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**SCOTTISH
NATURAL
HERITAGE**



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Our Ref: PF 182/07-08

Mr David Reekie
Consultation on Planning Enforcement Regulations
Planning Directorate
The Scottish Government
2-H Victoria Quay
Edinburgh
EH6 6QQ

15 February 2008

Dear Mr Reekie,

Modernising The Planning System: Consultation On Planning Enforcement Regulations 2007

Thank you for consulting Scottish Natural Heritage (SNH) on the Consultation Paper: Planning Enforcement Regulations 2007 which is draft secondary legislation to The Planning etc. (Scotland) Act 2006.

Our detailed responses to the questions set out in the Consultation Paper are provided in Appendix A. In summary, SNH supports these regulations, which seek to make enforcement of planning control more effective although we are aware that currently local planning authorities have limited resources to allocate to enforcement. Therefore, on occasion, we recommend local authorities deploy more resources to ensure compliance with planning conditions. We suggest securing funding to ensure effective enforcement of such developments, for example, through developer contributions for an independent Ecological Clerk of Works.

We trust you will find these comments helpful. If you would like to discuss any of them in more detail, please contact Richard Ferguson in the first instance.

Yours sincerely



**Jane Clark
Head of Sustainable Land Use**

Appendix A

Question 1. We support the proposal that penalties should be increased for continuing breaches.

Question 2. The initial penalty should be higher if the breach is within a protected site such as SSSI, SAC, SPA or Ramsar site.

The proposed penalties that will apply to the failure to comply with an enforcement notice or breach of condition notice are the same for a small scale development and for a major construction project. The penalties may not deter developers of major construction projects from continuing breaches. For major construction projects such as have been consented as outline planning permission (or planning permission in principle), followed by design and build contracts and similar methods of implementation, the penalties either need to be higher to deter repeated breaches or the number of breaches before reaching the maximum needs to be reduced.

Question 3. No comment.

Question 4. We support the idea that NIDs should declare that suspensive conditions have been met.

The draft regulations say that information about past enforcement incidents should be provided in respect of "the person carrying out the development". The meaning of this should be extended to include subcontractors.

Question 5. No comment.

Question 6. The following additional information would be useful: telephone number of the Site Manager or Community Liaison Contact; approved hours of working and a plan of the site boundary. It would also be useful if the information contained could list conditions relating to protected species and designated sites.

Question 7. EIA developments should be added. The regulations will need to define "national", "major" and (if added) "EIA" developments in the Interpretation section.

Question 8. If the notices were also 'posted' on the local authority's website this would make it easier for individuals to view the information and more convenient to take down contact details.

Question 9. No comment.

Question 10. No comment.

Question 11. No comment.