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By email to: Heads of Service and Key Contacts

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS)
(ENERGY FROM WASTE/INCINERATION AND ADVANCED THERMAL TREATMENT
FACILITIES) DIRECTION 2021**

17 November 2021

Dear Colleague,

I am writing to draw your attention to the attached Notification Direction that comes into force on 17 November 2021. The effect of the Direction is to:

- ensure Scottish Ministers are advised of receipt of planning applications for new energy from waste (incineration and advanced thermal treatment such as gasification and pyrolysis) facilities; and
- require notification of planning applications for energy from waste (incineration and advanced thermal treatment such as gasification and pyrolysis) facilities to the Scottish Ministers where the local authority is minded to grant planning permission and prohibits the grant of planning permission for a period of 28 days. The 28 period may be extended by means of a further Direction.

The Direction is given for a temporary period to enable Ministers to be informed of applications during the review of the role of incineration in Scotland's waste hierarchy and will be withdrawn later. This Direction does not commit Scottish Ministers to calling in any such application, but it does reserve their right to intervene in the processing of the application.

If you have any queries about this letter - please do not hesitate to contact the Planning Decisions Team at planning.decisions@gov.scot

Kind regards

FIONA SIMPSON
Chief Planner



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (ENERGY FROM WASTE/INCINERATION AND ADVANCED THERMAL TREATMENT FACILITIES) DIRECTION 2021

The Direction is given under powers conferred on the Scottish Ministers by Regulation 31 and 32 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Information to be given to Scottish Ministers

1. When a planning authority receives a planning application for new energy from waste (incineration and advanced thermal treatment such as gasification and pyrolysis) facilities, it must give Scottish Ministers the following information—

- The planning application reference;
- The address or location of the development; and
- A description of the development.

2. Please ensure that the information is provided electronically by means of a link, or series of links to the relevant case file on the authority's website and send it to the following address: planning.decisions@gov.scot

Minded to grant planning permission

3. Where a local authority is minded to grant planning permission for any energy from waste (incineration and advanced thermal treatment such as gasification and pyrolysis) facilities, the local authority must send to Scottish Ministers the information specified in paragraph 4.

4. The information is—

- 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:
 - a copy of any screening opinion given by the planning authority in respect of any Schedule 2 development (as defined by regulation 2 of the *Environmental Impact Assessment (Scotland) Regulations 2017*); and
 - a copy of any strategic environmental assessment that is relevant to the development;
- c) a copy of any appropriate assessment relating to the application, carried out under Part IV of the Conservation (Natural Habitats, &c.) Regulations 1994.

- 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/made representations (including details of any petition organiser if known). Where 'pro-forma' representations are received, only one copy example need be submitted, but all names and addresses must be provided. Copies of petitions should be submitted, but only the organiser or first named should be included in the list of names and addresses;
- e) the planning authority's comments on the consultees' observations and on representations received, together with a statement explaining how the authority has taken these into account; and
- 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.

5. Please ensure that the information is provided electronically by means of a link, or series of links to the relevant case file on the authority's website and send it to the following address: planning.decisions@gov.scot

6. Subject to paragraph 7 below, where a local authority is minded to grant planning permission for the development referred to in paragraph 3 above they shall not do so before the expiry of the period of 28 days, beginning with the date notified to them by Scottish Ministers as the date of receipt by the Scottish Ministers of the information supplied by the local authority in accordance with paragraphs 3 and 4 of this Direction.

7. Scottish Ministers may, during the said period of 28 days, notify the local authority in writing that an earlier or later date shall be substituted for the date of expiry of that period; and if on expiry of the period of 28 days or such other date as has been notified to them the Council have not received from Ministers a Direction under Section 46 of the Town and Country Planning (Scotland) Act 1997 requiring the application to be referred to Ministers instead of being dealt with by the Council, then the Council may proceed to determine the application

8. This Direction may be cited as the Town and Country Planning (Notification of Applications) (Energy from Waste/Incineration and advanced thermal treatment Facilities) Direction 2021.

ALEX KERR
Scottish Government
Directorate for Local Government and Communities
Planning Decisions
Victoria Quay
EDINBURGH
EH6 6QQ