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**HOMES FOR SCOTLAND RESPONSE TO
DRAFT REGULATIONS ON DEVELOPMENT PLAN EXAMINATIONS
CONSULTATION PAPER**

4 APRIL 2008

Homes for Scotland is the representative body for the private home building industry in Scotland. Homes for Scotland represents the interests of over one hundred and thirty member organisations who provide 95 of every 100 homes built for sale in Scotland and we have a rapidly expanding membership of professional and other service businesses engaged in our industry.

Homes for Scotland has been involved in an ongoing 'conversation' with the Scottish Government during the modernisation of the planning system. We are grateful to the Scottish Government for taking time to present the proposals to our member companies and hope that the early feedback given has been helpful in the drafting of the new regulations. Homes for Scotland will be responding formally to each of the draft regulations forming the planning modernisation package.

Q1 Do you agree that these principles (Para 7) should underpin the regulations and guidance for development plan examinations?

We support the principle of a process that takes less time, however, we are concerned that a process that relies solely on the appointed person seeking information he feels is relevant without interested parties being given an opportunity to explain their representations or raise relevant matters (which only come to their attention after the initial representation has been made) may result in issues being overlooked or misunderstood.

We also have concerns about the principle of focussing on 'issues raised' in representations rather than responding to every representation. This may result in a situation where similar representations with slightly different objectives may not be given the necessary level of scrutiny or be seen to be given the necessary scrutiny.

Having seen these new principles being applied at the West Lothian Local Plan Inquiry and the Glasgow and Clyde Valley Structure Plan Examination in Public, in relation to Bishopton, there is no clear evidence to show that these new regulations will do anything to speed up the process.

Q2 Do you support the use of a new code of practice to set out the detailed procedures for examinations, rather than prescribing this detail in regulations?

Yes, but there needs to be more in the Regulations on how Examinations will actually be run. At present a large amount of detail is being left over for a Code of Practice that will give the Appointed Person the right to do whatever they like within a framework which appears to exclude objectors from properly scrutinising proposals and policies.

Q3 In order to ensure an efficient process, should the draft regulations restrict the matters to which the appointed person may refer in assessing the authority's conformity with its participation statement?

We would suggest that the matters that the appointed person can refer to should not be restricted.

Q4 Are you satisfied that the proposed scope of the examination successfully balances the need for a speedy and efficient process with a rigorous assessment of appropriate issues?

The proposed scope of the examination means that people making representations cannot make further representations (e.g. in relation to the Planning Authority's response to their original representation or on a new relevant matter which has come to their attention) unless they are invited by the appointed person. If someone's representations are not accepted by the planning authority, they will not be given the opportunity to respond to the reasons that the planning authority gives for not accepting them. An important element of fairness and transparency will therefore be removed from the planning system.

Under the current system the reporter has the benefit of seeing the totality of both sides of the case (including the objector's view of the Planning Authority's reasons for not accepting his representation) and also has the opportunity to listen to arguments which can clarify matters. We anticipate that this new procedure will result in large amounts of detailed documents being submitted at the outset, which the appointed person will be required to consider in detail. We are concerned that there is the potential for an appointed person, faced with significant volumes of contradictory material, to misunderstand or overlook important information.

The removal of a right to an examination into modifications arising from the first examination is a concern to us. As matters currently stand only "new matters" raised in representations to such modifications are entitled as of right to examination by a reporter at a second inquiry. This situation does not arise in all cases but remains as an important safeguard for situations where circumstances differ from those which were considered at the first inquiry/examination. Whilst this matter is dealt with through the 2006 Act we would suggest that it should be revisited as part of the

detailed consideration of Development Plans and Development Plan Examinations currently being undertaken.

The intention to allow Reporters to consider “issues” rather than “representations” is of concern to us for the reasons mentioned above. We note that the partial Regulatory Assessment accompanying the draft Regulations accepts that the approach proposed “may make it more difficult for individual members of the public to access the appointed person’s findings on their particular representations but has been proposed in order to expedite the process”. This approach seems to run counter to the principle set out in paragraph 7 of the Consultation Paper that Examinations should “ensure it is as easy as possible for people to get involved”.

We would also insist that the regulations must include procedures that allow the a proposal to be reconsidered where a site is included within the draft plan and is subsequently removed. If a site is removed following inclusion in a draft plan detailed justification for this action must be given.

The proposed scope of the examination will not successfully balance the need for a speedy and efficient process with a rigorous assessment if the objector no longer has the right to raise relevant matters or, in appropriate circumstances, have the right to be heard.

Q5 Specifically, where should responsibility lie for identifying the issues to be assessed in the examination?

Scottish Ministers should publish a list of key issues that must be covered at every examination. These key matters include Housing Land Supply, Affordable Housing and Developer Contributions.

Q6 Should the regulations set out a defined list of matters to which the appointed person can refer in assessing the plan, and if so, which matters should be included in such a list?

The appointed person should not be restricted on the matter to which they may refer in assessing the plan.

Q7 Are there other bodies beyond those proposed in regulation 6(4) from whom it should be possible to seek further representations?

Homes for Scotland would not take issue with the bodies proposed in regulation 6(4).

Q8 Do you agree that the proposed apportionment of examination costs is fair and workable?

Yes

Q9 Are there any potential impacts on the business or voluntary sectors that we should be aware of in finalising these regulations?

Homes for Scotland are not aware of any potential impacts on the business or voluntary sectors.

Q10 Are there any potential impacts on particular societal groups that we should be aware of in finalising these regulations?

Homes for Scotland are not aware of any potential impacts on particular societal groups.

Q11 Do you have any other comments to make on the draft development planning examinations regulations?

If the six week period for making representations is a developers only opportunity to make representations this will not give them sufficient time to prepare for submissions on complex sites.

We would suggest that this guidance may be appropriate for Strategic Development Plan Examinations but Local Development Plans requires a mix of approaches allowing greater participation.

Finally, Homes for Scotland recognise that there will be a move towards frontloading and we would like to reserve the right to make further submissions in due course.