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CONSULTATION ON MISCELLANEOUS AMENDMENTS TO THE PLANNING SYSTEM 2012

THE PUBLIC SERVICES REFORM (PLANNING) (PRE-APPLICATION CONSULTATION) (SCOTLAND) ORDER 2012

SG/2012/52

Introduction

Homes for Scotland is the representative body of the Scottish home building industry, with around 160 full and associate members. Its members build around 95% of all new homes for sale built each year, as well as a significant proportion of the affordable housing output annually. Homes for Scotland makes policy submissions on central and local Government planning and policy issues affecting the industry, and its views are endorsed by the relevant local committees of its members.

Homes for Scotland welcomes the opportunity to comment on the consultation on reform of the planning system. It is pleased to provide this brief statement of evidence for the Local Government and Regeneration Committee of the Scottish Parliament, and looks forward to the round-table discussion on 30 May 2012.

Proposed Changes – Pre-Application Consultation

Homes for Scotland members, their legal and professional advisers began to advise Homes for Scotland of their concerns over the impact of the 2006 Planning Act on Section 42 applications within a relatively-short time of the Act coming in to force. Under the 1997 Act and regulations, it was always accepted that, where the holder of planning consent with conditions attached wished to alter one or more of those conditions, then a planning application required to be submitted and be subject to the same scrutiny as any other application.

However, the introduction of a pre-application process for national and major applications added new stages to the planning application process, in particular the 12-week period of pre-application consultation (PAC). This process is designed to allow an early opportunity for debate on the major issues of principle raised by national and major applications, and hopefully to ensure a less contentious

decision-making process. It is, as the Scottish Government recognises, an unintended consequence that a future Section 42 application relating to a national or major scheme is then obliged to follow the same procedure.

Generally, a Section 42 application is intended to change a condition relating to a minor detail of the development, or an operational matter related to the construction. Examples may be the substitution of a particular component of a building – a window detail, roof tile or surfacing material, for instance; changes to the working hours on a site; substitution of one drawing for another; a change of house type on a plot or alteration of a condition which can no longer be complied with because of some external factor outwith the applicant's control. Such changes are in no way related to the principles on which consent was granted, or are not material changes to the form and content of the development.

It has been a source of great frustration to developers that such minor issues have led to substantial delays in implementing planning consents. In addition, there are of course costs involved in a new consultation process, as well as the costs arising from project delays – more professional fees; more finance costs from longer borrowing periods; and potential loss of income from customers who go elsewhere.

The intended outcomes of the reforms introduced by the 2006 Act included greater speed, efficiency and certainty in the planning process. More generally, there seems to be widespread support for the principle that more development should be encouraged in pursuit of economic recovery, subject of course to appropriate planning scrutiny.

The unintended impact of the 2006 Act on Section 42 applications goes against all of these desired outcomes.

Pre-conditions and impacts of the proposed changes

The explanatory document sets out a very full and fair discussion of the issues arising from the proposed change. In Homes for Scotland's view, it demonstrates clearly that there are no negative impacts from the proposed changes. In particular, there is no reduction in the scope for planning authorities or third parties to scrutinise and challenge any application for a change to conditions on an existing consent.

The alternative suggestions all involve the introduction of a further process or set of decisions to be taken. There is no merit in introducing further processes when the overall aim is to further streamline and modernise the planning process.

There is no merit in introducing further delays into an already-lengthy planning process in relation to very minor matters of detail and operation. Planning should be aligned with other aspects of public policy and regulation in seeking to encourage beneficial development.

Conclusion

Homes for Scotland fully supports the proposed changes to pre-application consultation, and considers that the explanatory document presents a thorough justification of the case for the changes.