

Heads of Planning



Our ref: A12287415
30 September 2015

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (NEIGHBOURING PLANNING AUTHORITIES
AND HISTORIC ENVIRONMENT) (SCOTLAND) DIRECTION 2015**

I refer to the above Direction which, ahead of the coming into operation of Historic Environment Scotland on 1 October 2015, brings together notification requirements for planning applications affecting aspects of the historic environment. It sets out the requirements for planning applications on which Scottish Ministers were consulted before 1 October 2015 as well as putting in place notification requirements for applications on which HES is consulted on or after 1 October 2015. The direction also continues existing requirements to notify planning applications to which a neighbouring planning authority objects.

The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 ('the 2015 Direction') revokes the Town and Country Planning (Neighbouring Planning authorities and Historic Environment)(Scotland) Direction 2014 ('the 2014 Direction'). The requirement in the 2014 direction to consult Scottish Ministers on development that may affect a World Heritage Site has now been changed to Historic Environment Scotland, and brought into the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 via the Town and Country Planning (Historic Environment Scotland) Amendment Regulations 2015.

As with the 2014 direction, these consultation requirements require authorities to consider whether a proposal may have an impact on a World Heritage Site. In line with Scottish Planning Policy planning authorities should refer to the statement of Outstanding Universal Value for each World Heritage Site, to help identify such impacts.

In addition to the publication of this direction, Historic Environment Scotland will be writing to relevant planning authorities under Regulation 25(3) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 to clarify two aspects of the requirements to consult on planning applications. These are set out below.

- Regulation 5(4) of the Town and Country Planning (Historic Environment Scotland) Amendment Regulations 2015 removes the requirement for planning authorities to consult Historic Environment Scotland on an application where Scottish Ministers have already been consulted under 25(2)(a) of the regulations. Historic Environment Scotland will extend this to cases where Ministers have already been consulted under the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2014.
- Historic Environment Scotland will also inform planning authorities that consultation in terms of impacts on World Heritage Sites is not required for householder development. Consultation relating to other impacts on certain other designations (including A listed buildings and scheduled monuments) may still be required for householder developments.

To summarise, the 2015 direction sets out the following:

- A requirement to notify Ministers where, having been consulted on non-householder development affecting a historic battlefield, Scottish Ministers or Historic Environment Scotland advises against development (or wants to attach conditions which the planning authority does not intend to attach);
- A requirement to notify Ministers where, having been consulted on development affecting a World Heritage Site, Scottish Ministers or Historic Environment Scotland advises against development (or wants to attach conditions which the planning authority does not intend to attach);
- A requirement to notify Ministers where, having been consulted on development affecting the site of a scheduled monument or its setting, Scottish Ministers or Historic Environment Scotland advises against development (or wants to attach conditions which the planning authority does not intend to attach);
- A requirement to notify Ministers where, having been consulted on development affecting a category A listed building or its setting, Scottish Ministers or Historic Environment Scotland advises against development (or wants to attach conditions which the planning authority does not intend to attach); and
- A requirement to notify Ministers where, having been consulted on development affecting land within their area, a neighbouring authority advises against development.

You may already be aware that we have established a Decisions Gateway which is complemented by process maps and checklists <http://www.gov.scot/Topics/Built-Environment/planning/Development-Management/Planning-Decisions/checklists> to help make the processes more streamlined and more transparent. These highlight the supporting information that planning authorities need when submitting the more frequent types of cases: notified planning applications; stopping up orders; and compulsory purchase orders. I would be grateful if you could remind staff of this guidance.

In addition, our contact address for the Decisions Gateway is planning.decisions@gov.scot to which all Ministerial casework should be submitted and

where staff will be able to assist in answering queries about processes in general or the detail of the new direction.

Regards



John McNairney
Chief Planner

THE TOWN AND COUNTRY PLANNING (NEIGHBOURING PLANNING AUTHORITIES AND HISTORIC ENVIRONMENT) (SCOTLAND) DIRECTION 2015

The Scottish Ministers give the following Direction in exercise of the powers conferred on them by regulations 31 and 32 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and all other powers enabling them in that behalf:

Citation, commencement and interpretation

1.—(1) This direction may be cited as the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 and comes into force on 1st October 2015.

(2) In this Direction—

“category A Listed building”, “householder development”, “Scheduled monument” and “World Heritage Site” have the same meaning as in regulation 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

“environmental report” means the environmental report prepared in accordance with the Environmental Assessment (Scotland) Act 2005¹;

“environmental statement”, “Schedule 2 development” and “screening opinion” have the same meaning as in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011².

“historic battlefield” means a battlefield which is included in the inventory of battlefields compiled and maintained under section 32B of the Ancient Monuments and Archaeological Areas Act 1979³; and

Information to be given to the Scottish Ministers

2.—(1) Where a planning authority propose to grant planning permission for development falling within any of the descriptions of development listed in the Schedule to this Direction, the planning authority must send to the Scottish Ministers the following information:

(a) a copy of the planning application, accompanying plans and associated documentation (e.g. transport/retail assessment), together with the full address and post-code of the site to be developed;

(b) a copy of any environmental statement accompanying the application or, where an environmental statement has not been prepared:

- (i) a copy of any screening opinion given by the planning authority in respect of any Schedule 2 development; and
- (ii) a copy of any environmental report that is relevant to the development;

¹ 2005 asp 15.

² S.S.I. 2011/139.

³ 1979 c.46. Section 32B was inserted by section 11 of the Historic Environment (Amendment) (Scotland) Act 2011 (asp 3).

(c) a copy of any appropriate assessment relating to the application, carried out under Part IV of the Conservation (Natural Habitats, &c.) Regulations 1994⁴

(d) copies of all observations submitted by consultees and all representations and petitions received, together with a list of the names and addresses of those who have submitted observations or made representations (including details of any petition organiser if known). In the case of 'pro-forma' representations, only one copy example requires to be submitted, but names and addresses of all those making representations must be provided. In the case of a petition, a copy of the petition must be submitted, but only the name and address of the organiser or first named should be provided;

(e) the planning authority's comments on the consultees' observations and on representations received;

(f) the planning authority's reasons for proposing to grant planning permission, including, where relevant, a statement setting out the reasoning (i) behind the authority's decision to depart from the development plan, and/or (ii) for taking the decision it has, in light of any objections received.

(2) Where the planning authority holds the information set out in sub-paragraphs (a) to (f) above on its website, it may comply with some or all of the requirement to provide this information to the Scottish Ministers by means of an e-mail to the Scottish Government containing a link, or a series of links, to the relevant pages on the authority's website.

Restriction on grant of planning permission

3. A planning authority must not grant planning permission for development falling within any of the descriptions of development listed in the Schedule to this Direction before the expiry of a period of 28 days beginning with the date notified to them by the Scottish Ministers as the date of receipt by the Scottish Ministers of the information referred to in paragraph 2.

4. The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2014 is revoked.

Chief Planner
The Scottish Government
Planning and Architecture Division
Victoria Quay
Edinburgh
EH6 6QQ
30 September 2015

⁴ S.I. 1994/2716 as relevantly amended by S.I 2007/1843, S.S.I. 2007/80, S.S.I. 2007/349 and S.S.I. 2007/517.

SCHEDULE

DESCRIPTIONS OF DEVELOPMENT FOR WHICH APPLICATIONS MUST BE NOTIFIED TO SCOTTISH MINISTERS

Development affecting a historic battlefield

1. Development which has been the subject of consultation with Historic Environment Scotland under regulation 25 of and paragraph 17(c) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where Historic Environment Scotland have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.
2. Development which before 1st October 2015 has been the subject of consultation with Scottish Ministers under regulation 25 of and paragraph 5(5) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where (either before or on or after that date) the Scottish Ministers have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.

Development affecting a World Heritage Site

3. Development which has been the subject of consultation with Historic Environment Scotland under regulation 25 of and paragraph 17(b)(i) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where Historic Environment Scotland have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.
4. Development which before 1st October 2015 has been the subject of consultation with the Scottish Ministers under paragraph 4 of the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2014, where (either before or on or after that date) the Scottish Ministers have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.

Development affecting the site of a scheduled monument or its setting

5. Development which has been the subject of consultation with Historic Environment Scotland under regulation 25 of and paragraph 17(b)(iii) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where Historic Environment Scotland have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.
6. Development which before 1st October 2015 has been the subject of consultation with the Scottish Ministers under regulation 25 of and paragraph 5(4)(b) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where (either before or on or after that date) the Scottish Ministers have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission

Development affecting a category A listed building or its setting

7. Development which has been the subject of consultation with Historic Environment Scotland under regulation 25 of and paragraph 17(b)(iv) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where Historic Environment Scotland have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.

8. Development which before 1st October 2015 has been the subject of consultation with the Scottish Ministers under regulation 25 of and paragraph 5(4)(c) of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where (either before or on or after that date) the Scottish Ministers have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission

Development affecting land in the district of an adjoining planning authority

9. Development which has been the subject of consultation with an adjoining planning authority under regulation 25 of and paragraph 8 of Schedule 5 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 where that planning authority have advised against the granting of planning permission or have recommended conditions which the planning authority does not propose to attach to the planning permission.