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**DRAFT REGULATIONS ON DEVELOPMENT PLANNING
CONSULTATION PAPER
20 FEBRUARY 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.

Historically and currently, the implementation of development plans has been seriously delayed by the length of time taken to approve Structure Plans and then adopt Local Plans, usually a period of 8 or more years. We do not anticipate that the new legislation as proposed will result in the approval of LDPs in much less than 8 years (see appendix 1) from the beginning of SDP preparation. This timescale may even prove to be optimistic in the light of recent judgements with regard to Strategic Environmental Assessments. At present only 41 per cent of Local Plans are adopted within the statutory 5 year period. Taking account of the likely timescales for preparing SDP's and LDP's, in accordance with SEA requirements, we believe that Scotland will not have a complete framework of Development Plans in place before 2015 and may take as long as 2018 where the Local Authority is preparing multiple LDPs. This cannot be acceptable to the development industry or to an ambitious Scotland seeking to encourage economic growth and investment.

Development Planning Consultation Questions

Q1 Are you satisfied that the procedures set out in the draft regulations for adopting development plan schemes will adequately ensure that planning authorities have proper programmes in place for the review of their plans, including their proposals for consultation and public involvement?

We are concerned that the regulations relating to the development plan scheme will not speed up the production of the plans. There must be detailed guidance about the completion timescales for the plans if they are to stand any likelihood of being produced and updated within the statutory 5 year period.

Paragraph 9 of the draft guidance, states that "*Ministers would have the power to recommend Modifications*" and "*Authorities may decline to make changes*". We object to the current proposed procedures on the grounds that any modifications made by Scottish Ministers, in relation to a Local Authorities

Development Plan Scheme, should be binding. This is particularly important with regard to action taken by Ministers to ensure compliance with timescales and delivery.

Q2 Do the regulations on Strategic Development Plan (SDP) content need to say more to ensure that SDPs are effective tools for leading and managing change in the largest city-regions?

Further guidance should be given to ensure that the Strategic Development Plans will take account of Government policy to increase in housing production and have regard to emerging aspirations.

Strategic Development Plans must be ambitious and focused on forward planning, and less concerned with historical analysis. The Vision Statement must identify how things should and could occur, taking account of and being linked to the availability of the infrastructure that is essential to the delivery of plans targets. Plans must be clear about the way the growth and investment will be accommodated in full. They must be ambitious and clear in terms of location and robust in terms of articulating the measures of mitigation which development proposals must address.

Q3 Do you support the approach to listing the key topics that need to be covered by policies at the strategic level and do you support the topics listed?

Homes for Scotland supports the listing of key topics. Whilst we accept that the topics listed should reflect local circumstances, there will be similarities between the aspirations of the different City Regions.

Q4 Is the move to an accurate map base for SDP Proposals Maps workable?

An “accurate” map based system must not seek to cover detailed matters that should, more properly be dealt with through the Local Development Plan. As all of the necessary information is unlikely to be available at the time of preparing a Strategic Development Plan, focus on site specific matters would present great risks. The Strategic Development Plan should focus on areas of search.

Q5 Do you support the continuing primacy of the written text of the SDP (or LFP) or would a move to primacy for the Proposals Map help to strengthen the spatial dimension of the plan?

The map and the written text should conform with, and support each other. We would suggest that the written text must continue to take primacy but we support more accurate map base that assists the written text.

Q6 Do you support the list of information and considerations that the SDPA must take into account when preparing a SDP or main issues report?

Yes. In addition to the list of information outlined in this consultation. We would also like to reiterate the response to question 2.

Q7 Are there any other matters which the regulations should require always to be included in LDPs, or on the Proposals Map?

The regulations should require the LDP to specify timescales for implementing and reviewing the plan.

Q8 Are there any other information sources or considerations that planning authorities should be required to have regard to in preparing LDPs and how can planning authorities demonstrate that they have complied with these requirements?

Regard should also be had to relevant Local Government Policy.

Q9 Are the minimum publication requirements set out in the proposed regulations adequate, or should additional requirements be included, for instance specifying a list of statutory consultees for development planning?

Homes for Scotland would not take issue with the minimum publication requirements set out in the proposed regulations. It should be recognised that this is a minimum requirement and Local Authorities should be expected to publicise further where it is appropriate.

Q10 Is the requirement to place a notice in the Edinburgh Gazette still useful?

No

Q11 Are the proposed circumstances where neighbour notification would be required and the definitions of neighbouring land appropriate?

Neighbour notification must be undertaken in a way that ensures that there are no instances where a decision can be overturned due to a failure to notify a single neighbour directly. There must be some form of overarching procedure to ensure that the process cannot be held up or deemed to be flawed by a single “stray” letter or notice. This could be in the form of a site notice or advertisement in the local paper.

Q12 Will the broad proposed definition of ‘notifiable’ modifications unnecessarily delay the plan process by subjecting too many modified plans to further consultation?

We agree that significant modifications (termed ‘notifiable modifications’) should be modifications that add, remove or significantly alter any policy or proposal in the plan.

In addition to the above we would suggest that a glossary is provided as part of the paper, detailing what constitutes notifiable and non-notifiable modifications.

Q13 Do these proposed exceptions provide an appropriate degree of scope for authorities to depart from the recommendations of examination reports?

Reporters Reports or Examination Reports should be binding on local planning authorities. With this in mind, we feel that the scope of any departure should be limited. We are concerned that reference to regulation 13 effectively gives planning authorities the right to ignore such recommendations. Regulation 13 lists all the matters to be considered in a LDP so effectively all recommendations arising from a consultation of these issues could be ignored. The fourth bullet point in paragraph 66 should be deleted.

Q14 Are you satisfied with the proposed regulations for action programmes?

Yes

Q15 Given its enhanced status, should the draft regulations (as opposed to advice) say more about the content and procedures for adopting supplementary guidance?

All Supplementary Guidance must have independent scrutiny and must be properly tested. Our objection with regard to this matter relates to the principle that Scottish Ministers can propose modifications but not specify how recommendations will be used.

Recommendations made by Ministers must be binding and the Local Development Plan must be adopted before the Supplementary Guidance is afforded full statutory weight. We would also suggest that this guidance should set out the process that will need to be undertaken if a Local Authority puts forward Supplementary Planning Guidance after a Local Plan Inquiry.

We would also recommend that the guidance should be put before Scottish Ministers for a minimum set period (say 1 month) to ensure that all guidance is afforded the same level of scrutiny.

Q16 It is the Scottish Government's view that the list of key agencies should be limited to statutory bodies regulated by Scottish Ministers but not forming a part of government. On this basis, do you agree with the list of key agencies proposed?

Yes

Q17 Do the proposed transitional arrangements raise any specific issues for particular plans or areas?

We would suggest that where a Local Authority has a Structure Plan that has recently been approved, provision should be made within the new regulations to allow the new LDP to be prepared in accordance with the existing Structure Plan.

It is essential that the transitional arrangements are not used as an excuse to delay the delivery of the Development Plan. As previously stated, the programme for the delivery of new plans will mean, at best, that full coverage of new Development Plans will not be in place until 2015 but this may take as long as 2018 where there are multiple LDPs. This is not acceptable and regulations must ensure that every measure is taken to make way for an ambitious forward looking planning system that is fit for purpose.

Q20 Do you have any other comments to make on the draft development planning regulations?

Please find attached appendix 2 showing the sequence of events that must be undertaken by the SDPA and Local Authority in the preparation of the new format of Development Plans. We would suggest that the Scottish Government should include this diagram (or equivalent version) to illustrate the sequence of events which need to be undertaken in the plan preparation process.

Homes for Scotland reserve the right to make further comments on any new matters drawn to its attention in relation to this consultation.

Timescales for preparing Strategic Development Plans and Local Development Plans

Appendix 1

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Strategic Environmental Assessment	■										
Development Plan Scheme		■									
Monitoring Statement		■									
Main Issues Report		■									
Vision Statement			■								
Proposed Strategic Development Plan			■								
Modified Strategic Development Plan				■							
Action Programme					■						
Strategic Environmental Assessment					■						
Strategic Development Plan Examination					■						
Strategic Development Plan Approved						■					
Publication and Publicity for the Approved Plan						■					
Strategic Environmental Assessment			■			■					
Development Plan Scheme				■			■				
Monitoring Statement				■			■				
Main Issues Report				■			■				
Vision Statement					■			■			
Proposed Local Development Plan					■			■			
Modified Local Development Plan						■			■		
Action Programme							■			■	
Strategic Environmental Assessment							■			■	
Local Development Plan Examination							■			■	
Local Development Plan Adopted								■			■
Publication and Publicity for the Approved Plan								■			■

Immediate Plan Preparation

Local Authorities with more than one LDP



Strategic Development Plan /Local Development Plan

Appendix 2

Participation Statement

Development Plan Scheme

Reviewed annually
Sets out programme for reviewing plans

Timetable for SPG's

Monitoring Statement

Monitors change – econ, physical & environment
Impact of previous policy

Main Issues Report

Stage 1 in consultation
Key issues from last plan

Proposed Strategic Development Plan Proposed Local Development Plan

LDP's contain a spatial strategy & Schedule of LA owned land
6 week consultation period

Vision Statement

For SDP & LDP outside SPD

Modified Plan

Examination

Action Programme

Actions required to deliver policies
Who is responsible and timescales

Approval / Adoption

Publication of and publicity for the approved plan

