considered to be a proportionate requirement and it is one that has the potential to add delay and cost to relatively modest proposals for change. It also has the potential to be a burden on communities and undermine their confidence in PAC.

8. While powers are available to specify the types of 'development' to which PAC requirements apply, currently there are no powers available to specify the types of 'application' to which PAC applies, e.g. PAC requirements currently apply whether the application for permission relates to a new proposal for major development or a change of conditions on an existing permission for a major development.

9. Following discussions with a range of planning authorities, development, legal and community interests, we consider that an amendment to the provisions on PAC in sections 35A and/or 35B of the 1997 Act would be appropriate to address the concerns in this area. Though there are no

plans for a Bill in this regard, an Order under Section 17 of the Public Services Reform (Scotland) Act 2010 could be used to amend the 1997 Act.

10. Whichever route is chosen, a decision needs to be taken on the nature of any such change. We have identified the following options on which we seek your views.

Option 1 – Remove PAC requirement for section 42 applications

11. This simple amendment would remove the requirement for PAC for all Section 42 applications. It would be easy to interpret and implement. However, it would mean where PAC were considered appropriate in relation to a change of conditions in a particular case, none would be required by legislation.

Option 2(a) – Reduce the 12 week minimum period for PAC generally

12. A key concern about PAC being potentially disproportionate relates to the minimum 12 week period before an application for planning permission can be made.

13. The current minimum period was introduced primarily to encourage prospective applicants to take sufficient time for meaningful engagement and reflection on the views offered prior to an application being submitted. The time was also to be used to engage with the planning authority and consultees to clarify the process for considering the particular application. A reduction in the 12 week period would reduce delay, but could also reduce engagement with communities and with consultees.

14. A requirement for some minimum period would remain so that an application could not be submitted until at least the end of the period (currently 21 days) within which the planning authority can respond with any additional consultation requirements. Thereafter a prospective applicant could submit their application as soon as they had complied with statutory PAC requirements and those of the planning authority.

Option 2(b) – Reduce the minimum period of 12 weeks for PAC for section 42 applications only

15. This is similar to Option 2(a) though limited to Section 42 Applications. This approach would mean all Section 42 applications would require some form of PAC.

Option 3 – Create a power to specify types of application or applications in certain circumstances where PAC doesn't apply

16. This option would enable Ministers to make regulations removing the need for PAC in relation to certain types of application (e.g. Section 42 applications) or in relation to applications made in certain circumstances. This would essentially enable Ministers to specify applications or circumstances where PAC was felt to be disproportionate. The difficulties in trying to get agreement amongst stakeholders as to the types of cases or circumstances in which an exemption from PAC should apply and in relation to drafting legislation specifying such exemptions should not be underestimated.

Other Options

17. There are potentially any number of options involving amending time periods (the 12 weeks minimum for PAC, the 21 days for planning authorities to respond with additional consultation) and statutory minimum steps for PAC (e.g. public events, consultation with community councils and so on) for different types of applications or circumstances. However, the more we attempt to differentiate between different cases with different requirements in this regard the more complex and difficult to interpret and implement the legislation is likely to be.

Consultation Questions

Q1. Do you think the Scottish Government should amend the requirements on PAC in the 1997 Act?

Q2. Which of the Options identified would you prefer Option 1, 2(a), 2(b) or 3 and why?

Q3. Which of the Options identified would be your least favoured, Option 1, 2(a), 2(b) or 3 and why?

Q4. Is there an alternative approach you would prefer to the Options identified and, if so, what would it consist of and why would it be preferred?

Q5. If the statutory minimum 12 week period for PAC were to be reduced, what should the minimum be for:

New proposals which will be applications for planning permission?

Section 42 Applications to change conditions?

Other types of application you can describe?

Q6. Should the time period for planning authorities to respond to proposal of application notices with any additional consultation requirements be reduced from 21 days as part of any reduction in the 12 week period?

Section B – The Neighbour Notification and Advertising of Planning Applications

18. The new neighbour notification and advertising requirements have raised various concerns. In particular the numbers of newspaper notices that are required, recovering costs for advertising after an application has been made and the differences in charges faced by applicants. Concerns also related to administrative burdens associated with large numbers of notifications being issued and the level of postal returns.

19. A Working Group of planning authority representatives was set up by the Scottish Government through Heads of Planning Scotland to discuss potential improvements. They made a number of suggestions for change and having considered these internally we have decided to pursue a number of them.

20. The proposals for change in relation to neighbour notification and advertising of planning applications are:

Proposal i) – remove the need to advertise an application in relation to certain neighbouring land which does not have premises to which notification can be sent.

21. The intention is to remove the need to place a notice in a newspaper where this would serve little or no purpose. To that end draft Regulation 2(2) in effect removes the requirement to neighbour notify or advertise in relation to neighbouring land which is a "road" under the Roads (Scotland) Act 1984. This will include trunk roads, roads whose responsibility rests with the local authority and private roads.

22. Regulation 25 (Consultation by the Planning Authority) of the DMR will result in Transport Scotland being consulted on any applications affecting their trunk road interests. The local authority likewise will be aware of the application either as planning authority considering the application or, in the Loch Lomond and Trossachs National Park, having been notified by the National Park Authority. However, there are no requirements to consult those responsible for private roads.

23. Where the planning authority owns neighbouring land with no premises, again it appears excessive to trigger advertising as the authority will be aware of the application. Where there are premises on the land to which notice can be sent, this would still need to be carried out so that those leasing or occupying buildings such as council houses and industrial units owned by the authority still have the opportunity to comment.

24. Similarly, requiring advertisement because neighbouring land is owned by the applicant does not have premises on it adds no value to the process.

25. Draft Regulation 2(3) – (6) add a requirement for a plan identifying neighbouring land owned by the applicant to be submitted with relevant planning applications. Draft Regulation 2(7)(b) removes the requirement to advertise where neighbouring land with no premises to which notification can be sent is owned by the planning authority or the applicant.

Consultation Questions

Q7. Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is a road?

Q8. Should there be a requirement to advertise applications where neighbouring land includes a private road?

Q9. Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is local authority land with no premises on it?

Q10. Do you agree with removing the requirement to advertise applications in relation to neighbouring land which is owned by the applicant but has no premises on it?

Proposal ii) – remove the requirement to advertise development plan departures while possibly adding advertising of major developments

26. The practical implications of advertising applications which are contrary to the development plan are hampering the efficient operation of the system. It may not be clear until near the end of the consideration of an application whether it constitutes a departure from the development plan. At that stage an authority has to then advertise and charge the applicant accordingly. This is not efficient.

27. The proposal is therefore to advertise developments likely to be of significant interest to the community, rather than those which depart in some way from the development plan. To a large extent this should happen already as Schedule 3 to the DMR specifies certain developments which are likely to have wider impacts on amenity, and Regulation 20 of the DMR requires planning applications for such development to be advertised. Schedule 3 to the DMR can be viewed at:

http://www.opsi.gov.uk/legislation/scotland/ssi2008/ssi_20080432_en_1

28. In addition we could introduce a requirement to advertise all applications for major development, in the event such development is not covered by Schedule 3 to the DMR.

29. Draft Regulation 2(7)(a) removes the requirement to advertise applications which do not accord with the development plan, and sub-paragraph (c) makes a consequential change as a result of this removal.

Consultation Questions

Q11. Do you agree that the requirement to advertise development plan departures should be removed?

Q12. Do you think a requirement to advertise all major developments should be introduced?

Proposal iii) – set nationally a charge for advertising to be paid when submitting an application where advertising will be required

30. As well as the issues around late charging for advertising, mentioned in the previous section, there is also concern about the amount of such a charge. The 1997 Act does not allow the setting of charges to be at the discretion of the planning authority. The current provisions require the planning authority to recover the cost of the advertisement from the applicant; and where the newspaper notice covers a number of applications, the cost can be shared amongst the applicants. Variations in charges between newspapers and in the number of applications which may require to be advertised in a particular week mean there can be huge differences in the amounts an individual applicant has been charged.

31. With the proposed removal of the requirement to advertise development plan departures, the need to advertise should be more predictable. In order to have payment of charges made upfront, to avoid the issues around post application recovery, the charge itself also needs to be predictable. In the absence of powers to delegate to planning authorities the discretion to set such charges, the intention is to have a standard national charge. This charge would have to be paid upfront with the application before it could be validated.

32. An alternative would be to make an adjustment as part of any future increase in planning fees so that the costs incurred by the planning authority in advertising applications is covered by fee income generally, removing the need for separate charging.

33. As part of this consultation exercise we will gather information on advertising costs in order to see whether, for example, a national standard charge is viable. In the work done so far, rural authorities in particular have voiced some concern about a nationally set charge.

Consultation Questions

Q13. In principle, do you support a nationally set standard charge for advertising (bearing in mind statutory planning powers do not allow such charges to be set at the discretion of the planning authority)?

Q14. Would you support an adjustment to planning fees generally to cover advertising costs (rather than a charge on an application by application basis)?

Q15. Of the two, which approach would you prefer?

Section C – Other Changes to the DMR

New Consultation Requirements for Planning Applications

34. There are proposals for two new consultation criteria for applications for planning permission relating to cases of interest to Network Rail and to the Crofters Commission.

Development near a Railway Line

35. There is an outstanding commitment for government to consider a requirement for planning authorities to consult Network Rail on applications for development close to railway lines. The proposed draft Regulation 2(10)(a) includes the current requirements relating to level crossings.

36. The proposal would require consultation with Network Rail on applications for development within 10 metres of a railway line. There are no proposals for additional statutory criteria or exemptions to rule certain proposals in or out, though general powers at Regulation 25 of the DMR on consultation allow consultees to specify in writing developments or classes of development which they do not need to be consulted upon.

Consultation Questions

Q16. In terms of ease of identification would planning authorities prefer the distance criterion to relate to the railway line or the boundary of land which has a railway line on it?

Q17. Are there any other issues for planning authorities in interpreting or implementing this requirement?

Q18. How many applications do planning authorities think might be covered by this requirement?

Development Affecting Croft Land and Crofting Communities

37. The proposal is to require consultation with the Crofters' Commission on applications "where development may adversely affect the continued use of land for crofting". This will only affect applications in those authority areas containing croft land, namely: Eilean Siar, Highland, Argyll & Bute, Shetland Islands, Orkney Islands, Moray and North Ayrshire Councils.

38. The purpose of such a change is to ensure that planning decisions take account of crofting interests more effectively, in particular to ensure that the best quality crofting land is protected from inappropriate development. The aim is to protect in bye land from such development so as to protect the agricultural productivity and potential of individual crofts. In addition significant development proposals on common grazing land could also affect the viability and productivity of a crofting township.

39. The Crofters Commission already has key agency status in relation to consultation on local development plans and key crofting issues can be addressed, in advance, at this level. However, it is still considered appropriate for the Commission to contribute its views on applications which could adversely affect the continued use of land for crofting. Hopefully it should be clear that this criterion would not normally require consultation on applications relating to routine house extensions, such as conservatories, or on the proposed change of use in converting a garage into a dining room or an additional bedroom. The Commission could consider the use of the powers in Regulation 25 of the DMR mentioned in paragraph 36 above in light of the consultations received.

40. It may be difficult for planning authorities to determine the potential effect of a particular planning application, if approved, on crofting or croft land in any crofting community. To minimise this administrative burden, your views are invited on the use in areas with crofting land of a crofting questionnaire, developed by the Highland Council and the Commission, which it is intended to be piloted in the Highland Council area. In effect planning authorities in these areas would require applicants to complete a 1-page crofting questionnaire covering the key issues which the Commission would take into account in determining a decrofting application. This would allow planning officials to identify planning

applications requiring consultation and provide them, the Commission and the applicant with clarification on whether decrofting would be an option in advance of any planning permission being given.

41. Draft Regulation 2(10)(b) contains the proposed amendment.

Consultation Questions

Q19. What refinements to the consultation criterion would you suggest in order to meet the policy aim?

Q20. Do you think a crofting questionnaire is the best way to identify planning applications on which the Crofters Commission should be consulted, or is there a better way?

Q21. Planning authorities – Approximately how many applications a year in your area do you think would require consultation with the Crofters Commission using the proposed criteria?

Amendment of Requirements for Design Statements for Marine Fish Farming

42. The DMR currently require applications for local development involving alterations or extensions to existing marine fish farms to be accompanied by a design statement. This should not have been the case and we propose such applications in relation to marine fish farming should be exempt, as are land based fish farms and other land based buildings, by Regulation 13(2) of the DMR. Draft Regulation 2(9) contains provision to this effect.

43. It would still be open to planning authorities to request a design statement if necessary in a particular case using the general powers in Regulation 24 (Further Information) of the DMR.

Requirements on Decision Notices

Informing Parties of the Decision

44. Regulation 28 of the DMR specifies that the planning authority is required to inform every "person" who made written representations in respect of the application (and provided an address) of their decision on the application and where a copy of the decision notice is available for inspection.

45. The policy intention was that this would apply to consultees, such as community councils, SEPA or SNH, as well as to members of the public, businesses and so on who may have made representations. While we

consider as drafted the provision can be read in this way, for the avoidance of doubt we propose the change at draft Regulation 2(8)(a).

Section D – Amendments to the Appeals Regulations

46. The draft Regulations include some minor technical amendments to the Appeals Regulations.

The Submission of Statement of Appeal in Enforcement Notice Appeal cases

47. Regulation 3 of the Appeals Regulations requires a notice of appeal to be submitted which includes a statement of the full particulars of the appeal (on a DPEA form), while Part 4 of the Appeals Regulations requires the giving of a notice of appeal (which must specify the grounds of appeal) and a separate statement of appeal (on a DPEA form). This raises a potential issue about the validity of an appeal in which the appellant simply wrote in saying that he wanted to appeal on one or more of the grounds set out in the 1997 Act without an accompanying statement setting out the full particulars of his case.

48. To resolve this and have an approach consistent with that for making appeals relating to planning permission, we propose to amend regulation 13(1) of the Appeals Regulations to the effect that the grounds of appeal and the statement of appeal must both be on the form obtained from the DPEA: see draft Regulation 3(4).

Section E – Changes to the Neighbour Notification Requirements on Permitted Development Rights for Demolition

49. Class 70 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (the GPDO) contains permitted development rights (PDR) for building operations consisting of the demolition of a building. These particular PDR have a prior notification/prior approval procedure as a condition of the permission and included within this is a requirement for the applicant to carry out neighbour notification as specified in Article 9 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (The GDPO) and provide the certification required by the GDPO.

50. Given the revocation of the GDPO and the removal of the provisions in section 34 of the 1997 Act around offences in relation to mis-certifying that neighbour notification has been carried out, there is a requirement to amend the neighbour notification requirement. The draft Regulations contain no provisions in this regard as the amendment relates to an order rather than regulations. The intention is to make the proposed changes along with the next set of amendments to the GPDO after the responses to this consultation exercise have been considered.

51. The proposal is to make neighbour notification a requirement on the planning authority, in line with the provisions of the DMR in this regard, making amendments to the form of notice to deal with the fact this is a prior notification/prior approval application not an application for planning permission.

52. Neighbour notification should be carried out on receipt of the prior notification. The requirements on the content of such notification will also be changed so that the applicant has to provide the information the planning authority is required to put in the neighbour notification.

53. This would normally mean that where there are no premises on neighbouring land to which neighbour notification could be sent a notice would need to be placed in a local newspaper. However, in the absence of such premises on neighbouring land we consider it disproportionate to require such advertising in the case of demolition and that in such circumstances the method of demolition and restoration can be left to the discretion of the planning authority and the requirements of Building Standards and Health and Safety legislation.

Consultation Questions

Q22. Do you have any comments on the proposed changes to neighbour notification in relation to demolition?

Q23. In particular, do you agree with the removal of the requirement to advertise locally such proposals where there are no premises on neighbouring land to which notification can be sent?

Section F – Changes to Development Planning Regulations

54. Regulation 3(1) of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 (the Development Planning Regulations) sets out a list of considerations and items which strategic development planning authorities are required to have regard to in the preparation of strategic development plans (SDPs). Regulation 10(1) contains a similar list in relation to planning authorities' preparation of local development plans (LDPs). Since the coming into force of the Development Planning Regulations, new legislation relating to flood risk management and marine planning has been enacted, and the UK Government has moved to abandon regional spatial strategies in England. These developments make it desirable to amend the Development Planning Regulations.

Flood Management

55. The Flood Risk Management (Scotland) Act 2009 provides for the preparation of flood risk management plans and local flood risk management plans. Section 28 of the Act requires SEPA to take account of development plans in preparing a flood risk management plan. The Policy Memorandum accompanying the Flood Risk Management (Scotland) Bill set out the Scottish Government's expectation that planning legislation would be changed to introduce an equivalent requirement for local authorities to have regard to flood risk management plans when preparing development plans. In this way the hope and expectation is that development plans will be consistent with the provisions of flood management plans, and vice versa.

56. No flood risk management plans are expected to be approved, or local flood risk management plans adopted, for some years, so this change should not affect development plans already in preparation in 2010/2011.

57. Draft Regulation 5(2)(a) adds the definitions of flood risk management plan and local flood risk management plan to the Development Planning Regulations.

58. Draft Regulation 5(3) and (4)(a) amend respectively Regulations 3(1) and 10(1) of the Development Planning Regulations to introduce consideration of these new plans as a requirement in the preparation of strategic development plans and local development plans.

Marine Planning

59. The Marine (Scotland) Act 2010 provides for the preparation of a national marine plan and regional marine plans. Paragraph 3 of Schedule 1 to the Act requires Scottish Ministers to take all reasonable steps to secure that any regional marine plan is compatible with the development plan for any area which adjoins the relevant Scottish marine region. The Policy Memorandum accompanying the Marine (Scotland) Bill stated Scottish Ministers' intention to amend planning regulations to require terrestrial plans to be compatible with marine plans. However, given the way that other similar documents are referred to in the Development Planning Regulations, our proposal is to require authorities to have regard to marine plans. In this way the hope and expectation is that development plans will be consistent with the provisions of marine plans, and vice versa.

60. No national or regional marine plan is expected to be adopted before 2012.

61. Draft Regulations 5(2)(b) adds the definitions of national marine plan and regional marine plan to the DMR.

62. Draft Regulations 5(3) and (4)(a) amend, respectively, regulations 3(1) and 10(1) of the Development Planning Regulations to make consideration of these new plans a requirement in the preparation of strategic development plans and local development plans respectively.

Regional Spatial Strategies

63. In June 2010, the new UK administration revoked regional strategies in England with immediate effect. It also proposes to abolish the requirement to prepare regional strategies. The Scottish Government therefore proposes to delete the requirement at Regulation 10(1)(i) of the Development Planning Regulations for local authorities adjoining land in England to have regard to such strategies (draft Regulation 5(4)(b) refers).

Consultation Questions

Q24. Do you have any comments on the changes to the list of considerations and items which strategic development planning authorities are required to have regard to in the preparation of strategic development plans?

Q25. Do you have any comments on the changes to the list of considerations and items which planning authorities are required to have regard to in the preparation of local development plans?

Section G – General Questions

Consultation Questions

Q26. Do you have any additional comments on any of the issues mentioned in this paper?

Q27. Do you have any comments on or information to help inform the partial Business Regulatory Impact Assessment in Annex II?

Q28 Do you think any of the proposals in this consultation document will raise any specific issues for any of the equality groups (including race, disability, age, sexual orientation, gender or religion and belief)? See partial equality impact assessment in Annex III

ANNEX I

AMENDMENTS TO THE MODERNISED PLANNING SYSTEM

DRAFT TOWN AND COUNTRY PLANNING (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS

S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2010 No.

TOWN AND COUNTRY PLANNING

The Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2010

Made - - - -	*2010*
Laid before the Scottish Parliament	*2010*
Coming into force - -	*2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 19(5), 32, 43, 267 and 275 of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Miscellaneous Amendments) (Scotland) Regulations 2010 and come into force on [ ] 2011.

Amendment of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

2.—(1) The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008([1]) are amended in accordance with paragraphs (2) to (11).

(2) In regulation 3 (interpretation) in the definition of "neighbouring land" after "plot of land" insert "(other than land forming part of a road)".

(3) In regulation 9 (form and content of an application for planning permission) after paragraph (3)(b) insert—

"(ba) where any neighbouring land is owned by the applicant, a plan identifying that land;".

(4) In regulation 10 (application for planning permission in principle) after paragraph (3)(a) insert—

"(aa) where any neighbouring land is owned by the applicant, a plan identifying that land;".

([1]) S.S.I. 2008/432 as amended by S.S.I. 2009/220.

(5) In regulation 11(1) (further applications)—

(a) for "(3)(c)" substitute "(3)(ba), (c)"; and

(b) for "(3)(b)" substitute "(3)(aa), (b)".

(6) In regulation 12 (application for approval of matters specified in conditions)—

(a) after paragraph (2)(d)(i) omit "and"; and

(b) at the end of paragraph (2)(d)(ii) insert—

"; and

(iii) where any neighbouring land is owned by the applicant, a plan identifying that land".

(7) In regulation 20 (publication of application by the planning authority)—

(a) omit paragraph (1)(d); and

(b) for paragraph (2) substitute—

"(2) The planning authority are not required to publish a notice in accordance with paragraph (1) where—

(a) a notice is required to be published by the planning authority in accordance with sections 60(2)(a) and 65(2)(a) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (publicity for applications affecting conservation areas);

(b) all the neighbouring land referred to in paragraph (1)(a) (land on which there are no premises to which notification can be sent in accordance with regulation 18) is owned by the planning authority or by the applicant;";

(c) in paragraph (3) for "(1)(a) to (d)" substitute "(1)(a) to (c).

(8) In regulation 28 (decision notice)—

(a) in paragraph (1)(b) after "person" insert "and body"; and

(b) in paragraph (3)(a)(v) for "58(2)" substitute "58(1)".

(9) In regulation 35—

(a) omit paragraph (3)(c); and

(b) after paragraph (5) insert—

"(5A) In regulation 13 for paragraphs (1) and (2) substitute—

"(1) Subject to paragraph (3), an application for planning permission for marine fish farm development belonging to the category of major developments must be accompanied by a design statement.

(2) Subject to paragraph (3), an application for planning permission for marine fish farm development belonging to the category of local developments where that development is situated within—

(a) a World Heritage Site;

(b) a National Scenic Area; or

(c) the site of a scheduled monument,

must be accompanied by a design statement other than where the development in question comprises the alteration or extension of an existing marine fish farm"".

(10) In Schedule 5—

(a) for paragraph 9 substitute—

"**9.** Network Rail Infrastructure Limited or any other railway undertakers likely to be affected where—

(a) some part of the development is to be situated within 10 metres of a railway line forming part of the national railway network; or

(b) the development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway.";

(b) after paragraph 14 insert—

"**15.** The Crofters Commission where the development may have an adverse effect on the continued use of land for crofting.".

(11) In Schedule 6 in paragraph 1 both Form 1 and Form 2 after "from" insert "(and including).".

Amendment of The Town and Country Planning (Appeals) (Scotland) Regulations 2008

3.—(1) The Town and Country Planning (Appeals) (Scotland) Regulations 2008([2]) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 3(3) (notice of appeal)—

(a) in paragraph (d) for "what procedure" substitute "what, if any, procedure"; and

(b) after paragraph (d) insert—

"; and

(e) where the appeal is made under section 47(1) of the Act, a copy of the decision notice.".

(3) In regulation 4(2)(a) (planning authority's response) for "what procedure" substitute "what, if any, procedure".

(4) For regulation 13(1) substitute—

"(1) The appellant must at the same time as giving notice of appeal to the Scottish Ministers under section 130(2), section 169(2) or section 180(2) of the Act, as the case may be, also submit a statement ("statement of appeal") on a form to be obtained from the Scottish Ministers.

(1A) The statement of appeal, in addition to specifying the grounds of appeal as required by section 130(3)(a) (and as applied by section 180(3)) or 169(3), of the Act, is to give the information specified in paragraph (2).".

Amendment of The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008

4.—(1) The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008([3]) are amended in accordance with paragraph (2).

(2) In regulation 9(3)(d) (notice of appeal) for "what procedure" substitute "what, if any, procedure".

Amendment of The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

5.—(1) The Town and Country Planning (Development Planning) (Scotland) Regulations 2008([4]) are amended in accordance with paragraph (2).

(2) In regulation 1(2) (interpretation)—

(a) after the definition of "environmental report" insert—

""flood risk management plan" and "local flood risk management plan" have the same meaning as in the Flood Risk Management (Scotland) Act 2009; and

([2]) S.S.I. 2008/434 as amended by S.S.I. 2009/220. .
([3]) S.S.I. 2008/433.
([4]) S.S.I. 2008/426.

(b) after the definition of "local housing strategy" insert—

""national marine plan" and "regional marine plan" have the same meaning as in Part 3 of the Marine (Scotland) Act 2010;".

(3) In regulation 3(1) (information and considerations) after paragraph (d) insert—

"(da) any approved flood risk management plan or finalised local flood risk management plan relating to the strategic development plan area;

(db) any adopted national marine plan or regional marine plan relating to parts of the Scottish marine area adjoining the strategic development plan area;".

(4) In regulation 10(1) (information and considerations)—

(a) after paragraph (d) insert—

"(da) any approved flood risk management plan or finalised local flood risk management plan relating to the local development plan area;

(db) any adopted national marine plan or regional marine plan relating to parts of the Scottish marine area adjoining the strategic development plan area;"; and

(b) in paragraph (i) omit "any regional spatial strategy or".

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
2010