



White Paper on the Planning System

The Scottish Executive has unveiled major proposals to modernise and streamline the planning system in Scotland.

Central to the reforms are proposals which will be of key significance to planning authorities, developers and potential objectors alike.

A New Hierarchy for Planning – National, Major, Local and Minor Developments

In a bid to make the planning regime more focused and responsive, a formalised hierarchical system is proposed which will deal with different types of development in different ways. This will be achieved by categorising developments according to whether they are of national, major, local or minor importance and processing them accordingly.

In a radical move it is proposed that the need for national developments such as power stations, major water schemes and transport projects will be decided by the Scottish Ministers in the context of a National Planning Framework. Local authorities will be obliged to incorporate such developments into their development plans and their role will be limited to deciding the detail, as opposed to the principle, of development. The Scottish Ministers will be granted the opportunity to intervene where necessary to call-in applications. There will be a very limited right of appeal to the courts on a point of law.

Major developments such as shopping centres or large-scale housing developments will be clearly identified and prioritised by planning authorities. The method of appeal will be largely the same as at present, namely, to the Scottish Ministers and thereafter to the courts on a point of law.

Local developments such as smaller housing developments and commercial enterprises will, as now, be a matter for local planning authorities. Controversial applications or those with a significant impact on the area will continue to be decided by elected members with a right of appeal to the Scottish Ministers. All other applications will be determined by planning officers under delegated powers but with a new right of appeal to a local review body comprised of locally elected members.

It is also proposed that permitted development rights are extended, removing the need to obtain planning permission for minor developments such as small scale changes to single houses, thus relieving local authorities of the time consuming task of determining these generally straight forward, yet high volume applications.

Processing Agreements

To help the expeditious processing of major development proposals, planning authorities will be able to enter into agreements with applicants setting out realistic timescales for processing applications. In recognition of the fact that negotiating and processing these agreements will place additional burden on planning authorities' time and resources, application fees will be increased to reflect the real cost of processing the application.

Key proposals at a glance:

- Establishing the National Planning Framework as an instrument for securing the delivery of national policies and programmes
- Defining a new planning hierarchy of development types
- Statutory requirement to update development plans every 5 years
- Moving to a single tier of local development plans everywhere except the four largest city regions
- Introducing requirement for 1 proposed plan replacing the current system of consultative and finalised drafts
- Encouragement of e-planning
- Improving the way in which planning agreements are used
- Use of standard application forms
- Reduction in time limit within which an appeal can be submitted from 6 months to 3 months
- Planning consents to lapse after 3 years
- New statutory requirements for pre-application consultations for certain types of development
- New procedures to encourage public participation in formulation of plans
- Neighbour notification responsibility transferred to local authorities rather than the applicant
- More frequent use of hearings allowing local people to present their views on planning applications before they are determined
- Applications which do not accord with the development plan to be subject to greater scrutiny
- Requirement for planning authorities to give reasons for their decisions
- Introduction of early determination of appeals that are not “well-founded”
- Limiting the right of appeal to a review of the decision of the planning authority based on the material supplied at the time
- Range of measures to ensure that new development is sustainable

Statutory Consultation

There are plans for statutory consultees to become engaged in pre-application consultations for certain types of development. Greater public involvement at this stage will also be encouraged and applicants will have to state how they have involved the community in formulating their proposals.

This will inevitably mean more work for commercial developers who will have to ensure that a thoroughly prepared strategy for promoting their scheme is in place at an earlier stage for consideration during the consultation process (perhaps involving public participation) before submitting a planning application. Developers should be aware of the implications for commercial confidentiality that these pre-application consultations will have.

New Limits on the Life of Consents

The White Paper proposes that planning authorities will be able to decide an appropriate period within which development must begin. Where no period is specifically set, the statutory period will be reduced to 3 years instead of the current 5 years.

Planning Agreements

The Executive has proposed to improve the framework governing such agreements re-stating their permitted scope and allowing applicants to submit unilateral obligations. It is also proposed to make the process more transparent by placing requirements on authorities to place agreements on the public register, to monitor the delivery of items in the agreement and place this information in the public domain. Developers should be mindful that their compliance with the terms of a Section 75 Agreement may be monitored by interested/hostile parties. It is intended that best practice guidance to expedite production of planning agreements will be drawn up. A right of appeal (much hoped for by many developers) against the terms of planning agreements is not proposed.

Appeals

In order to reduce uncertainty for objectors and planning authorities, the Executive proposes to reduce this time period from 6 months to 3 months. In addition, there will be a focus for determining appeals early where the appeal is considered to be ill founded.

Developments Plans

The new proposals are firmly based upon the concept of the primacy of the development plan. In light of this, a shake up of the current development plan process will be required. It is proposed that development plans will be produced more quickly to ensure that they are more relevant and up-to-date. The proposals include a statutory requirement to update development plans every 5 years. The intention is to move to a system of single tier of local development plans with the exception of the 4 largest city regions, which will also have strategic development plans. The current system of consultative and finalised drafts is to be replaced with a single proposed plan.

Third Party Rights of Appeal

As widely anticipated, a third party right of appeal is not proposed, instead, the Executive has pursued a plan-led system with greater emphasis on effective public engagement from the early stages of the planning process. It was considered that a third party right of appeal would have created more problems that it would have solved, hindering development and undermining local authority decision making.

What's next?

It is the intention of the Executive to introduce the Planning Bill during the current session of Parliament which expires in May 2007.

Visit www.scotland.gov.uk/Publications/2005/06/27113519/35231 to find the Scottish Executive's planning white paper "Modernising the Planning System".

Contact

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