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**RTPI**

mediation of space · making of place

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Consultation on Planning Enforcement Regulations  
Planning Directorate  
The Scottish Government  
2H, Victoria Quay  
Edinburgh  
EH6 6QQ

20 February 2008

Dear Sir or Madam,



The Royal Town Planning Institute (RTPI) welcomes the opportunity to respond to this consultation, dealing as it does with one of the core activity areas of professional planners in Scotland, in the form of Planning Enforcement, as part of the implementation of the Planning etc. (Scotland) Act 2006.

The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and policy-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2100 members in Scotland working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and academia.

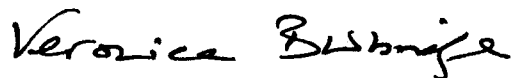
Since devolution, the Institute has empowered its RTPI in Scotland Office, together with its Scottish Executive Committee, with the responsibility for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

The Institute's response to this consultation has been led by its Task Group on Development Management and has been discussed by members of the Scottish Executive Committee. The full response to the questions posed in the consultation paper is attached at Annex 1. I would like to highlight a number of points, as follows:

- It has been suggested that the payment of a fine as a Fixed Penalty Notice would mean that an Authority could no longer prosecute and ensure that the breach is actually remedied, the latter being the essence of successful planning enforcement;
- It is considered that if implemented, there should be a doubling of the fixed penalty for each subsequent offence;
- We would recommend that consideration might also be given, in due course, to the application of a Temporary Stop Notice to possible breaches of Listed Building Consent; and
- We would reiterate that the Fixed Penalty Notice should only be introduced if it can be a positive weapon in the planning enforcement armoury.

The Institute trusts that these comments are of assistance and has no objection to them being made available to the public in the usual way. Should you wish any clarification or further assistance, please do not hesitate to contact me by email at [veronica.burbridge@rtpi.org.uk](mailto:veronica.burbridge@rtpi.org.uk) or at our Edinburgh office, 57 Melville Street, Edinburgh, EH3 7HL, phone: 0131 226 1959.

Yours faithfully

A handwritten signature in black ink that reads "Veronica Burbridge". The signature is written in a cursive style with a large initial 'V' and 'B'.

National Director RTPi in Scotland

ANNEX 1



1. Yes. However, it has been suggested that the payment of a fine as a Fixed Penalty Notice would mean that an Authority could no longer prosecute and ensure that the breach is actually remedied, the latter being something which must underpin all successful planning enforcement. We consider that these legislative provisions should be re-examined as they do not appear to serve the purposes for which they were designed. If introduced, FPNs should be able to address, quickly and effectively relevant breaches of planning law.



2. We consider that initial amounts should be increased:

Breach of Enforcement Notice:	£1500 is suggested
Breach of Condition Notices:	£150 is suggested



3. If implemented in this manner, we consider that there should be a doubling of the fixed penalty for each subsequent offence:

a. Breach of Enforcement Notice:	£1500	£3000	£6000
b. Breach of Condition Notices:		£150	£300



4. The developer's agent should also be mentioned and required to provide the same range of information.



5. Perhaps the time period within which to record successful planning enforcement action(s) should be 5 years rather than 3 years prior to the NID. This would provide a better, more typical, baseline. Alternatively, the time limits might reflect any time limits for enforcement action – four years, ten years, and/or an unlimited period for listed building enforcement.



6. Contact details should include telephone and email addresses. The architect/designer and agent (where appropriate) should be identified similarly.

7. It might also be appropriate to mention the relevant Local Plan and/or other planning framework elements.



8. Consideration should be given to application of this procedure to applications affecting protected or special areas, including Listed Buildings, Conservation Areas, Scheduled Monuments, Gardens or Designed Landscapes on the Scottish Inventory or its supplements, or their settings, where this does not already happen.



9. Instead of the phrase 'readily visible', it is suggested that 'readily readable' be inserted into the criteria. The size of the site notice should be consistent with that part of the advertisement regulations dealing with temporary signage.



10. Yes.



11. No. Consideration should also be given, in due course, to such an application of a Temporary Stop Notice to possible breaches of Listed Building Consent, where the same arguments about the (unlikely) use of interdict generally apply.



12. We consider that the phrase 'Some other compelling reason' in para 38 is too imprecise and requires further explanation. Additional guidance on the circumstances that this might cover - health and safety or more-than-local amenity, perhaps - would be helpful. In addition, there seems to be an omission of associated material in Annex E at the foot of Para 4 on p17 of the consultation document.
13. We would reiterate that the Fixed Penalty Notice should only be introduced if it can be a positive weapon in the planning enforcement armoury. If, as in one interpretation, it is not possible by using the FPN to achieve actual remedying of the breach, then most enforcement officers are unlikely to wish to use it. We consider that these legislative provisions should be re-examined as they do not appear to serve the purposes for which they were designed. If introduced, FPNs should be able to address, quickly and effectively relevant breaches of planning law.