

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021	
Minister	Minister for Local Government, Housing and Planning	
Lead official	Tom Winter	
Officials involved in the EQIA	Name	Team
	Chris Sinclair Tom Winter	Planning & Architecture Division: Development Delivery
Directorate: Division: Team	Local Government and Communities: Planning and Architecture Division	
Is this new policy or revision to an existing policy?	New	

Screening

Policy Aim

Following the end of the EU Exit implementation period, goods entering the UK from the EU are subject to the same border entry requirements and controls as rest of the world goods.

Scottish Ministers are responsible for the enforcement of checks on animals, plants, plant products, product of animal origin and high risk foods not of animal origin. Enforcement is delivered through inspection facilities located at Border Control Posts (BCP).

In most cases, BCP are being provided by port operators¹. However, the two ferry terminals at Cairnryan (the Port of Cairnryan and Loch Ryan Port) in Dumfries and Galloway do not have the necessary physical space to accommodate the required infrastructure and facilities within their boundaries. In accordance with the UK Border Operating Model, it is for government to provide facilities at an inland site in such circumstances. At the time of making the Order, it is understood that BCP need to be operational by 1 July 2021. Development of these facilities cannot commence until the necessary planning permission has been granted.

¹ Port operators have permitted development rights for certain types of development carried out on operational port land under Part 13 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.

To support the timely delivery of this nationally important border infrastructure, this Special Development Order (SDO) grants temporary planning permission for their provision subject to a number of conditions. In doing so, the SDO is intended to limit disruption that may occur in and around Cairnryan if the required facilities are not developed, or if their operation is significantly delayed.

Powers for Scottish Ministers to grant planning permission by way of SDO are conferred by section 30(2)(b) of the Town and Country Planning (Scotland) Act 1997. The Order has been prepared as a contingency measure: it does not preclude planning permission for Cairnryan border infrastructure being sought through an application submitted to Dumfries and Galloway Council should such an approach be compatible with operational timescales of the BCP.

Who will it affect?

The SDO grants temporary planning permission for border control facilities that are required as a result of EU Exit – it will not, in itself, affect equality groups. However, specific impacts are uncertain at this time because the scale and location of the Cairnryan BCP are yet to be finalised. There could be particular impacts if the BCP were to be established in an urban setting where people may be more likely to come into contact with traffic associated with vehicles using the BCP. However, it is difficult to determine the relevant issues until a specific site comes forward.

The SDO provides that the use of a specific site as a BCP must be expressly approved by Scottish Ministers before development can take place. Prior to such site-specific approval being sought, the SDO requires that a number of parties must be given the opportunity to comment on proposals. These include owners and occupiers adjacent to the proposed site and on access routes to the site, Dumfries and Galloway Council and the relevant community council(s). We anticipate that this process (and any additional, non-statutory consultation) will help to identify potential impacts on equality groups and any mitigation which may be required.

Additionally, as referred to above, the SDO is being progressed as a contingency measure. It is possible that consent for the provision of BCPs will ultimately be sought through a planning application to the relevant planning authority in the usual way, which would involve statutory public consultation and engagement.

It should also be noted that this SDO is required because the ports at Cairnryan do not have sufficient space to provide BCP within their boundaries. If they did, then it is likely to have been possible to develop the necessary border infrastructure without the need for a planning application because port operators have broad permitted development rights that apply on operational port land.

What might prevent the desired outcomes being achieved?

The main factors affecting delivery of Border Control Posts are primarily:

- time taken to identify an appropriate site.
- time taken to obtain necessary site-specific approvals and comply with relevant pre-commencement conditions.

Stage 1: Framing

Results of framing exercise

The primary affected parties will be those transporting goods into the UK at Cairnryan. The precise location of the BCP is not yet known. Accordingly it is not considered appropriate to carry out an EQIA at this time. Stakeholders consulted prior to site-specific approval being sought under the SDO (including the local authority) will be able to advise about any potential impacts on equality groups.

Extent/Level of EQIA required

As indicated above it is considered that an EQIA is not required to be completed at this time however we have provided information below which has been considered during the development of the SDO. Further consultation will be carried out pursuant to the SDO prior to development commencing, which will help to determine potential equality impacts and appropriate mitigation.

The SDO is being progressed as a contingency measure. It is possible that consent for the provision of BCPs will ultimately be sought through a planning application to the relevant planning authority in the usual way, which would involve statutory public consultation and engagement.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ²	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>In 2018, just under one in five people (19%) in Scotland were aged 65 and over, compared with 16% in mid-2007. People aged under 16 made up 17% of the population in 2017 and 64% of people were aged 16 to 64.</p> <p>Almost nine in 10 adults (87 per cent) aged 75 and above said they felt a very strong or fairly strong sense of belonging to their community, compared to just over seven in ten (73 per cent) of those aged between 16 and 24</p> <p>The majority of young people feel they should be involved in planning in their local area and that their local councils should look at ways to support children and young people to do this.</p> <p>Around six in ten of young people surveyed (58 per cent) agreed that adults were good at taking their views into account when making decisions that</p>	<p>Mid-2018 Population Estimates Scotland (2019)³</p> <p>Scottish Household Survey: Annual Report 2018 (2019)⁴</p> <p>Young Scot survey (2017)⁵</p> <p>Young people's participation in decision</p>	<p>Evidence would suggest that people wish to engage in planning though they are not always able to do so.</p>

² Refer to Definitions of Protected Characteristics document for information on the characteristics

³ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2019#:~:text=Scotland%E2%80%99s%20population%20is%20at%20a%20record%20high%20at,which%20is%20higher%20than%20the%20previous%20two%20years.>

⁴ <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

⁵ <https://www.gov.scot/publications/planning-review-young-scot-survey-results-june-2017/>

	<p>affect them. This was an increase from 2017, when 53 per cent agreed.</p> <ul style="list-style-type: none"> Boys were more positive on both questions. Older children were more negative. Respondents with a mental or physical health condition were less positive. <p>Democracy Matters to Children (2020) noted that ‘children’s paths to meaningful involvement in decision-making are currently limited and many children have limited or no experience of participation in democratic processes’. A number of local issues were identified as ones which children wanted to have a say in – this included planning and the built environment.</p>	<p>making: attitudes and perceptions (2020)⁶</p> <p>Democracy Matters to Children (2020)⁷</p>	
<p>DISABILITY</p>	<p>In 2011, the proportion of people in Scotland with a long-term activity-limiting health problem or disability was 20%, the same as reported in the 2001 Census.</p> <p>Contains a range of recommendations (primarily aimed at England) including: - preparation of guidance on how and when to engage disabled people; - dedicated section in policy on access and inclusive design - plans not to be considered as ‘sound’ without evidence address disabled access; - permission granted only where sufficient provision for accessibility and inclusion -remove any requirement to prove immediate need for accessible housing.</p>	<p>Scotland's 2011 Census (Release 2A, Table 8)</p> <p>Building for Equality: Disability and the Built Environment⁸</p>	<p>Evidence would suggest that people wish to engage in planning though they are not always able to do so.</p>

⁶ [https://www.gov.scot/publications/young-peoples-participation-decision-making-scotland-attitudes-perceptions-2/](https://www.gov.scot/publications/young-peoples-participation-decision-making-scotland-attitudes-perceptions-2/https://www.childreparliament.org.uk/our-work/democracy-matters-consultation/)

⁷ <https://www.childreparliament.org.uk/our-work/democracy-matters-consultation/>

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<https://publications.parliament.uk/pa/cm/201617/cmselect/cmwomeq/631/631.pdf#:~:text=Building%20for%20Equality%3A%20Disability%20and%20the%20Built%20Environment,use%20of%20public%20money%2015%20Fiscal%20incentives%2017>

	<p>97% of disabled people or those with a long-term illness considered that people should be involved in making decisions about how local public services are planned.</p> <p>Access issues should be a compulsory module on all Scottish architecture courses and the inclusion of local access panels as statutory consultees on planning applications.</p>	<p>Scottish Social Attitudes Survey 2015: Table A16⁹</p> <p>Inclusion Scotland: A Vision for an Inclusive Scotland (2014)¹⁰</p>	
<p>SEX</p>	<p>Scotland had a relatively even split between genders in 2018, with 51% females and 49% males, although this varied amongst age groups.</p> <p>Women are slightly more likely than men to become involved in the planning process. This was focussed on development management.</p> <p>Language barriers, lack of confidence and dominant characters can discriminate against some people during community engagement specifically women, minority ethnic groups, young and old people and people with disabilities.</p>	<p>Mid-2018 Population Estimates Scotland (2019)</p> <p>Planning and Community Involvement in Scotland (2004)¹¹</p> <p>Hard to reach, easy to ignore (2017)¹²</p> <p>Scotland's People</p>	<p>Evidence would suggest that people wish to engage in planning though they are not always able to do so.</p>

⁹ <https://www.gov.scot/publications/scottish-social-attitudes-survey-2015-attitudes-social-networks-civic-participation/>

¹⁰ <https://inclusion.scotland.org/a-vision-for-an-inclusive-scotland/#:~:text=A%20Vision%20for%20an%20Inclusive%20Scotland.%20Our%202014,election%20in%202015%2C%20and%20beyond%20to%20the%20>

¹¹ <https://www.webarchive.org.uk/wayback/archive/20180515204336/http://www.gov.scot/Publications/2004/07/19657/40295>

¹² <http://whatworksscotland.ac.uk/publications/hard-to-reach-or-easy-to-ignore-promoting-equality-in-community-engagement-evidence-review/>

	<p>Do you feel able to influence planning decisions which affect your local area and how it is being developed? Findings on no influence / some influence were similar for male (61%, 35%) and female (59%, 36%)</p> <p>Four key facts, which link specifically with arrangements around the participation of women in engagement on the built environment: • Women can find it more difficult to engage in planning processes since they are more likely to provide unpaid care and the timing and places of consultation may not recognise caring responsibilities. • Women from some minority ethnic groups may not wish to attend mixed gender consultation meetings. • Studies by the Women's Design Service show an under-representation of disabled women in consultation processes. • Women are less likely than men to access ICT and an over-emphasis on the internet could exclude women.</p>	<p>The National Trust for Scotland Heritage Observatory briefing note (2017)¹³</p> <p>Royal Town Planning Institute, Good Practice Note 7: Gender and Spatial Planning (2007)¹⁴</p>	
<p>PREGNANCY AND MATERNITY</p>	<p>We have not been able to gather any information regarding this characteristic</p>		
<p>GENDER REASSIGNMENT</p>	<p>We have not been able to gather any information regarding this characteristic</p>		

¹³ https://www.nts.org.uk/Downloads/Site/NTS_briefing_note_-_planning_in_Scotland_-_November_2017.pdf

¹⁴ <https://policy-practice.oxfam.org.uk/publications/gender-and-spatial-planning-rpi-good-practice-note-7-112350>

SEXUAL ORIENTATION	As a whole, this group had no special needs or requirements when it came to planning. Their views were representative of the general population.	Consultation on the Modernisation of the Planning System with 'seldom heard' Groups (2009) ¹⁵	
RACE	<p>Language barriers, lack of confidence and dominant characters can discriminate against some people during community engagement specifically women, minority ethnic groups, young and old people and people with disabilities.</p> <p>Some people from specific communities of interest and identity described finding it difficult to get involved in decisions, or having no experience of involvement at all. For example, some asylum seekers, EU citizens, foreign language groups, and some people from different ethnic minority groups described experiences of being detached from the wider community and formal decision-making organisations and forums. They did not know about local groups or understand whether and how they could get involved.</p> <p>Seventy-eight per cent of those whose ethnicity was recorded as White expressed a very or fairly strong feeling of belonging compared to 71 per cent of those whose ethnicity was recorded as minority ethnic.</p> <p>In 2011 Gypsy/Travellers in Scotland, compared to the population as a whole, were more likely to report</p>	<p>Hard to Reach, Easy to Ignore (2017)</p> <p>Local Governance Review: analysis of responses to Democracy Matters (2019)¹⁶</p> <p>Scottish Household Survey: Annual Report (2019)</p> <p>Gypsy/Travellers in Scotland - A Comprehensive</p>	Evidence would suggest that people wish to engage in planning though they are not always able to do so.

¹⁵ <https://www.webarchive.org.uk/wayback/archive/20180516025616/http://www.gov.scot/Publications/2009/02/09150350/0>

¹⁶ <https://www.gov.scot/publications/local-governance-review-analysis-responses-democracy-matters/>

	<p>a long-term health problem or disability and were more likely to report bad or very bad general health.</p> <p>Some people from specific communities of interest and identity described finding it difficult to get involved in decisions, or having no experience of involvement at all. For example, some asylum seekers, EU citizens, foreign language groups, and some people from different ethnic minority groups described experiences of being detached from the wider community and formal decision-making organisations and forums. They did not know about local groups or understand whether and how they could get involved</p>	<p>Analysis of the 2011 Census¹⁷ (2015)</p> <p>Local Governance Review: analysis of responses to Democracy Matters (2019)</p>	<p>Evidence would suggest that people wish to engage in planning though they are not always able to do so.</p>
<p>MARRIAGE AND CIVIL PARTNERSHIP</p>	<p>Not applicable</p>		

¹⁷ <https://www.gov.scot/publications/gypsy-travellers-scotland-comprehensive-analysis-2011-census/>

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations among and between different age groups			X	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations among and between disabled and non-disabled people			X	

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Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations between men and women			X	

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision

Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations				

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control

					Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Promoting good race relations			X		Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good race relations.

Do you think the policy impacts on people because of their religion or belief?

	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination, harassment and victimisation, Advancing equality of opportunity or promoting good relations between different groups.
Advancing equality of opportunity			X	
Promoting good relations				

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and	Positive	Negative	None	Reasons for your decision

<p>Civil Partnership¹⁸ Eliminating unlawful discrimination</p>			<p>X</p>	<p>Establishing a Border Control Post is an operational requirement for the ports at Cairnryan. Border Control Posts are not for use by the public and will only service those transporting certain goods into the UK. For this reason it is not considered to have any impact on eliminating unlawful discrimination..</p>
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¹⁸ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	The SDO is not considered to impact on any of the equality groups. Development authorised by an SDO is not subject to the usual consultation requirements that would apply to a planning application. Nevertheless, the SDO requires that before development can take place, the use of a specific site as a BCP must be expressly approved by Scottish Ministers. Prior to such site-specific approval being sought, various parties must be given the opportunity to comment on proposals. These include owners and occupiers adjacent to the proposed site and on access routes to the site, Dumfries and Galloway Council and the relevant community council(s). We anticipate that this process (and any additional, non-statutory consultation) will help to identify potential impacts on equality groups and any mitigation which may be required.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ¹⁹ ?	The SDO does not directly or indirectly discriminate as set out in the Equality Act 2010.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Monitoring and Review

Once the BCPs are established it will become the responsibility of the site operator and Dumfries and Galloway Council to monitor and resolve any issues with the site. As the relevant planning authority, Dumfries and Galloway Council will be responsible for ensuring that any development is carried out in accordance with the SDO and any conditions attached to it. Planning Authorities have a range of enforcement powers at their disposal should those be required.

Stage 5 - Authorisation of EQIA

¹⁹ See EQIA – Setting the Scene for further information on the legislation.

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for The Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: John McNairney

Position: Chief Planner

Authorisation date: 22/02/2021