



**DEFENCE ESTATES**

*Delivering Estate Solutions to Defence Needs*

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Dear Sir / Madam.

**MODERNISING THE PLANNING SYSTEM:  
DEVELOPMENT MANAGEMENT CONSULTATION**

Defence Estates wishes to make the following comments on the Development Management consultation paper.

Introduction

The consultation paper and the Draft Development Management Regulations deal mostly with procedural issues upon which Defence Estates have no detailed comments.

However, what is notably lacking from the draft regulations, albeit that a reference is made to this issue in the body of the consultation paper, is how national security concerns which are raised in connection with planning applications are to be dealt with.

Crown immunity provisions

I am aware that the Scottish Government's intention is to leave in place the accommodations which were made for the Crown when immunity from planning control was removed in 2006.

It is noted in the consultation paper, for example, that provision was made to allow applicants to withhold information that may be sensitive on national security grounds (no doubt this is a reference to article 13A of the General Development Procedure Order). It is further noted that similar provisions will be applied to the new procedures in the Development Management Regulations.

Certain provisions of the current General Development Procedure Order are applied to planning applications made by the Crown directly to Scottish Ministers on the grounds



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that the development is of national importance and is required urgently. Again, the consultation paper notes that similar provisions will be applied in the Development Management Regulations to urgent Crown applications. I note that Scottish Ministers recognise that the potentially urgent nature of Crown developments, such as defence installations, means that it would be inappropriate to apply the enhanced scrutiny measures to them. However, applications for Crown development outwith the special urgency procedures will be subject to enhanced scrutiny where the relevant criteria are met.

It is possible that Defence Estates applications, which may raise issues of national security, may not always meet the special urgency criteria, and thereby be subject to enhanced scrutiny.

The draft Regulations do not contain the measures which were amended into the General Development Procedure Order on the removal of Crown immunity. Even if the intention is to add these provisions at a later date, in their absence, it is difficult to comment on them in detail now. The provisions in the new Regulations will need to be drafted with reference, in particular, to the new enhanced scrutiny measures.

It is of the utmost importance that these provisions are incorporated into the secondary legislation which is being drafted to give effect to the Planning etc. (Scotland) Act 2006, reflecting where necessary the changes in procedure.

#### Enhanced scrutiny

I note that where pre-application consultation with local communities is required, notice of the application has to be given to community councils and neighbours. Notice must also be given in a local newspaper, and at least one public meeting must take place at which members of the public may make representations. A pre-application consultation report must then be prepared and that report must accompany the planning application.

element of the new planning regime. However, if an application for planning permission raises issues of national security, it is important that these provisions allow the applicant to withhold such information. Similar issues will arise in relation to pre-determination hearings.

Defence Estates would therefore wish to see at the very least a provision which reflects article 13A of the General Development Procedure Order, or perhaps, more radically, to allow such applications considered by Scottish Ministers (such as with Urgent Crown Development) albeit that this may require an amendment to section 242A of the 1997 Act.

#### Neighbour notification and publicity for applications; weekly lists

More information is to be provided to neighbours than under the present system, and it is proposed that certain applications will also be advertised in the local press.

I note that Scottish Ministers do not propose to make any specific statutory provision regarding the display of site notices as a means of bringing applications to the attention of members of the public. Planning authorities will, however, be encouraged through guidance to consider whether the use of site notices would be appropriate based on the circumstances of each case.



