

**RTPI**

mediation of space · making of place

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2nd April 2008Email to dmconsultation@scotland.gsi.gov.uk

Dear Sir /Madam

Modernising the Planning System: Development Management Consultation

The Royal Town Planning Institute (RTPI) welcomes the opportunity to respond to this consultation which sets out the essential features of the new development management system. This is a crucial document in ensuring that the changes made will make the process fit for purpose; responsive to different types of development; improve efficiency; and improve public involvement.

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 1900 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.

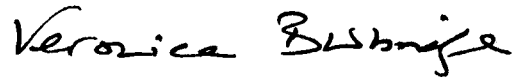
General comment

Our detailed comments are set out in the attached Annex under the headings of the questions raised in the consultation paper. In general, the Institute welcomes the publication of the development management consultation. This is an ambitious document which begins to link together aspects of previous consultations which is helpful. However, the Institute is concerned

about the resource implications for Planning Authorities; and the detailed training on the operation of the new system which will need to be put in place. We consider that careful consideration will be needed in drafting the associated guidance and advice on good practice.

The Institute trusts that these comments are of assistance and has no objection to its comments 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 at our Edinburgh office: 57 Melville Street Edinburgh, EH3 7HL

Yours sincerely

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'.

Veronica Burbridge
National Director RTPi in Scotland

DETAILED RESPONSE BY THE ROYAL TOWN PLANNING INSTITUTE IN SCOTLAND TO THE CONSULTATION ON MODERNISING THE PLANNING SYSTEM: DEVELOPMENT MANAGEMENT

Q1: Do you agree with the proposed categories of development to which the requirements for pre-application consultation apply?

1. The Institute agrees with the classes 'national' and 'major' and with regard to certain classes of local development. However, we have reservations about thresholds applied to the definitions of 'major' development as detailed in our response to the consultation on the proposed hierarchy.

Q2: Do you have any comments on the thresholds in Schedule 1 of the DMR on pre-application consultation?

2. The Institute considers that the criteria of five houses requiring pre-application discussions is set too low. However, as noted in our response to earlier consultations, some local flexibility of approach particularly in rural areas may be required.

Q3: Is the information required in a pre-application screening notice sufficient?

3. The Institute considers that the information as requested is of a very general nature and would benefit from further detail.

Q4: Is 21 days a reasonable period for authorities to respond to a pre-application screening notice in all circumstances?

4. The Institute considers that in principle 21 days is a reasonable period. However, details relating to procedures if insufficient information is provided in that period and the extension arrangements possible will need to be covered in the proposed guidance.

Q5: Do you agree with the proposed content of the proposal of application notice?

5. The Institute considers that a detailed description will be required and this should be covered in related guidance. Application notices should be easily understood and in plain English.

Q6: Are the requirements to notify community councils and neighbours of the proposal of application notice sufficient or should others be notified at this stage as a statutory minimum?

6. A degree of local flexibility may be required e.g. in contacting all *relevant* community councils and established community groups. Further guidance would be useful on other consultees to whom the applicant should consult at an early stage given the characteristics of each individual case.

Q7: Do you agree with the minimum statutory requirements for pre-application consultation in regulation 8?

7. It might be helpful to have a more definitive standard rather than a mere minimum. It is suggested that if the pre-application consultation report is insufficient, the Authority should be able to decline to register the application. A minimum of two meetings might be more appropriate.

Q8: Do you agree with the requirements on the content of pre-application reports?

8. It is suggested that ways may need to be found to verify the pre-application report as an accurate record acceptable to applicant and consultees. This could be achieved by copying the report to both the planning authority and the community groups consulted. The Institute agrees with the need for further guidance, as noted in the consultation document.

Q9: Do you support the classes of development which will be subject to pre-determination hearings?

9. The Institute supports the categories identified. We agree with the need for a Model Code of Conduct for Hearings and for further good practice guidance.

Q10: Should the opportunity to be heard at a pre-determination hearing be extended to other parties beyond those who made representations?

10. The applicant and their representative should also be heard.

Q11: What arrangements would need to be made to convene full councils to make these decisions?

11. The Institute considers that these arrangements might lead to delay and difficulties in informing all members of the Council regarding the application. This has implications for training of all councillors in planning matters. Further guidance would be helpful.

Q12: Do you support the view that processing agreements should be in place before submission of the application?

12. The Institute supports this approach.

Q13: Do you agree that where there is to be a processing agreement that it should be entered into not later than 28 days after validation?

13. The Institute considers that the agreement of any processing agreement should be in place at an earlier stage, preferably prior to validation.

Q14: Do you agree with the suggested components of a processing agreement?

14. Yes, although the Institute very much hopes that there will be guidance on these in the form of a Planning Advice Note at an early stage, notwithstanding the fact that it will be important to tailor Processing Agreements to local circumstances.

Q15: Do you agree that the sole parties signing the processing agreement should be the planning authority and the applicant, or do you think there is scope for statutory consultees to also sign the agreement?

15. It will be important for all consultees to strive to deliver the Agreement, and Statutory Consultees should certainly commit to this in writing as parties to the Agreement.

Q16: Do you support the proposed approach to Planning Permission in Principle and approval of matters specified in conditions?

16. It is not clear to the Institute exactly what is meant by 'by direction' rather than condition and further clarification would be helpful.

Q17: Do respondents consider the approach to the content of planning applications to be appropriate or are any of the other options in paragraph 5.3 preferable?

17. We are content with the detail sought in 5.3a. Digital photographs of the site might also be a requirement, although these would be no substitute for site visits but might complement drawings and aid understanding. Consideration might be given to identifying views into and from the site, and a particularly helpful element to assess scale would be to require a human figure, to scale, on all elevations and sections. Sketch models should be encouraged.

Q18: What other measures could help to ensure that applications are supported by adequate information at the start of the planning process whilst still encouraging efficiency in the development management system?

18. There should be no validation of the planning application until all the required information is in place: this should be for the authority's professional planning staff to assess. PAN guidance would be helpful also.

Q19 Do respondents consider that the draft regulations on the content of applications for Planning Permission in Principle are pitched at an appropriate level of information?

19. We are broadly content with the detail required, however, see points raised in Q17 above.

Q20: Do respondents consider that the requirements on content of applications are sufficiently clear to allow validation to be a relatively straightforward administrative check?

20. The Institute considers that this would not be sufficient and will require professional judgement. (See answer to Q18). An increasing amount of additional information is being required by statutory consultees e.g. a standard steading conversion will now require a structural survey, percolation test results for septic tanks, bat and owl surveys etc. All these should be submitted with the application prior to validation so that local authorities do not have to spend post-validation time waiting for these material pieces of information.

Q21: Do you have a view on the two options on the range of applications to be accompanied by a design and/or access statement?

21. It will be important to ensure that design and access statements are a meaningful exercise and not just a tick box activity. Option 2 is preferred from the point of view of implications for resources. However, the Institute would strongly support the requirement for statements within areas considered sensitive for their historic or environmental interest, including developments within conservation areas, World Heritage sites or National Parks. We agree with the proposal to promote design and access statements for developments which affect historic environment interests and that statements should be discussed at pre-application discussion stage.

Q22: In addition to those considered in the options, in what circumstances might statements consider only one element - design or access?

22. The Institute considers that an integrated approach is important and that statements should not be dealt with in isolation.

Q23 How can access panels be used most effectively in considering design and access?

23. Access + Design Panels should be set up throughout Scotland. They will be an invaluable source of support for planning staff and members, relatively few of whom have the necessary design skills to ensure successful placemaking by applicants.

Q24: Do you consider that there is sufficient clarity in the regulations to allow for effective and timeous validation of applications where design and/or access statements are required?

24. Again, the judgements of professional planners will be required to assess whether the Design + Access Statement is of an appropriately acceptable quality and complies with requirements.

Q25: What role can local authority access officers play in assessing the access element of statements?

25. They should be consulted as part of the Design + Access forum and be available for pre-application consultation by developers, as should an appropriately skilled and qualified 'Design Officer'.

Q26: What information do planning authorities and communities need to ensure a thorough and robust assessment of the design and access statement?

26. It is considered that the following would be helpful: knowledge of site and context; knowledge of good design and of access requirements; knowledge of Development Plan Policies and Proposals; and knowledge of planning policy, advice, and legislation.

Q27: Do you consider the proposals on service of notice to neighbours to be appropriate?

27. The Institute supports these proposals but would emphasise the need to examine the impact on staffing resources.

Q28: Do you agree that, in order to minimise costs and potential delay, a single notice sent to the address of the neighbouring land is sufficient for these purposes?

28. Yes.

Q29: Is the proposed approach to keeping people informed of PPP and approval of matters specified in conditions appropriate?

29. Community Councils or equivalent should be advised in addition to those who made representations.

Q30: Do you support the proposed definition of neighbouring land?

30. 25m would be a slightly more comfortable distance. After all, formerly the minimum distance between potentially directly overlooking properties was 60', around 18m.

Q31: Do you consider the proposals concerning the use of site notices and of local advertisements to be appropriate?

31. Yes.

Q32: Do respondents support the proposed requirements on notifying owners and agricultural tenants and the placing of local advertisements in this regard?

32. Yes.

Q33: Are you content with the Scottish Government's proposals for the public availability of the list?

33. The Institute considers that *all* Development Management offices should hold a copy of the list.

Q34: Is the advertisement of the availability of the list in a local newspaper on a monthly basis appropriate?

34. The Institute considers that a listing published weekly would be preferable and that a monthly list would be ineffective.

Q35: Do respondents have any views on the list of statutory consultees and the criteria for consultation?

35. Development within National Scenic Areas should involve statutory consultation with SNH and SM(HS). Developments involving buildings in protected sites, or by public bodies, should involve consultation with SM(A+DS).

Q36: Do respondents consider it appropriate to extend the statutory period for determining an application for national and major development to 4 months?

36. Yes, although we continue to believe that it is more important to get the right quality of development in the right place than to prioritise processing times – this point on quality should be more generally reflected in any subsequent audits of the development management process.

Q37: Is the level of information to be provided in the decision notice appropriate?

37. Yes.

Q38: How should planning authorities best manage the potential burden of ensuring those who made representations are advised of the decision?

38. Copies of the decision notice and the accompanying report should be sent by the planning authority to each of those who made representations. They should be encouraged to do so by e-mail as far as possible.

Q39: Is the information to be contained in the report of handling appropriate in order to provide a robust summary of how the application has been dealt with and the reasons behind the planning authority's decision?

39. Agreed.

Q40: Can existing Committee reports, where available, be easily adapted to incorporate the proposed statutory requirements in paragraph 4 of Schedule 4?

40. The Institute agrees with this assessment, however, guidance should be provided via a PAN at an early date.

Q41: What might be an appropriate alternative name for "bad neighbour development"?

41. An appropriate alternative might be "Potential Bad Neighbour" development.

Q42: Do you support the proposed additions and deletions to the list of "bad neighbour developments" and do you have other suggestions?

42. The Institute suggests that 'places of worship' should be omitted and that Music Hall and Dance Hall should be retained.

Q43: Are there any other uses which you consider should also be subject to controls on increases in gross floorspace ?

43. No comment.

Q44: Do you support our proposal to have different approaches depending on whether other increases in the internal floorspace have taken place?

44. No comment.

Q45: Do you consider that 200 square metres is an appropriate level to help achieve the objectives of helping protect town centres?

45. No comment.

Q46: For the purpose of controlling internal floorspace, do you support the decision to use amounts in square metres rather than a percentage?

46. Yes.

Q47: Are there any potential impacts on business or voluntary sectors that we should be aware of in finalising the regulations or the order?

47. Community Councils and planning professionals within the planning authority will require to be appropriately resourced to deal with the complexity of the arrangements; the move to pre-application consultation; and the associated vehicles of Design + Access Statements. The latter should contribute to a heightened awareness of the importance of design quality and placemaking. Until the consultation on changes in Permitted Development rights is published it is not possible to say what, if any, additional efforts can be redirected as a consequence.

Q48: Are there any potential impacts on particular societal groups that we should be aware of in finalising the regulations or the order?

48. No comment beyond hoping that there will be wide dissemination of information on the new Development Management arrangements in due course, and that appropriate suites of information will be prepared.

Q49: Do you have any other comments to make on the draft development management regulations or the mezzanine floors order?

49. No.

