

Executive Note

The Town and Country Planning (General Development Procedure) (Scotland) Amendment Order 2007 SSI/2007/177

The above instrument was made in exercise of the powers conferred by Sections 30 and 43(1)(aa), (c) and (f) of the Town and Country Planning (Scotland) Act 1997. Section 43(1)(aa) was inserted, and Section 43(1)(f) was amended, by Section 16 of the Planning etc. (Scotland) Act 2006. The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of the instrument is to effect changes to the arrangements for: (i) handling planning applications which must be notified to Scottish Ministers by planning authorities; and (ii) considering potential impact on historic gardens and designed landscapes through the planning application process. This is done by amendments to the *Town and Country Planning (General Development Procedure) (Scotland) Order 1992* (the “GDPO”). There have been previous amendments to the GDPO. However, it is not proposed to consolidate the Order at this time. The Scottish Executive will consult on significant changes to development management processes during 2007, which will in due course lead to a new/consolidated GDPO.

(i) Notification of planning applications

Article 2(5) enables the Scottish Ministers, by direction, to require a planning authority to provide them and others with any information relating to any planning application. The Scottish Ministers intend to issue a new general direction requiring that planning authorities notify them, in prescribed circumstances, where the authority proposes to grant planning permission. This will also include new provisions relating to the notification of planning applications where the local authority has an interest in a development, where a proposed development would constitute a significant departure from the development plan for the area, or where an environmental impact assessment was required; all as committed to by Scottish Ministers as part of the wider modernisation of the land use planning system.

Article 2(4) enables Scottish Ministers to direct planning authorities to consider attaching conditions when granting planning permission. We envisage this power being used where applications have been notified to Scottish Ministers and where call-in of an application would not be considered necessary if a condition, which the planning authority had not previously proposed, were to be attached to the consent. This could prevent unnecessary delays in the planning process.

(ii) Gardens and Designed Landscapes

The GDPO defines a “historic garden or designed landscape” as a garden or landscape identified in the *Inventory of Gardens and Designed Landscapes in Scotland*, which was published in 1988. This is defined for the purpose of circumstances in which planning authorities should carry out consultations in relation to proposed development which may affect a historic garden or designed landscape. Article 2(2) updates the definition to apply it to the updated Inventory, published on 6 March 2007.

Article 2(3) removes Scottish Natural Heritage (SNH) from its role as a statutory consultee on planning applications for developments which may affect a historic garden or designed landscape. This was recommended in a recent strategic review of SNH, was agreed by Scottish Ministers in their response to the strategic review, and has been endorsed by the SNH Board. Scottish Ministers, through Historic Scotland, retain their role as statutory consultee in relation to historic gardens and designed landscapes.

Consultation

There has been significant consultation in recent years in relation to the modernisation of the planning system, which culminated in the Planning etc. (Scotland) Act 2006. The proposed arrangements for notification of planning applications to Scottish Ministers featured in the White Paper *Modernising the Planning System* (June 2005), on which comments were sought, and were subsequently debated in the Scottish Parliament during the passage of the Bill, most particularly in relation to proposed development where the local authority has an interest.

Scottish Ministers consulted on policy for Gardens and Designed Landscapes in 2006 in *Scottish Historic Environment Policy 3: Gardens and Designed Landscapes (SHEP:3)*. In that document the Minister for Tourism, Culture and Sport indicated her intention to amend the GDPO, in relation to the updated definition and date of the Inventory in paragraph 2.14. Ministers also consulted in the same document on the plans to make Scottish Ministers (through Historic Scotland) the only statutory consultee on planning applications for development affecting an Inventory site. This had been recommended in a strategic review of Scottish Natural Heritage (SNH), subsequently signed off by the Deputy Minister for Environment and Rural Development and endorsed by the SNH board.

Financial Effects

The instrument has no financial effects on the Scottish Executive, local government or on business. In relation to the notification of planning applications to Scottish Ministers, the amendments clarify an existing provision and allow that, on occasion, unnecessary work and delay can be avoided. On historic gardens and designed landscapes, the amendments simply update an existing reference and remove an unnecessary procedure.

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